SLAVERY (EAST INDIES).

RETURN to an Order of the Honourable The House of Commons, dated 22 April 1841;—*for*,

COPY of the DESPATCH from the Governor-General of *India* in Council to the Court of Directors of the *East India* Company, dated the 8th day of February 1841 (No. 3), with the Report from the Indian Law Commissioners, dated the 15th day of January 1841, and its Appendix enclosed in that Despatch, on the subject of Slavery in the *East Indies*.

(*Sir John Hobhouse.*)

Ordered, by The House of Commons, *to be Printed*, 26 *April* 1841.

T. L. Peacock,
Examiner of Indian Correspondence.

COPY of the DESPATCH from the Governor-General of *India* in Council to the Court of Directors of the *East India* Company, dated the 8th day of February 1841 (No. 3), with the Report from the Indian Law Commissioners, dated the 15th day of January 1841, and its Appendix enclosed in that Despatch, on the subject of Slavery in the *East Indies*.

East India House,
22 April 1841.

JAMES C. MELVILL.

Legislative Department, No. 3 of 1841.

To the Honourable the Court of Directors of the *East India* Company.

Honourable Sirs,

WE have the honour to transmit by the present mail two printed copies of the Report and Appendix furnished by the Indian Law Commissioners, on the important subject of Slavery in India. Other copies shall be sent by the ordinary route as soon as practicable.

2. We have not yet been able to take into consideration the several recommendations submitted by the Commissioners, but they will occupy our immediate attention, and we shall lose no time in communicating to your honourable Court the result of our deliberations.

We have the honour to be,

Honourable Sirs,

Your most faithful humble Servants,

(signed) *Auckland.*
J. Nicols.
W. W. Bird.
Wm. Casement.
H. T. Prinsep.
A. Amos.

Fort William, 8th February 1841.

To

To the Right honourable the Earl of *Auckland*, G. C. B., Governor-General of India in Council.

We have now the honour to report upon the subject of slavery.

In explanation of our proceedings upon the subject, it appears to be necessary to enter into some details respecting the way in which it has been referred to us, and the communications we have had with government as to the manner of dealing with it.

We desire, in the first place, to remove a misapprehension into which the honourable Court of Directors appear to have fallen, and which we noticed through our secretary, immediately after the despatch in which it was contained was transmitted to us.

In the second paragraph of that despatch, which was addressed by the honourable Court to the Government of India on the 29th August 1838, they say—"In your reply in the legislative department, dated 31st August (No. 3) of 1835, paragraph 29, you informed us that this delicate question (the question of slavery) would shortly be referred to the law commissioners, which reference appears to have been made under your resolutions of the same date." And in the 5th para. they add, "We desire that the attention of the law commissioners may be immediately recalled to this question, and that we may receive with as little delay as possible a report on the means of carrying out remedial measures to the fullest practical extent."

The 5th para. of our secretary's reply* to the letter† of Mr. Officiating Secretary Maddock, which enclosed the above-mentioned despatch, was as follows:—"They (the law commissioners) instruct me, at the same time, to remark, that the honourable Court, in directing that the attention of the law commissioners should be immediately recalled to the subject of slavery, seem to be under a misapprehension as to the nature of the communication made to the commission by government on the 31st August 1835. But as the commissioners will have an opportunity of removing this misapprehension in the report upon slavery which they are now called upon to prepare, they do not wish me here to enter into any explanation."

In pursuance of the resolution referred to by the honourable Court, Mr. Secretary Macnaghten transmitted to the law commission, under date the 31st August 1835, a copy of paras. 38 to 75 of a despatch from the Court in the public department, dated 10th December 1834, No. 44. These paragraphs relate to a variety of important subjects, one of which is slavery. But neither upon slavery nor upon any other of the topics treated in the despatch were the law commission specially instructed to report.

The letter from Mr. Secretary Macnaghten, which accompanied the extract, merely conveyed "a request that the observations therein contained might receive the attention of the commission, when considering the important topics to which they related." There was no intimation whatever as to the order in which, or the time when, the various topics were to be considered by the commission.

Under date the 15th June‡ preceding, the commission had been instructed to give their attention first to the preparation of "a complete criminal code for all parts of the British Indian empire, and for every class of people, of whatever religion or nation, resident within its limits;" and they accordingly, with the knowledge and acquiescence of government, did not enter upon the subject of slavery except in so far as was necessary for the purpose of the penal code.

In our Secretary's letter of the 14th September 1838, No. 156, noticing generally the subjects before the commission, it was mentioned that they intended soon to address government on the subject of three special references connected with slavery, which had been made to them at different times.

Letter from Mr. Officiating-secretary Maddock, 5th Nov. 1838, dated 13th Feb. 1838, No. 12.

In answer, the commission were informed that the President in Council looked forward to the early report promised by them, and an extract from a despatch from the honourable Court of Directors on the subject was referred for their information.

As it appeared from this extract that the honourable Court expected a more comprehensive report than the commission had been previously called upon to make, it was thought proper to communicate further with government to ascertain exactly their wishes. Our secretary therefore wrote as follows:—"I am directed to acknowledge the receipt of your letter of the 5th November. With reference to an extract from a despatch from the honourable

To Mr. Officiating-secretary Maddock, 16th Nov. 1838.

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* Dated 7 December 1838. † 26 November 1838.
‡ Letter from Mr. Secretary Macnaghten, 15 June 1835.

nourable Court of Directors on the subject of slavery enclosed in that letter, the law commissioners direct me to say, that if it is the wish of government that they should now enter upon the general question of the abolition of slavery throughout India in execution of the intentions of Parliament, they would suggest that some of their members should be detached for the purpose of local inquiry. They feel that, without such inquiry, it would be impossible for them to pronounce with confidence upon the time at which, or the means by which, the abolition of slavery can be effected with a due regard to those interests which, however iniquitous as regards the slave, appear nevertheless to have the sanction of legal right."

"The important work of framing a code of judicial establishments and procedure in which the commissioners are now engaged, though the attention of the absent members must of course be withdrawn from it, would, if this plan were adopted, be continued uninterruptedly by those who remain at Calcutta."

"With reference to paras. 7 and 8 of my letter to Mr. Secretary Maddock, No. 156, the commissioners direct me to observe, that the three branches of the subject of slavery alluded to in those paras. can, in their opinion, be effectually disposed of only in the manner they have suggested above, with reference to the general question."

"The propositions from Assam, in particular, relating to registration, compensation by government, and purchase of freedom by the slave, could hardly be decided upon without local inquiry."

"The commissioners possess, it is true, much information in the shape of answers to questions addressed to the several courts of Sudder Dewanny and Nizamut Adawlut; but these questions were framed with a view to obtain such information as should enable the commission to determine whether it was necessary to make any distinctions in the penal code in consequence of the legal existence of slavery; and it is obvious that a much more searching and minute inquiry is necessary before the commission can venture to recommend positive measures for the mitigation and ultimate abolition of slavery. They abstain from entering into any further details until they are informed, whether it is the wish of his Honor in Council, that they should give their assistance to government in executing the intentions of Parliament as expressed in the 88th section of the Charter Act."

In reply, the law commission were informed, that it was not the intention of the President in Council to direct them to institute an inquiry into the state of slavery in India in the manner they had suggested. Letter from Mr. Officiating-secretary Maddock, 26 November.

The above detail has appeared to us to be necessary for two purposes: first, for the purpose of showing that we did not delay to enter upon the subject of slavery after we had been instructed to do so, although it was not without regret that we were compelled to withdraw our attention from several subjects on which we were engaged, and which, in our own opinion, are of still greater importance than slavery; and, secondly, for the purpose of showing that the report which we have now the honour to present is not the result of such an inquiry into the subject as we should have thought it right to make if we had been left to the guidance of our own discretion. As our reports are to be laid before the two Houses of Parliament, who are not cognizant of the details of our proceedings, each report ought, as it seems to us, to show the circumstances which may increase or diminish its value.

We proceed to note the instructions we have had for our guidance in the examination of the subject, and in framing our report.

By the 88th section of the Statute 3 & 4 Will. 4, chap. 85, the Governor-general in Council is required "to take into consideration the means of mitigating the state of slavery, and of ameliorating the condition of slaves, and of extinguishing slavery," "as soon as such extinction shall be practicable and safe," and to prepare "drafts of laws and regulations for the purposes aforesaid," having "due regard" "to the laws of marriage and the rights and authorities of fathers and heads of families."

The despatch from the honourable Court of Directors, dated 16th December 1834,* already adverted to, contains instructions as to the manner in which the intentions of the Legislature are to be carried into effect.

