A GUIDE TO ADDITIONAL PAPERS
RELATING TO THE SWANSWICK
AND HYDE ESTATES, JAMAICA,
IN THE GEORGE HYDE CLARKE
FAMILY PAPERS

Prepared by
William A. Kearns

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February 1991
- for Barbara Shepherd,
good friend and inspiration -
PREFACE

This, the second supplement to The George Hyde Clarke Family Papers: A Guide to the Collection at Cornell University, by Barry L. Wold (Cornell University Libraries, 1977), and Index to the George Hyde Clarke Family Papers, by Jane Knap Gustafson (Cornell University Libraries, 1978), is a guide to one hundred and fifteen additional papers subsequently acquired for the collection.

Among other things, the first supplement, A Revision and Supplement to the George Hyde Clarke Family Papers: A Guide to the Collection at Cornell University, by William A. Kearns (Cornell University Libraries, 1981), provided a guide to transcriptions in Box 160 of the Papers. The present supplement is a guide to Box 162, now added to the original collection. With the exception of four maps, the papers in the new box are photographic copies and/or transcriptions of documents relating to Clarke estates in Trelawney Parish, Jamaica, West Indies. The original documents are located in the Colonial Office Files of the Public Record Office, Kew, Richmond, Surrey, England, from whom permission must be obtained prior to photographic reproduction of the photocopies in Box 162.

The photocopies were acquired, and the preliminary written and oral transcriptions were made on a research trip to England in 1985. They represent what appeared to be a significant segment of the Colonial Office records relating to the sale of the Clarke Estates, Swanswick and Hyde, by the Court of the
Commissioners for Sale of Incumbered Estates in the West Indies (Jamaica) in the 1860's.

Funds for my expenses in London as well as for the completion of this project were generously provided by the Friends of Hyde Hall, Inc., a public foundation which administers the Clarke family seat on Otsego Lake near Cooperstown, New York.

In many ways this project has been a family affair. My daughter, Millie Jean Kearns McClintock, not only drew the four maps which can be found in Folder 13 but also helped with proofreading. Assistance in the latter task was also given by another daughter, Jennifer Clare Kearns, and by my wife, Eileen Ryan Kearns, who also provided invaluable aid in the preparation of the name index. To them, to the Friends of Hyde Hall, to Colleen Mahoney of the Department of History, Memorial University of Newfoundland, and to the staff of the Department of Manuscripts and University Archives at Cornell, especially to Julia Parker who typed most of the supplement and made some of the corrections on the transcripts, I extend my sincere thanks.

William A. Kearns

Ithaca, N.Y.
February 1991
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ENCUMBRANCES AND THE SWANSWICK AND HYDE ESTATES: A BRIEF INTRODUCTION

An encumbrance is a legal claim on an estate for the discharge of which the estate is liable. The term comes from the French encombrer, to obstruct or to hinder, which comes from Late Latin cumbrus, a heap, which is derived from the Latin cumulus, a hill. Encumbrances came in many forms. The oldest ones for a given estate were usually charges for annuities to be paid to certain family members but mortgages, liens, and other kinds of legal claims were also common. By the middle of the nineteenth century the traditional estate system in Jamaica was dying and one cause of its impending demise was encumbrances. By that time, one could take the meaning of any word in the term's etymology and apply it to Jamaica. There the encumbrance obstructed and hindered; there the encumbrance was the heap or the hill which the estate system could not surmount.

Encumbrances were not unique to Jamaican estates nor was the problem caused by them unique to that island or to any of the other British colonies in the West Indies. The gentry of eighteenth century England tended to look upon land as the best kind of legacy; however, they also had a tendency to encumber bequests of land with bequests of annuities to be paid out of the land. Ideally such an arrangement provided for the limitation of inheritance of land to a specific line of heirs (thus keeping the estate intact) while at the same time allowing for some benefits from land to go to family members outside the specified line. As the expansive economy of the eighteenth century came to an end and was replaced by years of economic uncertainty and stress after 1815, it became far more common to find that neither an encumbrancer nor the one to whom an estate had been left received the full benefits originally intended. This was especially so in Ireland and in the British West Indies, including Jamaica.

There were many things which Jamaica and Ireland had in
common, among them a landholding system characterized by large estates, absentee owners, and heavy encumbrances. Most of those who held big estates in the two islands lived in England and had little direct contact with their property or with those whose labor provided whatever produce was forthcoming from the land. Those who worked the land received little in way of compensation while the owner's income generally allowed him and his immediate family to lead quite comfortable lives indeed. If his income were high enough, and if he were so inclined, the owner might even satisfy encumbrances. Unfortunately members of both the planter class in Jamaica and the landlord class in Ireland tended to avoid or postpone the payment of encumbrances even if those encumbrances were annuities to relatives. When they did choose to pay them or when legal pressure forced them to do so, they often resorted to mortgaging their land or other property. They thus created new encumbrances in order to pay the arrears due on old ones and the old ones continued nonetheless.

It is true that many - probably most, maybe all - of the original encumbrances against an estate were not of the current owner's making (some of them may have been saddled on the estate one or two or even three generations earlier) but the increase of debt only exacerbated the situation. Furthermore, in some instances, holders of estates were prohibited under the terms of their legacies from selling their land but, even when there existed no prohibition of alienation, a heavily encumbered estate was not likely to be considered saleable property. This was especially true in times of economic stress or crisis. Thus a man who inherited an encumbered estate might be truly "land poor," for he inherited along with the land, debts and obligations which were bound to increase unless he had income from other sources sufficient to meet them. As well-intentioned as some eighteenth century planters and landlords may have been, they could not have foreseen what burdens their generosity would load on the shoulders of their heirs.
As the number and variety of encumbrances increased, such a labyrinth of legal paper was created that only through slow, lengthy, complicated, and expensive judicial proceedings could there be even slim hope that clear indefeasible titles might be offered to prospective buyers, if any such came forward. For Ireland, a solution was found in 1849, when royal assent was given to an Encumbered Estates Act. This act provided for a commission or court to which either an owner or an encumbrancer might apply for the sale of an estate. On completion of its investigation, the court could then sell the estate, distribute the purchase money amongst the various encumbrancers (and, if any remained, to the "seller" as well), and give a clear indisputable title to the new owner.

Before the passage of the Encumbered Estates Act for Ireland, an English economist commented that the land of Ireland was "in the hands of nominal and embarrassed proprietors, who either cannot or will not improve their estates, or allow such terms of tenure as will induce others to improve them." Much the same situation existed in Jamaica and while circumstances were somewhat different there it is not surprising that a few years later the Irish act served as a model for one for the West Indies. From the Irish landlords' point of view, the Great Famine of 1846-1848, was a catastrophe which coupled a marked decrease in income from rents with a great increase in taxation and thus a good many of them saw the Encumbered Estates Act as a welcome form of relief from what appeared as the endless multiplication of debt. In Jamaica, the movement for the abolition of slavery in the British Empire had already weakened the economy and when abolition did come in 1833 it was a severe blow to the planter class. Production costs went up while prices for sugar and its by-products declined by about fifty percent.

between 1820 and 1850. To the owner of an overly-encumbered estate in Jamaica, a West Indian Encumbered Estates Act promised the same kind of welcome relief from the economic strangulation of increasing debt as did the act for Ireland.

The new act was passed in 1854 and provided for a commission similar in structure and function to the one established for Ireland. For various reasons the West Indian Encumbered Estates Court did not really commence its work until four years later. One cause for the delay was that, unlike Ireland which had no legislature of her own either to agree to or reject such a court, the act could be operative in no West Indian colony unless that colony's legislature had given its approval. Jamaica did not accept the act until 1861. Within the next year, thirty-two estates were sold and by the time the court went out of existence another one hundred sixteen Jamaican estates had changed hands. Among them were the Clarke estates, Swanswick and Hyde.

These two sugar plantations, located in Trelawney Parish, had been the property of Edward Clarke (1716-1776), son of George Clarke (1676-1760), one-time lieutenant governor of the Province of New York. Swanswick was subsequently held by Edward Clarke's son and heir, George Hyde Clarke (1743-1824), then by the latter's son, George Clarke (1768-1835), whose son, Edward Hyde Clarke (1793-1873) was in possession at the time when his brother, George Rochfort Clarke (1801-1889), as an encumbrancer, petitioned the Encumbered Estates Court for the sale of the estate. On the death of Edward Clarke in 1776, Hyde plantation

2 Christian Schnakenbourg, "From the Sugar Estate to Central Factory: The Industrial Revolution in the Caribbean (1840-1905)," in Bill Albert and Adrian Graves, eds., Crisis and Change in the International Sugar Economy 1860-1914 (Norwich & Edinburgh, 1984), p. 84

went first to his grandson, Edward Clarke (1770-1826), then to the latter's son, Edward Clarke (1822-1845), whose own son, Edward Clarke (1841- ? ) held the estate when encumbrancers Robert Hawthorn and William George Shedden applied to the Court for its sale.

The last Edward Clarke to own Hyde Estate, at least nominally, is a good example of a legatee whose true legacy was not the land he inherited but the estate's debts, debts impossible for him to pay off or even reduce. The history of the encumbrances on both Swanswick and Hyde is exemplified in the papers in Box 162. The Colonial Office files in the Public Record Office contain much more of the story but there is enough of it in this box to serve as an informative addendum to the George Hyde Clarke Family Papers⁴ and to illustrate, in microcosmic form, the effects of encumbrances on the traditional land tenure system of Jamaica (and the other islands of the British West Indies) and on the planter class who at one time had so profited from that system.