It is observed, that "this subject in India is one of great delicacy, and requiring to be treated with the utmost discretion; there are certain kinds of restraint required, according to native ideas, for the government of families, and forming, according both to law and custom, part of the rights of heads of families, Mussulman and Hindoo, which are not to be included under the title of slavery. In legislating, therefore, on slavery, though it may not be easy to define the term precisely, it is necessary that the state to which your measures

* Paras. 71 to 75.

measures are meant to apply should be described with due care." The opinion of the honourable Court is also expressed, that "remedial measures should generally begin with the cases of the greatest hardship."

It is remarked that predial slavery "exists mostly on the Malabar coast, and the new territories on our north-east frontier; and there it would appear the cases of greatest hardship are to be found."

With respect to domestic slavery, it is observed, that it is "generally mild," and that "to dissolve such a connexion by forcible means, would, in general, be to inflict an injury on the emancipated individual."

"We think (say the honourable Court) that the law should be made as severe against injuries done to a slave, as if they were done to any other person, and his access to the judge for the purpose of preferring a complaint should be facilitated." And, with respect to emancipation, they say, "It appears to us evident that the desire for it on the part of the slave should always be previously ascertained," and that "every case of emancipation should be a judicial proceeding investigated and decided by the judge."

In the despatch* of the honourable Court of Directors, dated 13th February 1838, their desire is expressed that inquiries should be made with a view in particular to ascertain in what parts of the British territories agricultural slavery exists, what is its character, and what the nature of the difficulties which may oppose its abolition.

In their despatch† dated 29th of August 1838, the honourable Court, referring to a notice then standing on the order book of the House of Commons, "to bring under the consideration of the House the state of slavery in India," express their desire to be furnished with a clear and complete view of the subject in all its relations to the well-being of the numerous parties affected by it, and a report on the means of carrying out remedial measures to the fullest practical extent, to be placed before the Legislature. In transmitting this despatch, the government suggested that the evidence on the subject of slavery, already possessed by us, should be digested, and that any defects in it being supplied, a report should be compiled for the purpose indicated by the Court of Directors.

Besides these general instructions, the government, on the 7th January 1839, transmitted to us a copy of a despatch from the honourable Court of Directors, dated 26th September 1838, expressing their entire concurrence in the recommendation of the law commissioners contained in note B. appended to the penal code, "that no act falling under the definition of an offence should be exempted from punishment, because it is committed by a master against a slave;" and desiring that an enactment to that effect should be passed without loss of time. On this occasion the government required us to express our opinion whether the law, as now actually in force in every part of British India, is or is not such as to make the passing of a law, of the nature directed by the honourable Court, requisite for accomplishing the intention of the Home Government, and to frame the draft of such a law, if we should consider it requisite, with that view.

We reported on the 1st February 1839, showing that the discrepancies in the opinions and practice of the different judicial functionaries rendered such an enactment necessary to accomplish the intention of the Home Government.

We were not called upon to express, and did not express collectively,‡ any opinion upon the policy of such an enactment. On the 27th§ May following, however, we were specially requested to state whether we considered it expedient to pass such a law, whether such a law could, with justice, be passed without compensation to the owners of slaves, and what compensation would be equitable; also whether, if the power of moderate correction be taken away from the master, some provisions for enforcing obedience from slaves should be enacted.

On the same day, but in a separate communication,‖ we were requested to prepare a note upon the present state of the law and practice in India relative to the sale of children, and to submit our opinion and suggestions on the subject, with reference to the suspicion that the traffic in children for the supply of the zenana and the brothel is a source of extensive crime.

In acknowledging these references we expressed our¶ opinion that it would be most convenient and satisfactory to include our answers to them in the general report, in the preparation of which we were then engaged. We understood that the government approved of

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* Enclosed in letter from secretary to government, 5 November 1838.

† Enclosed in letter from secretary to government, 26 November 1838.

‡ Mr. Cameron, however, thought it right to express his opinion on the policy of such an enactment, and did so accordingly in a minute which he sent up to government with our report.

§ Letter from the officiating secretary, legislative department, 27 May 1839, No. 222.

‖ Letter from the officiating secretary, legislative department, 27 May 1839, No. 223.

¶ 13 June 1839.

of this suggestion, and we afterwards received the further communications noted in the margin on the points in question.

From secretary, legislative department, 9 March 1840, enclosing extract of a letter from Maior Sleeman, suggesting measures for the suppression of the traffic in children. From junior secretary, legislative department, 8 June 1840, transmitting copies of papers respecting the proposed Act from the governments of Madras and Bombay, and the courts of Sudder Adawlut at those presidencies, and from the acting advocate-general of Bombay.

We have also been directed in the letters noted below * to take into consideration the following matters:—

Suggestions for the gradual mitigation and extinction of slavery and bondage in Assam.

A draft of an Act from the government of Madras providing against the importation and exportation of slaves by land.

A proposition from the resident in Travancore for the abolition of slavery recently discovered to exist at Anjengo.

A draft of an Act submitted by the government of Bombay, extending the powers conferred by the Statute 5 Geo. 4, c. 113, to the Governor and officers of the East India Company, with a view to the suppression of the traffic in slaves on the west coast of India.

Suggestions† for restricting the slave trade in the Persian Gulf, and lately a report from the government of Bombay of measures taken for that purpose. A reference from the government of Bombay regarding an application from his highness the Guicawar for the surrender of two female slaves, who had left the service of his daughter, and had taken refuge in Nasick in the Company's territory.

We have also received from government the letters noted in the margin, containing documents relative to slavery transmitted for our information.

8 April 1839, with original papers from the government of Madras respecting the Chermars or rustic slaves in Malabar, and copies of papers relative to the emancipation of slaves on government estates in the same provinces.

8 July 1839, with Mr. Græme's report on Malabar, dated 14 June 1822.

21 October 1839, with copy of a circular order of the Foujdary Adawlut at Madras on the subject of the sale of children by their parents, and of a letter from government of India, requiring explanation.

16 December 1839, with copy of a letter from government of Madras, and enclosures explanatory of the above order.

In order to fulfil the above instructions, our first object was to collect all the information which was accessible to us. We were already in possession of the returns made by the judicial officers throughout India to the questions which the law commission had framed with a view to penal legislation. In addition to this we have obtained more full and more general information respecting slavery in most parts of this presidency, by the examination of such witnesses having personal knowledge of the subject as we could find in Calcutta. Many of these are themselves the owners of slaves. We have also obtained from the Calcutta Sudder Dewanny Adawlut various cases in which the rights and obligations of masters and slaves have been judicially considered.

We have carefully perused every thing that could be found on the subject in print or in manuscript, and occasionally have obtained information on particular points by direct application to the authorities and officers who were competent to supply it. Our secretary, Mr. Sutherland, has examined the Mahomedan and Hindoo books of law, and has extracted for our use what relates to the subject. On several points, which seem to require elucidation, we have taken the opinions of the Hindoo and Mahomedan law officers of the Sudder Dewanny Adawlut. From these materials we have formed a very full digest, which we hope will be found to present as complete a view of the whole subject as can be obtained without local inquiry.

We shall begin with this digest, dividing it into the three heads of Bengal, Madras and Bombay. We shall show the course of past legislation on the subject. We shall then note what appear to us the distinguishing features of the slavery of this country. We shall direct the attention of government to the evils which belong to it, and shall suggest such legislative measures as we think are calculated to remove or to alleviate them.

In treating this part of the subject, we shall answer the particular references that have been made to us by government.

In the Appendix will be found the evidence we have taken, the reports that were made in answer to the queries framed by the commission for the purpose of the penal code, the reports of cases of slavery determined by the court of the Sudder Dewanny Adawlut at Calcutta, and, generally, the papers from which we have drawn information, which we do not know to be already in print.

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* Letter from secretary to government, 28 September 1835; 1 April 1839; 7 December 1835; 17 July 1837; 11 December 1837; 23 April 1838.

† 11 February 1839; 8 June 1840; 24 December 1838.

BENGAL.

DETAILS OF BENGAL SLAVERY.

UNDER this division of our Report we shall first treat of the systems of slavery and bondage prevailing in the territories which were subject to the presidency of Bengal prior to the year 1814, under the following heads:—

1. Prevalence of Slavery.
2. Origin of Slavery.
3. The Castes to which Hindoo Slaves usually belong.
4. Mussulman Slaves.
5. Hindoo Masters of Mahomedan Slaves, and *vice versâ*.
6. The extent of the Master's dominion over his Slave.
7. The modes in which Slaves are employed.
8. Coercion of Slaves.
9. Food, Clothing and Lodging of Slaves.
10. Treatment and general Condition of Slaves.
11. Slave and Free Labour compared.
12. Slaves rendering occasional Service, or temporarily separated from their Masters.
13. Manumission.
14. Transfer of Slaves by gift.
15. Ditto - ditto by sale.
16. Prices of Slaves.
17. Mortgage of Slaves.
18. Letting Slaves to hire.
19. Slaves adscripti glebæ.
20. Marriages of Slaves, and ownership of their Offspring.
21. Prostitution.
22. Conditional Slavery and Bondage.

In pursuing this course, we shall state under each head of the subject, first, the general propositions which may be collected from the information before us, and then the exceptions and varieties peculiar to particular districts or portions of districts; and in noticing these local peculiarities we shall adhere to the following geographical arrangement:—

Names of Districts.		Names of Provinces.
1. Cuttack		Orissa.
2. Midnapore	South of the Ganges.	Bengal.
3. Hooghly	South of the Ganges.	Bengal.
4. Burdwan	South of the Ganges.	Bengal.
5. Beerbhoom	South of the Ganges.	Bengal.
6. Moorshedabad	South of the Ganges.	Bengal.
7. 24 Pergunnahs	South of the Ganges.	Bengal.
8. City of Calcutta	South of the Ganges.	Bengal.
9. Nuddea	South of the Ganges.	Bengal.
10. Jessore	South of the Ganges.	Bengal.
11. Backergunge	South of the Ganges.	Bengal.
12. Chittagong	E. and N. of the Ganges.	Bengal.
13. Tipperah	E. and N. of the Ganges.	Bengal.
14. Dacca Jelalpore	E. and N. of the Ganges.	Bengal.
15. Mymensingh	E. and N. of the Ganges.	Bengal.
16. Sylhet	E. and N. of the Ganges.	Bengal.
17. Rajeshahy	E. and N. of the Ganges.	Bengal.
18. Rungpore	E. and N. of the Ganges.	Bengal.
19. N. E. Rungpore or Gowalpara.	E. and N. of the Ganges.	Bengal.
20. Dinagepore	E. and N. of the Ganges.	Bengal.
21. Purneah	E. and N. of the Ganges.	Bengal.

Names of Districts.		Names of Provinces.
22. South Behar*		
23. Bhaugulpore		
24. Behar		
25. Patna		Behar.
26. Shahabad		
27. Sarun		
28. Tirhoot		
29. Goruckpore		Oude.
30. Ghazeepore		
31. Azimghur		
32. Juanpore		
33. Benares		
34. Mirzapore		Allahabad.
35. Allahabad		
36. Bundelcund		
37. Futtehpore		
38. Cawnpore		
39. Etawah		
40. Agra		
41. Muttra		Agra.
42. Allyghur		
43. Furruckabad		
44. Bareilly	Rohilcund	
45. Moradabad	Rohilcund	
46. Saharunpore		Delhi.
47. Meerut		
48. Delhi Territory		

To the above details we shall subjoin an account of the practice of the courts relating to these two conditions in the same territories, and, having completed this portion of our work, we shall treat of the states of slavery and bondage in the remaining parts of the Bengal presidency in the following order:—

Saugur and Nerbudda Territories.
Kumaon.
Assam.
Arracan.
The Tenasserim Provinces.
Prince of Wales' Island.
Malacca.
Singapore.

Of

* The tract of country to which, for the sake of convenience, we have given this designation, formed, prior to 1834, portions of the districts of Midnapore, Jungle Mehals and Ramghur, which two last districts have been abolished. It is now under the superintendence of a special officer, denominated "Agent to the Governor-General." *See* Reg. XIII. of 1833.

Of the system of slavery prevailing in the territories which were subject to the Presidency of Bengal prior to the year 1814.

1.—*Prevalence of Slavery.*

It may be stated, generally, that slavery prevails, more or less, throughout the whole of these territories.

It prevails to a great extent in the northern and central divisions of Cuttack, particularly in the chukla of Bhudruck in the former, and in the chukla of Jehazpore in the latter division. In these two divisions of the district the proportion of the slave to the free population is supposed to be as 6 to 10; but this appears to be excessive, as a census taken in 1829–30, of the chukla of Bhudruck, gave 8,022 slaves only, in a population of 365,066. The accuracy of this census, however, is impugned by the present magistrate,* who estimates the population of the chukla at 225,458.

But whatever may be the exact proportion between the slave and free inhabitants, the number of the former must be considerable, as a wealthy zemindar will possess as many as 2,000 slaves; and it is stated that there are 200 or 250 landholders who have that number each. One of the witnesses examined is himself the owner of 50 slaves.

In the southern division of the district the slaves are few, though the low castes to which the slaves in northern and central Cuttack belong exist in equal numbers in this division. Here the proportion which those who have the stain of slavery bear to the free men is also supposed to be as 6 to 10; but of these one part only is in actual slavery, the other five being practically free.

Of the extent to which slavery prevails in those districts of the province of Bengal which lie to the south of the Ganges, we have little specific information.† What does exist appears to be almost exclusively of the domestic kind, and to be confined to the houses of Mahomedans; most of the respectable families of which persuasion, probably, have servants of this description. This is the case particularly among the Mahomedan Aymadars‡ of Burdwan, who have, according to their circumstances, from 1 to 20 slaves each, the generality of whom are the descendants of persons who were purchased in infancy in the famine of 1770, but others have continued from father to son for 200 or 300 years in the same families.

In the city of Calcutta, the majority of the Mahomedan, Portuguese, Armenian, Parsee and Jew inhabitants possess slaves.

In the districts of Bengal, lying beyond the Ganges, slavery prevails to a great extent.

In Chittagong, all the Mahomedan families of respectability usually possess slaves. A Mahomedan landholder of this district, whom we examined, is the proprietor of 24 hereditary Mussulman slaves; yet we are informed that the Hindoo slaves are even more numerous than those of the Moslem faith.

In Tipperah, the slaves are supposed to constitute a fourth of the population; one family frequently possessing from 10 to 25 families of slaves; and there being no family of respectability, either Hindoo or Mahomedan, that has not at least one family of slaves attached to it.

In Dacca Jelalpore, most of the better classes of people own slaves.

In Mymensingh, all the great zemindars have slaves in proportion to their wealth, who are settled upon their estates. One landholder, a lady, whose agent we examined, possesses 1,400 slaves of this description. In many estates these slaves compose the greater part of the cultivators. Even persons who live upon small salaries, such as clerks and accountants, have generally five or six slaves.

The district of Sylhet is for the most part under ryotwarree settlement, and every meerassadar has one, two or three slaves in his family; the respectability both of Hindoos and Mahomedans being usually measured by the number of their slaves. The registered meerassadars amount to 125,000, but amongst them are many under-purchasers, who are of an inferior rank and station, and do not possess slaves. There are also meerassadars owning slaves who are not registered. No just estimate, therefore, can be made of the number of slaves from the number of petty landholders recorded in the public registers of the district, though some idea may be thence formed of the multitude of persons existing in that servile condition.

We have examined two witnesses from this part of the country; one a Mussulman, the owner of two talooks, on one of which he has about 25 families of hereditary slaves, and on the other about 120; the other a Hindoo, whose father is the proprietor of a small talook, and owns about 75 families of slaves.

In 1813,§ the number of slaves in the district was estimated at about one-sixth of the whole population; they are now supposed to amount to nearly one-third.

In

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* Appendix II., No. 146.

† One of the witnesses examined is a native of a village on the south-western border of the Beerbhoom district, but his evidence applies principally to the neighbouring part of South Behar, viz. Pachete.

The provincial council of Burdwan in a report to the council of revenue, dated 1 August 1774, on the subject of slavery within their jurisdiction, say, "Slavery is very little the custom in this country." The districts under the superintendence of this council were, Jellasore, Midnapore, Bishenpore, Burdwan, Beerbhoom, Pachete and Ramghur.—Colebrooke's Supplement, p. 202.

‡ Persons holding land from government at a low quit-rent.

§ Slavery in India, 1828, p. 244.

In Rajeshahy, most persons of respectability, both Hindoos and Mahomedans, have domestic slaves, which are here supposed to constitute two-sixteenths or three-sixteenths of the entire population.

Dr. F. Buchanan. Martin, vol. 3, p. 496. Ditto, ditto, p. 692.

In Rungpore and Gowalpara, among the domestics, both male and female, there are many slaves, especially towards Assam, and everywhere along the northern frontier. Among the Garrows, the slaves form about two-fifths of the whole population, and almost entirely belong to the chiefs, by whom they were formerly led to war. These slaves were not only distinguished for their obedience, but for their courage also, as freedom was a reward often bestowed on such as exhibited valour.