⁴ More information on Swanswick Estate is contained in the correspondence between George Clarke (1768-1835) and Edward Hyde Clarke (1793-1873) in Box 1; see also Box 98, "Swanswick Accounts."
NOTE TO USERS OF TRANSCRIPTIONS AND PHOTOCOPIES

When I went to England in September 1985, I found many more documents relating to the Clarke Jamaican estates, Swanswick and Hyde, than I had anticipated. In the time available, I transcribed by hand some of what I found, recorded other documents on tape for future transcription, and arranged for the photocopying of still others. After typing both the written and oral transcriptions and integrating them with the photocopies in as reasonable a chronological order as possible, the contents of Box 162 were the result: one hundred thirteen pages of transcriptions and ninety-five pages of photocopies.

In the preparation of the transcriptions, every effort was made to make letter-by-letter and word-by-word copies of the originals. Inevitably, some letters and some words could not be deciphered or could not be deciphered with certainty; these are indicated by the use of question marks enclosed by brackets. Unless it seemed of importance for understanding the content of a particular document, no effort was made to attain line-by-line or page-by-page conformity with the original; however, original order and/or paragraphing (unless otherwise indicated) was consistently maintained. Every effort was also made to date accurately and to identify authors of all documents.

The documents in Box 162, both transcriptions and photocopies, have been arranged in chronological order and each page of each document has been given an identification number. Thus, for example, 162.4.10 (1 of 2) identifies the first page of the two pages of Document 10 in Folder 4 of Box 162. A listing of all documents is found in CONTENTS OF BOX 162 and the reader will find an index of names contained in the documents on pages 27-45 of this supplement.

As indicated in the Preface, photographic reproduction of the photocopies may not be made without prior permission from the Public Record Office. Photographic reproduction of the
transcriptions (and the maps) may be made in accordance with the policy of the Department of Manuscripts and University Archives, Cornell University Libraries.

Despite the sharp eyes of proofreaders, some errors of omission or commission may have gone undetected. They are the transcriber's responsibility; he regrets them and hopes they are few indeed.
CONTENTS OF BOX 162

Notes: - Documents 162.1.1-162.6.1, 162.13.2, 162.13.3, and 162.14.2 relate to Swanswick Estate; Documents 162.6.2-263.8.4, 162.8.6-162.12.13, 162.13.4 and 162.14.1 relate to Hyde Estate; and Documents 152.8.5 and 162.13.1 relate to both Swanswick and Hyde.

Following the description of each document, the number of photocopy pages (P) and/or transcription pages (T) is indicated.

A document enclosed with and given the same identification number as another document is indicated by parenthesized folder and document number as well as photocopy/transcription page numbers.

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<td>12 6</td>
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<td>(12)</td>
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<td>6-8-66 Hill &amp; Airey to Freshfields &amp; Newman (copy) (1)P</td>
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<td>7-5-66 Freshfields &amp; Newman to Alfred Webber (with letter and conveyance noted in previous two entries as enclosures) 2P</td>
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<td>7-11-66 Alfred Webber to Freshfields &amp; Newman (copy) 1T</td>
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<td>7-19-66 Freshfields &amp; Newman to Alfred Webber 1P</td>
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<td>7-20-66 Alfred Webber to Freshfields &amp; Newman (copy) 1P</td>
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<td>[c.1860] Map of Clark Estates, Trelawny Parish, Jamaica</td>
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<td>[c.1860] Map of Swanswick Estate, Trelawny Parish, Jamaica</td>
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<td>[c.1860] Map of Clarkestown or Swanswick Town, Trelawny Parish, Jamaica</td>
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<td>[c.1860] Map of Hyde Estate, Trelawny Parish, Jamaica</td>
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<td>7-25-92 Schedule of Deeds and Papers relating to Hyde Estate received by Freshfields &amp; Williams from the Commissioners for the Sale of Incumbered Estates in the West Indies 1P</td>
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<td>10-19-92 Schedule of Deeds and Documents relating to Swanswick Estate received by Bell, Stewards, &amp; May from the Commissioners for Sale of Incumbered Estates in the West Indies 2T</td>
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ABBREVIATIONS

The abbreviations listed below are found in the documents contained in Box 162. For abbreviations always capitalized in the documents, capitalization has been retained; otherwise it has been dropped. Abbreviations for names of individuals, place names, and currency have not been included.