Ditto, vol. 2, p. 689, 913–14.

In Dinagepore, the number of slaves is very small. Some children were purchased during the famine of 1769–70, and the scarcity of 1788, in order rather to keep them from starving than with a view to profit.

Ditto, vol. 3, p. 122–3, 688, and 11th Table of Appendix, MS.

In Purneah, the number of male adult slaves amounted, according to Dr. Buchanan, to 6,140; and as he considered that these might be nearly a fourth of the whole persons, young and old, in that condition, the total slave population would be 24,560. The entire population of the district he estimated at 2,904,380; the proportion per cent. of slave to free, therefore, would be ·845.

Ditto, p. 121–2

In his account of the slaves he gives some curious examples of the different senses in which the same words are used to designate them in different parts of this district. "Common domestic slaves," he says, "are not only called Golam and Launda, but in some parts they are called Nufur. While in others this term and Dhinggar are exclusively given to slaves employed in agriculture, in contradistinction to Khawas or Bahaiya, the name given to domestic male slaves, or Sudin, the name given to females. In other places, again, Khawas is given indifferently to slaves employed in agriculture or as domestics, and another distinction of more importance arises. Those who belong to zemindars, and receive lands for a subsistence, are called Khawas, while those who belong to inferior persons, and are allowed a house, food and raiment, are called Sehana; but none of these terms are applied in different parts with any uniformity; the words are taken in one sense in one pergunnah, and in a contrary or at least different sense in the next."

Ditto, p. 120–1.

In a preceding passage he had observed, that the terms Gulmi or Laundi (slaves) were sometimes also applied to poor women who in the eastern parts of the district gave their services as domestics for merely food and raiment, though it was admitted that they had not been purchased, could not be sold, and might change their masters at pleasure. Some such persons were also employed in agriculture, and some men gave their services on the same terms. Under the term Laundi, also, he adds, are often comprehended the concubines of high Moslems.

In the districts composing the province of Behar slavery prevails to a great extent, and appears to have existed from time immemorial. Slaves are kept by almost all families of respectability, both Hindoo and Mahomedan, who can afford to do so, and even by such as are in a state of decay. To possess slaves is considered a mark of distinction, and an economical method of keeping up that display which consists in having a long train of followers.

In South Behar, the rajah of Chota Nagpore has from 80 to 100 domestic slaves.

Buchanan. Martin, vol. 2, p. 98.

In Bhaugulpore, slaves of the male sex are called Nufurs, and their women are called Laundis. They are confined to the part of the district included in Soobah Behar. In general they belong to the owners of land, chiefly on free estates, or to wealthy Brahmins who rent lands. The zemindar of Colgong in this district owns 200 families of slaves, though the higher classes have not usually more than five or six slaves, and the generality have two or three only.

Asiatic Researches, vol. 4, p. 100. (A. D. 1790).

In the hill country, near Rajemehal, slavery is unknown.

Buchanan. Martin, vol. 1, p. 125.

In the Behar and Patna districts, the slaves, here also called Nufur and Laundi, are very numerous.

Ditto, p. 479.

In Shahabad, they are not so numerous as in Behar, and here the Hindoo slaves are more commonly called Kamkar.

In Sarun, some of the great landholders have as many as 200 slaves, but most of these are settled on the lands of their masters, and render them only occasional service.

In Tirhoot, the rajah of Durbunga, who is the principal person in the district, is supposed to own several hundreds of slaves.

The following are the proportions which, according to the conjectures of the witnesses examined, the slaves bear to the whole population in the districts specified:—

Bhaugulpore - - - - - - - - -	$\frac{1}{16}$
Behar, including Patna, persons having the taint of slavery	$\frac{6}{16}$
actual slaves - - - - -	$\frac{2}{16}$
Sarun and Tirhoot - - - - - -	$\frac{1}{16}$ or $\frac{2}{16}$

One witness supposes 5 per cent. for every district (Bhaugulpore and Sarun excepted).

Dr. Buchanan, in his Statistical Tables, gives the following estimates of the able-bodied male slaves in the districts of Bhaugulpore, Behar (including the city of Patna jurisdiction), and Shahabad; and assuming, as he does in his account of Purneah, that these form nearly a fourth of the persons, young and old, in that condition, by quadrupling the number, we shall have a rough computation of the slave population of these districts. It should be

be observed, however, that Dr. Buchanan's surveys were made during the years 1807 to 1811, and that the limits of the several districts to which his researches extended have been since altered.

Districts.	Total Population.	Able-bodied Male Slaves.	Column 3, quadrupled for the whole Slave Population.	Proportion of Slave to Free Population, per Cent.
Bhaugulpore -	2,019,900	4,434	17,736	·877
Behar and Patna -	3,364,420	32,820	131,280	3·9
Shahabad - -	1,419,520	5,335	21,340	1·5

In Goruckpore, province of Oude, slavery appears to be little known. Dr. Buchanan computed the number of adult male slaves at 412, which, multiplied by four, gives only 1,648 for the slave population. Of the slaves there were 250 families in one police division of the district (Parraona), bordering on Sarun, of whom four-fifths were employed in agriculture. The remainder were entirely introduced from the province of Behar, having been received as presents on the marriages of some of the high-born chiefs of the district with the daughters of families residing in the former country; and these slaves were employed only as domestics. Buchanan. Martin, vol. 2, p. 427, and Appendix, p. 12.

Of the extent to which slavery prevails in the districts within the provinces of Allahabad, Agra and Delhi, we have very little information. It appears to exist principally in the cities and towns, and to be almost exclusively of the domestic kind; but, from the concealment which envelops the economy of the families of the better classes of natives, it would be almost impossible to make any accurate estimate of the number of these domestic servants.

In Ghazeepore, slavery is chiefly confined to the towns.

In Juanpore, the slaves are supposed to be very few.

In Benares, most families of respectability possess them.

In Allahabad, the system exists, but we are not informed to what extent.

In Bundelcund, Hindoo slavery is very limited, but Mussulman slaves are common.

In Futtehpore, the system is said to have very confined operation, in consequence of the general poverty of the inhabitants.

In Cawnpore, there are a few domestic slaves, who are to be found only in the families of Mahomedans.

In Etawah, 30 years ago, most families of the better class, both Hindoo and Mahomedan, had slaves; since then the practice has diminished, though many families of substance still possess domestic slaves, both male and female, those of the latter being probably the most numerous. Here the Mahomedan slaves are termed Ghulams, and the Hindoo slaves, Cheeras.

In Agra, slaves are employed to a very limited extent.

In Muttra, the number of female slaves, who belong exclusively to Mahomedans, is stated to be about 50 or 60; and the male slaves are said not to exceed 15 or 20.

In Allygurh, slavery is confined to the houses of the wealthy.

In the districts of Bareilly and Moradabad slaves, both Hindoo and Mahomedan, were formerly numerous; they are now probably less so, though almost all families of respectability who can afford it, especially Mahomedans, and chiefly those residing in towns, still keep them. The slaves, however, are not supposed to be more than one-hundredth of the whole population.

In Saharunpore, the number of slaves is said to be very trifling.

In the Delhi territory, the keeping of slaves is stated to be almost entirely confined to the city of Delhi, though in all the surrounding independent states, especially where the chiefs are Mahomedans, it is more common. In the Hurrianah division of this territory, where the population consists of three classes, viz. Jaats, Bhutteeas and Rajpoots, the third class only possess a few slaves. In 1813, Sir C. Metcalfe, then resident at Delhi, addressing government on the means of checking the traffic in slaves within this territory, observed, "The natives of this country are undeniably greatly addicted to the purchase of slaves, especially of the female sex; some because slaves are kept at a less expense than other servants, others for the sake of the privacy of the apartments of their wives, others for the gratification of their own vicious propensities, others for the purpose of public prostitution. They will go to any expense and run any risk to procure slaves." Slavery in India, 1828, p. 104.

2.—*Origin of Slavery.*

The slavery prevailing in the territories subject to the Bengal presidency may be traced to several sources.

1. The sale or gift of children by their parents or other natural guardians.
2. The sale of children and adults by their mothers or maternal relations.

3. The sale of wives by their husbands.
4. The self-sale of adults.
5. Marriage or cohabitation with a slave.
6. Kidnapping.
7. Importation.
8. Birth.

1.—The sale of children by their parents or other natural guardians.

Of all the modes by which free-born persons pass into the state of slavery this is the most general and constant in its operation. These sales take place under the pressure of any necessity, either to obtain an advance of money, or to discharge a debt, or to preserve life. They are of course the most frequent in times of scarcity and famine, or other general calamity; such as happened in Bengal, Behar and Orissa, A.D. 1770, when nearly * one-fifth of the inhabitants are supposed to have perished by famine; in Bengal in 1784–5, when the same calamity prevailed, but in a much less degree, and in the partial scarcity of 1788, in the same province; such also as occurred in Cuttack in 1790, and in the district of Agra in 1813–14, when half the inhabitants were supposed to have emigrated elsewhere in search of employment and food. To these may be added the famine in Bundelcund in 1833–34, and the inundations to the south of Calcutta in 1834, when children were commonly hawked about the streets of the city and in the neighbourhood, some of whom were sold by their parents, others by persons who repaired to the scene of the calamity for the purpose of purchasing or kidnapping them. Doubtless also the recent famine in Agra and the neighbouring districts had the usual effect of reducing many children to slavery. The prices for which children are thus disposed of vary according to circumstances and the necessities of the vendors. In times of general calamity they are almost nominal, the principal object looked to being the preservation and maintenance of the child. These sales are common both to the Hindoos and Mahomedans.

Hamilton's Hindoostan, vol. 1, p. 44.

Slavery in India, 1828, p. 468–72.

Hamilton's Hindoostan, vol. 1, p. 364.

Buchanan. Martin, vol. 3, p. 496–7; vol. 1, p. 480.

Dr. Buchanan mentions, that in Rungpore† poor parents sell their male children with more reluctance than females, as being a greater resource for support in old age; and that in Shahabad they seldom sell them of either sex.

In Purneah, also, we are told such sales do not now take place.

In Dinagepore, parents reduced to distress during scarcity give their children to persons of rank, as slaves; and in Pachete, in South Behar, a parent will sometimes give his child as a slave to a wealthy and powerful zemindar, with a view to the advantage of that position.‡

2.—The sale of children and adults by their mothers or maternal relations.

This is a practice peculiar to some of the districts in the province of Behar, and is confined to the two Hindoo castes of Kurmis (called also Juswar-Kurmi and Dhanuk) and Kuhars, of whom we shall presently make further mention. The provincial council at Patna, in a letter addressed to the government, dated the 4th August 1774, stated generally, that the deed of sale in such cases must be signed by the mother or grandmother, and not by the father. Dr. Buchanan has not noticed this peculiarity.

Slavery in India, 1828, p. 5.

Appendix I. No. 34.

In South Behar, the right of sale, according to one witness, rests first in the mother, next in the maternal grandmother, and then in the maternal uncle; but in case of a sale by the mother, the presence of the maternal grandmother, or, failing her, of the maternal uncle, is necessary to give it validity; but, according to another witness, these sales are made by the mother and maternal grandfather or grandmother. The consent of the father to the sale of his children is considered quite unimportant, and in the sale of an adult the bargain is concluded without any reference to his inclination. The mother may dispose of her daughter though she be married; on such occasions, if the husband is a freeman, he usually follows his wife, but if he is the slave of another master, separation ensues, and the husband provides himself with another partner.

Ditto, No. 30.

In Bhaugulpore, the father signs the conveyance, but a sale by him alone while the mother is living would be invalid; her signature therefore is essential; and if the mother is dead, the consent of the maternal grandmother is equally necessary, or at least it is safer to procure her signature also. In a sale by the father and maternal grandmother the price would be divided according to any agreement they might make between themselves, but the price would be paid by the purchaser to the father.

Ditto, No. 2.

In the district of Behar, according to one witness, the right of sale rests in the maternal grandmother, and if she is dead or permanently absent, it devolves to the maternal uncle, and no one would purchase a person of either of these two castes unless one of these maternal relations was present at the transaction and consenting. The mother, however, has a veto

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* Mr. Grant says three millions, or nearly one-third of the whole population. Appendix I. to Report of Select Committee of the House of Commons, 1832, p. 14.

† The same authority, speaking of one of the aboriginal tribes, called Panikoch, who inhabit the woods in the north-east parts of this district, says, "If a man is known to commit adultery, he is fined sixty rupees; if his family will not pay this enormous sum, he is sold as a slave." And again, "The Panikoch never apply to the officers of government, but settle all their own disputes, and this is done by a council of the men alone, who submit only to their wives in the arrangement of their domestic concerns. If a man incurs a debt or fine heavier than he can pay, he becomes a slave or mortgages himself, unless his wife chooses to redeem him."—Buchanan. Martin, vol. 3, p. 541–2.

‡ It appears to be the custom in one part of Bundelcund, not within the Company's territories, to pledge children as security for the repayment of a loan; in failure of which within the stipulated period, the creditor, with whom the child has remained in the interim, disposes of it to realize the debt.—Slavery in India, 1828, p. 213.

veto on the sale, but not the father, and the consent of the subject of the sale is immaterial. These sales are stated to take place in this district not only in times of calamity, but at all seasons.

Both in South Behar and the district of Behar, the sale of an adult Kurmi or Kuhar by his mother or maternal relation takes place occasionally when the subject of the sale is absent from home and cannot be found. A sale under such circumstances is called a "bun-vickree," literally a forest sale, or sale in the woods, and the price is lower on account of the risk which the buyer runs of not getting possession of his purchase.

It is curious that one of the witnesses examined, who is a native of Patna, and states himself to be conversant with the usages both of that jurisdiction and the district of Behar, denies the right of the maternal grandmother and maternal uncle, as such, in these transactions, and asserts that the children of the Kurmi and Kuhar castes are sold only by the parents or persons *in loco parentis* in times of distress, and that no other persons have the power of so disposing of them. He is also unacquainted with the term "bun-vickree." Appendix I., No. 23.

The following account of the custom of the district of Behar on this subject, given by the judge of Patna, who had previously held office for nearly six years in the former zillah, differs in a few particulars from all the preceding :—

"The right of disposing by sale of infant offspring, male or female, rested exclusively with the mother, or, failing her, with the maternal grandmother. The father, or other relations on his side, had no such right of disposal, nor is his consent even deemed indispensable to the validity of the sale. This custom applies mainly to two large castes, viz. the Kahars and a tribe of Koormees, who as a body are all counted as slaves, immemorially, though it may happen that some few here and there, being accidentally free, do sell their own children. In all other cases the children are the property of the parents' master. By degrees the practice referred to seems to have become pretty general throughout Behar; *i. e.*, whether the parents are reputed free or otherwise, no sale of children appears to be recognized as valid to which the mother or her mother has not in some way been made a party; and, even in cases of sale of slaves, the undoubted property of the person selling them, it is customary, in order to give greater validity to the sale, to procure the assent of the mother, or her attestation to the instrument of sale. It seems to be generally admitted that, to make the sale of a person born of free parents valid, such sale should have been made under circumstances of distress, such as dearth, or the like, and that the party sold be an infant, or of immature age." Appendix II., No. 75.

This last passage probably represents rather the view taken by the court of these transactions than the actual practice of the people amongst themselves.

In Shahabad, sales of Kurmis and Kuhars, both adults and children, are made by the mother and maternal grandfather or grandmother, and the consent of the father to the sale of his children is immaterial.

In Tirhoot, the sales of children are made by the parents.

3.—The sale of wives by their husbands.

Such sales are stated to take place in the district of Rajeshahy; the marriage is not thereby dissolved, and if the husband continues to have access to his wife, the offspring belong to the purchaser.

In the adjoining district of Rungpore, also, instances are not uncommon of Mahomedans and Hindoos selling their wives from motives either of enmity or gain.

In the famine which visited the district of Agra in 1813–14, persons were glad to sel both their women and children for a few rupees, and even for a single meal. Hamilton's Hindoostan, vol. 1, p. 364.

4.—The self-sale of adults.

These self-sales are made under like circumstances with the sales of children, but it is a very much less frequent occurrence, and in some parts is apparently unknown.

In Sylhet, during the Mogul government, persons used to sell themselves as slaves to satisfy demands of rent. Slavery in India, 1828, p. 246.

In Rajeshahy and Purnea, we are told, self-sales do not now take place.

In South Behar and Shahabad, no one would purchase a person of the Kurmi or Kuhar caste from himself. In the Behar district persons of these two castes do sometimes sell themselves to their creditors.

In Rohilcund, the practice of self-sale is not known.

Before adverting to the other sources of slavery, we shall give the substance of the information we have received as to the forms of the instruments used on occasions of self-sale, and the sale of children and adults, and the rights acquired by the purchasers in these classes of contracts.