abstract - abt
abstracting - abstract
accordingly - accordingly
account - a/c; acct.; acct.; a/-
acre - a
acres - a; ac.; acs; acs
administrators - admors; ads; ad; ads; ad
affidavit - affid.; aff
aforesaid - aforesd; aforesd; aforesd
agreement - agreemt.; agreemt.
amount - amt.
annuities - annies; ann
annuity - ann; any
appointed - appted
appurtenances - appts; appurts; appurts
arrangement - arragmt
assigns - ass; ass; ass; ass; ass
Assistant Commissioner - A.C.; Assistant Com; Ass Com
baptised - bap<sup>t</sup>
belonging - belongg
buildings - buildg<sup>s</sup>

charge - chg<sup>e</sup>
charges - chges
Chief Commissioner - C.C.; C. Com<sup>r</sup>; Chief Com<sup>r</sup>
commission - comm; com<sup>n</sup>
commissioners - commrs; com<sup>r</sup>s; com<sup>r</sup>s
company - co; c<sup>o</sup>; c<sup>?</sup>
compelling - compell<sup>g</sup>
contained - cont<sup>d</sup>
containing - cont<sup>g</sup>
consideration - conson; conson; conson
court - c<sup>t</sup>

dear - d<sup>r</sup>
decease - dece
deceased - deced
declaration - decton
declarations - decions
detention - detent

ditto - do; d°; d²

draft - dft

encumbered - encumb'd

esquire - eq're; esq; esqre; esq're; esq're

esquires - esqr's

estimation - estimon; estimon

et cetera - &c; &c

executed - exted; exted

execution - excon; execut'n

executors - exe's; exors; exs; exs

exparte - expte

fourth - for'n

gentlemen - gent'n

hereditaments - hdits; hdit's; herdit's; heredits; heredit's; hereds

heirs - hrs; hrs.; hrs

hogshead - hhd

hogsheads - hhtds

humble - hble
immediately - immed
impeachment - impeach
incumbrances - incumb
indenture - ind
inheritance - in
interest - int

Justice of the Peace - J.P.

limitation - limon

Master Extraordinary - Master Ext
mentioned - ment
Messieurs - Messrs; Messrs; Messrs
Mister - Mr; Mr; Mr
mortgage - mortg

nomination - nominon

obedient - obed; obednt; obed; obed; obed; obt
obtaining - obt
other - ot
otherwise - orwise; orwise

paid - pd; pd
parish - pa\n
payment - pay\n
per - p; p
perch - p
perches - ps; ps
perception - percept\n
personal - pers\n
petitioner - pet\n
petitioners - pet\n
plantation - plantat\n
planting - plant\n
possession - posson

premises - premes; premes

proportions - proport\n
pursuance - purs\n
remainder - rem\n
remainders - remders; remders

rood - r
said - s\d
secretary - secy; sec\y
securing - secur\g
securities - sec\s
servant - serv; servt.; servt.; st; svt
servants - serv\s; servt\s
settlement - sett.
should - sh; shd; sho\d
singular - sing\f
situate - sit\f
solicitors - sol\f; sol\f

therefore - therbfe; therbfe
therein - ther\n
thereinafter - therein\f; therina\f; thnar
thereinbefore - thereinbfe
thereof - thof; th\f; th\f
thereon - th\n
thereupon - theupon
together - tog\f
trustee - tree

ultimo - ult\o
whatsoever - whats?
whereon - whron
which - wch
witnessed - witned
would - wod

years - yrs; yr's
your - y'
INDEX OF NAMES

This index contains the names of individuals mentioned in Box 162, including those who wrote the letters or other documents and the addressees of letters. The names of some firms are included and there are a number of entries under "Newspapers," but otherwise names of organizations, governmental bodies and agencies have been excluded. Except for names inserted for cross-reference purposes, each entry indicates folder number(s) and document number(s). Thus "Vernon, Ann - 9.2" means that Ann Vernon's name appears at least once in document 2 in folder 9 of Box 162.

Some references have been made on the basis of context. (For example, "Edward the grandson of the testator" means Edward Clarke [1770-1826] with the "testator" being Edward Clarke [1716-1776].) For others, initials only have provided identification. ("R.J.C.," for example, is clearly Reginald John Cust.) In some instances, authors have been identified by their handwriting. Variants of spelling are indicated by square brackets, uncertainties by square brackets and question marks. The surname CLARKE in capital letters indicates a member of "George Hyde Clarke Family."

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CLARKE, Georgina Catherine Theresa O'Moran ( ?-1853) 1.1, 1.2, 2.3, 5.8, 14.2

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Clarke, Henry 3.1, 9.1
CLARKE, Hyde John (?-1857) 1.1, 1.2, 2.3, 5.8

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CLARKE, Katherine [daughter of George CLARKE (1768-1835) and Elizabeth Rochfort CLARKE (?-1861)] 1.1, 1.2, 5.8

CLARKE, Mary [daughter of Edward CLARKE (1716-1776) and Ellen Cumberback?] 6.2

CLARKE, Penelope [daughter of Edward CLARKE (1716-1776) and Ellen Cumberback?] 6.2

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Clarke, Richard 9.1

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