The forms used in these cases are either a regular deed of sale, or a deed purporting to let the services of the subject for a long period.

In Cuttack, formerly, the first-mentioned instrument was employed, but since a proclamation* issued in 1824 by the then commissioner, declaring the sale of slaves illegal, leases of 60, 70, 80 or 90 years are usually resorted to in cases of self-sale, the lessor engaging to continue in servitude if the sum advanced be not repaid, with all expenses incurred by the lessee, at the expiration of the period.

In Sylhet, the instrument used in cases of self-sale is a lease, there called a khoodajiree pottah, or deed of self-sale.

In

* See further respecting this proclamation, under head "Transfer by Sale."

In Rungpore, the sales of children used to be registered.

In Dinagepore, children are purchased without any writing being executed on the occasion.

In the province of Behar, the absolute deed of sale, called purrumbhuttaruck and kibaleh, the former being the Hindoo, the latter the Mahomedan, form of conveyance, were formerly in general use; but the instrument now most commonly adopted is a lease, ijarehnamah, or assignment of person and services on contract of hire for the like periods as in Cuttack. Various circumstances have given rise to this change. The purchase of a freeman being illegal according to the Mahomedan law, the Moslems have adopted this course to save their consciences, or escape the effects which the operation of the law might otherwise have on the contract; and the Mahomedan forms of contract and conveyance have been generally adopted throughout the province of Behar, even in transactions in which both parties are of the Hindoo persuasion. A general impression also exists in the province, that the sale of slaves is prohibited, which is said to have arisen partly from the provisions of Regulation X. 1811, and partly from some recent decisions of the court of Sudder Dewanny Adawlut, and the form of lease is resorted to for the purpose of evading the supposed prohibition.

In Tirhoot, the period of 60 years is usually adopted in such leases, and this is stated to have originated in a misapprehension of the rule contained in clause 3, section 3, Regulation II. 1805, fixing that period as the extreme limit of time for the cognizance of civil suits.

Poverty and inability to provide for themselves or their children is, in this province, the usual reason assigned in the deed for these sales; and sometimes in cases of sales of children, a stipulation is inserted, that if the seller should ever reclaim the child, he shall refund the price, and reimburse to the lessee or purchaser whatever has been expended in the support of the child; and if the child is sold to a procuress (which kind of transaction we shall notice at large hereafter), it is stipulated that the vendor shall further pay the expenses incurred in educating the young prostitute.

In Patna, the cauzies (public notaries) do not consider themselves at liberty to authenticate instruments for the conveyance of property in slaves. This has most probably arisen from the promulgation of the prohibitory regulations of 1774, hereafter noticed.

Appendix, II., No. 81.

The judge of Tirhoot has transmitted copies of three leases of the kind under consideration, one of which was drawn up and authenticated by a cauzy. In the office of the register of deeds, at the head station of this district, there is one register, entitled the "Register of Ijarehnamahs," or leases set apart for these contracts.*

In Benares and its neighbourhood, there is most commonly no written document, either in cases of self-sale or sale of children.

But whichever of the forms mentioned is employed in recording these contracts, the intentions of the contracting parties, and the practical effects of the engagements, appear to be everywhere the same. The subject of the sale or lease, and the future offspring, generation after generation, are conveyed in full property to the vendee or lessee, except that it may occasionally happen that there is a stipulation for redemption.† But in cases of self-sale, if the vendor has children living at the time of sale, they must be specified in the instrument if intended to be conveyed by it. In cases of self-sale the price paid is the absolute property of the slave, and descends to his heirs, which is likewise the condition of any property he may have been possessed of previously to the sale. In this predicament, also, will be the children of a Kurmi or Kuhar female, when she herself may be sold into slavery by her mother in those parts of the Behar province in which such a sale is sanctioned by local usage.

To the general information above set forth, we have pointed exceptions in the evidence of two of the witnesses, both of the Mahomedan persuasion, regarding the effect of the sales

Appendix I., No. 4.

of free persons into slavery as respects their future offspring. One, speaking of these sales in the form of leases, in Behar and Patna, says, that the offspring of a person thus sold is free, and states a case in point which occurred in his own family. He further says, that he never knew a contract of the sort in which any mention was made of future offspring, though he has known cases in which men have sold both themselves and their existing offspring by the same deed. The other witness asserts, that in Rohilcund the children of persons sold into slavery, during infancy, by their parents, are free, and the owners of their parents have no right of dominion over them. According to him, also, in that part of the country the slavery of the parent in no case entails slavery on the children.

Ditto, No. 14.

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* This registration, on a reference from the officiating commissioner of the division, was ruled by the Sudder Dewanny Adawlut to be illegal. See Construction, No. 812, of 2d vol. of Constructions.

† But in the report of the naib of Beerbhoom to the provincial council at Burdwan, in July 1774, on the subject of slavery in this district, which is given at length in a subsequent part of this report, we find it stated, that "the law does not permit the absolute purchase of slaves, but, their father and mother being willing, they may give a written contract to serve a man for the term of 50 or 60 years, in consideration of a sum of money. If the master is in debt, and has no other means of paying, he may make over the service of the slave to the creditor till the term limited in the contract is expired, he being considered as part of the effects belonging to the house. After the expiration of the time limited in the contract, it is at his option either to leave his master or stay with him. Force must not be used to detain him."

We now proceed to notice the remaining sources of slavery.

5.—Marriage or cohabitation with a slave.

In Tipperah, sometimes the consideration for which a freeman gives himself up to slavery is marriage with a slave girl, whom the master will not permit him to marry on other terms.

In Rajeshahy, a free female on marrying with a slave descends to his condition.

In Purneah, a free man by marrying a slave girl is personally degraded to slavery, but cannot be sold; and the same, according to Dr. Buchanan,* is the case in some parts of Bhaugulpore.

In Pachete, in South Behar, if a free woman marries a slave she follows his condition.

In Tirhoot, according to one witness, if a free person of either sex marries a slave without stipulation for freedom, such person becomes a slave; but, according to another witness, he or she continues free. No. 3. No. 17.

One witness states, that in all the territories west of Benares, if a free man marries a slave he becomes the slave of his wife's owner for so long as he cohabits with her, but he may put an end to his servitude at any time by relinquishing his wife. But if a free woman marries a slave, she becomes permanently the slave of her husband's master. No. 28.

In Rohilcund, however, this does not appear to be the usage: there, we are told, a free person is not subjected to slavery by marriage with a slave, though the free husband or wife in such cases resides in the house of the owner of the slave spouse, and serves him for maintenance. Witness, No. 14.

According to all the other information we have on this point, the marriage of a free person with a slave does not affect the liberty of the former.

One witness, speaking of the customs in Behar and Patna, says, that if a free Kurmi or Kuhar has illicit intercourse with a female slave, her master seizes him and reduces him to slavery. No. 23.

6.—Kidnapping.

The practice of kidnapping within the British territories is not, as far as we are informed, a means generally resorted to for the supply of domestic slaves, and, being a criminal offence, it is reasonable to suppose that it has only a limited operation. But it certainly exists in some parts, and wherever it does occur, the victims are generally female children, who are entrapped and sold, sometimes to Mahomedans for concubines or servants in their zenanas, but principally to procuresses to supply the demands of their profession.

Thirty-five† cases of child-stealing, for the purpose of selling into slavery, were brought to the notice of the police in the lower provinces during the years 1835, 6, 7 and 8.

In Cuttack, the children sold to prostitutes are sometimes obtained by kidnapping.

A case occurred in Midnapore, in 1793, of some children being kidnapped for the purpose of being sold as slaves, in which two prisoners were sentenced by the Nizamut Adawlut. Slavery in India, 1828, p. 55–59.

In the neighbourhood of Calcutta, not only are female children kidnapped, but grown up and married women are inveigled from their families, and sold in the city to replenish the brothels, as will be further mentioned under the head of "Prostitution."

In the city and district of Dacca, in 1816, the persons sold in slavery were generally young female children or grown-up girls, decoyed away from their parents or other relations in the country, under pretext of marriage or other pretence, and disposed of either to public women, or to rich individuals as servants for their zenanas. This description of offence was believed by the magistrate of the city to be very frequent, though few cases of the kind were brought officially to notice. We find the magistrate of Dacca Jelalpore, in 1829, complaining of the practice being carried on by prostitutes, and stating also that child-stealing for the same purpose was prevalent, the prostitutes being the purchasers of the parties kidnapped. In the Slavery in India Papers, 1828 (p. 48–50), will be found some proceedings which took place in 1792, respecting a girl kidnapped near Dacca, and who, being sold to a bawd, was conveyed to Serampore; also, a case of kidnapping a female child for sale, which occurred in this district in 1817 (p. 418, 19). And on inspection of the Criminal Justice Reports for 1836, 7 and 8, we find, that during that period 45 cases of "enticing away women," occurred in this zillah, and 88 of "abduction of females" in the adjoining zillah of Fureedpore, since abolished. Slavery in India, 1828, p. 248.

In Sylhet, also, in 1816, a system of kidnapping and inveigling free children prevailed with a view to their sale within the district, or for exportation and sale in other districts; and the judge of the zillah expresses his belief that the practice is still carried on to some extent, and with a considerable profit to those concerned in it. The Criminal Justice Returns of this district for 1835, 6, 7 and 8, exhibit a total of 242 cases "of enticing away females and children."

In the province of Behar, female children are sometimes kidnapped in order to their being disposed of to prostitutes; but it is in the north-western provinces that the crime chiefly prevails.

Two cases of kidnapping female children are among the reported cases of the Nizamut Adawlut Nizamut Adawlut Reports, vol. 2, p. 308, 447.

* See head, "Marriages of Slaves."

† Cuttack, 6; Moorshedabad, 1; 24-Pergunnahs, 4; Nuddea, 1; Chittagong, 1; Tipperah, 1; Dacca Jalalpore, 1; Sylhet, 4; South Behar, 2; Behar, 2; Patna, 6; Sarun, 5; Tirhoot, 1; Total, 35.

Slavery in India, 1838, p. 330.

Adawlut for 1824 and 1826, for the district of Mirzapore, in the former of which the stolen child was disposed of to a woman in the city of Benares for 16 rupees. Four out of 21 criminal trials held in this zillah in 1827–8, were for child-stealing, and other cases of the kind were at the same time under investigation before the magistrate. It appears from the Circuit Judge's Report on these trials, that this description of crime was of frequent occurrence in the town and district; the children stolen, if girls, being sold to prostitutes, and if boys, becoming slaves in a distant part of the country.

The magistrate of Banda (south division Bundelcund), in a letter to the commissioner of circuit, dated the 6th May 1834, respecting two cases of 24 children purchased or otherwise obtained for prostitution or as slaves, states that 36 instances of kidnapping had been brought to his notice within the previous four months, and that the crime had latterly increased to an extent he had never before witnessed.

Ditto, p. 330.

Twenty-nine cases of child-stealing were reported in the Bareilly division in 1828, 15 of which occurred in the Agra district: 13 took place in the same zillah in the first six months of 1830, being three in excess of those entered in the statements for the first six months of 1829, on which the government of Bengal, in their despatch of 18th December 1832, observe, "The offence of kidnapping of children has been one peculiarly prevalent in the Agra district, from the facilities which existed of disposing of the children by sale in the adjoining native states; but the increase above mentioned appears to be rather attributable to the greater attention paid lately, by the magistrates in charge, to the detection of such offences than to any real increase in the number of them committed."

Ditto, p. 28.

Nizamut Adawlut Reports, vol. 2, p. 66.

In 1821 six female prisoners and one male were convicted by the court of Nizamut Adawlut of kidnapping female children in the city of Furruckabad. In this case it appeared that the prisoners had for some time made a trade of stealing and selling female children.

Slavery in India, 1838, p. 1, 2, 37–43.

Of three female slaves who in 1828 escaped from the palace of Delhi, and were eventually liberated by order of government, two were Hindoo women who had been kidnapped by Brinjaras in 1823 and 1825 from the district of Muttra, and one a Moslem female who had been decoyed from Cawnpore in 1823. All three were purchased by one of the sons of the king of Delhi, one of the Hindoo females for 115 rupees, and the Mussulman female for 100 rupees. The resident at Delhi, in reporting the circumstances of this case to the government, stated, that the palace was thronged with women of this description, kidnapped by persons employed for the purpose, and bought from those persons.

The appalling system, called megpunnaism, which has recently been brought to light in the western provinces, of murdering indigent parents for the sake of obtaining their children, will be noticed hereafter.

Ditto, p. 69.

In August 1834, the commissioner of Delhi reported, that the nawab of Buhadur Gurh, (15 miles west of Delhi) forming part of the Bahraitch Jagheer, had purchased three girls and two boys through an inhabitant of one of his own villages, and two girls from four reputed Thugs of Jhujjur; at the same time he expressed his fears that the boys and girls had been kidnapped, and very possibly their parents murdered. The officiating magistrate of Paniput, speaking of the slaves in the city of Delhi, says, "In some cases of Thuggee which I have seen, the murders were perpetrated merely for the children, some of whom were sold in the city the same day."

Appendix II., No. 139.

7.—Importation.

And, First—Of importation by sea.

Ditto, No. 26.

Formerly there used to be a very considerable importation into Calcutta of Hubshee or Abyssinian slaves by Arab merchants from the Red Sea; according to one of our informants, from 10 to 30 by nearly every ship. These slaves consisted of adults and children of both sexes, but the females were the most numerous; of the males many were eunuchs. They were generally bought on the east coast of Africa from their parents, or from slave-owners, and they arrived here as Mussulmans.* Some were purchased by residents of Calcutta, but the greater part were carried up to Lucknow and other places in the interior. All were disposed of to Mahomedans, and by them employed as domestic servants.

Slavery in India, 1828, p. 72–4.

Five Armenian lads, who had been made captive by the Mahomedans on the devastation of Teflis and sold as slaves, were brought to Calcutta, in 1796, to be disposed of to the nawab of Lucknow.

Buchanan. Martin, vol. 2, p. 100.

Dr. Buchanan in his account of Bhaugulpore mentions having seen two Abyssinian boys in the train of a person of rank, who had commissioned them from Calcutta, on account of the character for fidelity which this nation holds throughout the East.

Slavery in India, 1828, p. 377–381. Ditto, 1838, p. 27, 28, 307–310.

In March 1824, the attention of the magistrates of Calcutta having been drawn to the subject, an extract from the statute 51 Geo. 3, c. 23, with a translation in the Persian and Arabic languages, was circulated by the order of government to all the Arab merchants and

* Mr. H. Colebrooke, in his minute written in 1812, says on this subject: "The importation by sea consisted of a very few African slaves brought by Arab ships to the port of Calcutta. Having been led to make some inquiries into this traffic previous to its abolition, I had reason to be satisfied that the whole number of slaves imported was very inconsiderable, not exceeding annually 100 of both sexes; I found cause at the same time to be convinced that the means by which slaves are procured on the eastern coast of Africa for the Arab dealers, who supply Arabia and Persia, and who used to bring the small number mentioned to this port, are not less abominable and nefarious than those practised on the west coast of Africa, consisting for the most part of the forcible seizure of the slaves, either in predatory war undertaken for the purpose, or by open robbery, often attended with the murder of the parents."—Slavery in India, 1838, p. 312.

and other persons connected with Arab shipping resident in Calcutta, and they were desired to make known the purport of it to their correspondents in the Red Sea, Persian Gulf and other places. In consequence of this measure, and the vigilance of the magistrates, the traffic from that time began to decrease, and the importation was thenceforward limited to a few slaves, brought chiefly by the officers of ships from Judda and Muscat. The prices at which these unfortunate beings were disposed of rose accordingly. Formerly they were sold in Calcutta, male and female, for from 50 to 100 rupees each; after the adoption of the above measure, a Hubshee eunuch would fetch in Calcutta 200 rupees, a Hubshee, not an eunuch, 150 rupees, a Mumbazi slave, who is never emasculated, 100 rupees. According to one account, a negro slave could not be procured in Calcutta in 1836 for less than from 200 to 400 rupees. At Lucknow, the price of a Hubshee eunuch would rise as high as 1,000 rupees, but a Hubshee, not an eunuch, would not fetch above 300 rupees. Appendix II, No. 26.

This interruption of the slave trade did not occasion any demonstration of discontent among the former purchasers, and two circumstances have since occurred which have tended still further to diminish the supply formerly received, if not altogether to put an end to it. One of these circumstances was the issue of orders by the governments of Judda and Muscat, that no slaves should be brought round to Calcutta on ships belonging to those states, which orders are stated to have been promulgated on the information reaching those governments that the importation had been prohibited by this government. The other is the increased vigilance of the officers of the custom-house, since the re-organization of that establishment, consequent on the Act, No. 14, of 1836, passed by the government of India, under the authority of which an officer is sent on board every ship entering the port at Kedgeree or Diamond Harbour, and remains on board until the vessel leaves the river. Previously, in 1834, at the suggestion of the chief magistrate of Calcutta, the pilots of inward-bound vessels from the Persian Gulf, or other parts from which the importation of slaves might be apprehended, were directed to take diligent notice of, and to report to the police-office, every case where they had reason to believe that any such individuals had been imported, or were still in the ships. Witness, No. 12. Witness, No. 13. Slavery in India, 1838, p. 22–3, 219–20.

Lucknow, however, has also been supplied with African slaves from another quarter. It was ascertained by the British resident, in April 1833, that 18 persons of this description (10 women and 8 men) had been then sold to the king and Padshah Begum, by four Mogul merchants, who had brought them in an Arab ship from Mocha to Bombay, and, after disembarking them at a port a few days, sail to the northward, accompanied by three or four servants, conveyed them in covered hackeries, *viâ* Jyepore, Ajmere and Agra, to Lucknow; shortly afterwards, another party of Mogul merchants and their servants were stopped within a few miles of the city with 16 Africans (12 females, some of them young children, and 4 boys) whom they had brought from Mocha to Bombay, and thence *viâ* Bhaonuggur, Ajmere, Agra and Furruckabad. Ditto, p. 6, and the papers noted in the margin of the extract.

Secondly—Importation by land; under which title we include, for the purpose of this report, not only the introduction of slaves from foreign states into the British territories, and from one distant portion of those territories into another, but likewise importation from one neighbouring district into another.

Forty-two * cases of sale or purchase of slaves in contravention of Regulation X. 1811, and III. 1832, were brought to the notice of the police in the lower provinces during the years 1835, 6, 7 and 8.

Speaking generally, importation does not take place either into Cuttack † or into those districts of the province of Bengal which lie to the south of the Ganges.

Sir W. Jones in his charge to the grand jury in June 1785, spoke of large boats filled with children, mostly stolen from their parents, or bought perhaps for a measure of rice in a time of scarcity, coming down the river for open sale in Calcutta, and stated that there was hardly a man or woman in the town who had not at least one slave child. This wholesale supply has no doubt ceased long since, but though the Hindoo families of Calcutta are now served by free people, who either receive wages or merely food, clothing and lodging, the majority of the Mahomedan, Parsee, Portuguese, Armenian and Jew inhabitants possess slaves. Here, as in other parts of the country, a great accession is of course made to the number of slaves on the occurrence of any general calamity in the neighbourhood, such as the inundation of 1834, during which, as has been already stated, children were commonly hawked about the streets of the city for sale; but, in ordinary times, the supply is kept up by dealers who go from Calcutta into Sylhet, Dacca, and Mymensingh, and there purchase Hindoo and Mahomedan children of both sexes, whom they sell to the Mussulman inhabitants of the city as domestic slaves. It is probable, however, that the slaves thus annually imported are not many. Slavery in India, 1828, p. 10.

In 1816, people of the Tipperah district used to repair to the districts of Sylhet, Chittagong, and Backergung, to purchase slaves; and slaves were also occasionally imported into Tipperah for sale from those districts. Ditto, p. 246.

Dacca

* Cuttack, 2; Hooghly, 1; Beerbhoom, 2; Moorshedabad, 4; 24-Pergunnahs, 5; Chittagong, 3; Tipperah, 2; Sylhet, 7; Rajeshahy, 2; Dinagepore, 3; Purneah, 2; Bhaugulpore, 1; Behar, 1; Patna, 7; Total, 42.

† A few children are occasionally purchased in Cuttack and taken to the pagodas at Ganjam and Berhampore by the dancing girls attached to those pagodas.—Slavery in India, 1838, p. 397.

Slavery in India, 1828, p. 10–48.

Dacca and its neighbourhood furnished the greatest number of the children whom the low Portuguese of Dacca, Calcutta, Chinsurah and other foreign settlements, and several seafaring people of various European nations, used to purchase and collect clandestinely, and export by sea from Calcutta for sale in the French islands and other parts of India in 1785–90. We are not aware that there is now any exportation by sea of persons intended to be dealt with as slaves.

Gladwin's Ayeen Akbary, vol. 2, p. 13.

Slavery in India, 1828, p. 241–248.

The district of Sylhet has been long noted for its dealings in slaves. Abul Fazel notices it as furnishing many eunuch slaves for the seraglios. A slave traffic had long subsisted there to a considerable extent, but the number of slaves annually exported was, in 1813, believed to be much less than previously. The practice of kidnapping or inveigling away free persons for sale as slaves was still very prevalent in 1816, but it was then believed to be on the decrease. The parties concerned in this nefarious practice were generally fakeers or wandering bazeegurs, and the persons kidnapped were mostly girls of various ages; persons of that sex being more in request for domestic purposes than males, and their price was proportionally higher. These females were carried to Dacca, Calcutta, Moorshedabad, Patna and other opulent cities, where a rapid and profitable sale was always obtained. Many also were sold for prostitution in Dacca and other places. Nor were these arts practised only against free persons; slaves also were decoyed away from their owners by means of pecuniary rewards, or the hopes of better service, or otherwise fraudulently obtained, and sold at such distant places as to preclude their discovery or return. No less than 150 prosecutions on these charges were instituted before the magistrate in the year 1812. Even at the present day there is some exportation of slaves from this into the adjoining districts, particularly in times of scarcity; and the practice of seducing slaves, principally women and children, from their owners, and disposing of them in the adjoining zillahs, also still prevails. The place to which they are principally carried is the pergunnah of Bickrampore, near Dacca, which is inhabited by respectable Hindoos, Brahmins and Kayets, among whom there is a great demand for such slaves.

Asiatic Journal, June 1839, p. 449, 452, 470.

The child-stealers of Sylhet did not confine their operations to the district itself, but extended them to the adjoining territories of Kachar and Jyntiah. Of the children so kidnapped some were disposed of to wealthy natives in the district, and some were carried for sale to other places. An extensive trade in slaves is at this time carried on in the Cachar Hills. The victims of this practice, many of whom are Muniporeans, are stolen indiscriminately by all in that quarter, and some are sold to the merchants of Bengal who go up for cotton. A slave can be procured for 20 packets of salt, seven of which are to be had for one rupee.

During the late Burmese war, a great many of the inhabitants of Munipore took refuge in Sylhet, and there, constrained by distress, sold their children into slavery. People now sometimes go from Sylhet to purchase slaves in Assam.

Witness, No. 7.

Slaves were formerly imported into Rajeshahy, from Mymensingh and Rungpore, by itinerant dealers, who exposed the slaves to public sale in the markets of the district, or sold them by private contract. These sales used to be frequent, but 20 years ago, in consequence of a boy of 10 years old having been purchased in Rungpore, and sacrificed to the goddess Kali, a proclamation * was issued by order of the Nizamut Adawlut, prohibiting the sale of slaves in the markets. That traffic, therefore, ceased, and now, when a person in Rajeshahy wishes to buy slaves, he must either go, or send, or write to those districts, where self-sold slaves are procurable, but with some difficulty. The people of Rajeshahy supposed that the prohibition extended to all sales, and though private sales still take place, it is no longer the custom to register them, as it was previously to the proclamation, in the office of the zillah register or pergunnah causy.

Buchanan. Martin, vol. 3, p. 496.

Dr. Buchanan observed, that in the civilized parts of Rungpore the slaves did not appear to be on the increase, and that the importation did not seem to do more than keep up the number, although the master always procured a wife for his slave. A great part of the slaves in the Garrow Hills, he states, were brought from Assam.

Ditto, p. 693.

Ditto, p. 681.

Hamilton's Hindoostan, vol. 2, p. 742, 744.

Buchanan. Martin, vol. 3, p. 496.

We learn from the same authority, that about 100 slaves of pure caste were annually imported from Assam into Bengal, and there sold: they were mostly children, and the girls were chiefly purchased by professional prostitutes. In 1809 the value of the slaves thus imported amounted to 2,000 rupees. "The people of (Cooch) Behar," Dr. Buchanan remarks, "are willing to carry on the same trade."

Slavery in India, 1828, p. 376–7.

In 1823 the commissioner of north-east Rungpore reported to government the case of 20 young children of both sexes who had been kidnapped in Assam by five robbers (Burmese or Assamese subjects) and brought into the British territory for sale.

Appendix II., No. 26.

One of the public officers says, that he has good reason to believe that the inhabitants of the chain of mountains bounding the northern and north-eastern parts of Bengal are in the habit of clandestinely importing slaves for sale into the adjoining districts of Bengal, particularly young boys and girls.

In the province of Behar, children are occasionally brought from other districts and purchased by Mahomedans, but the Hindoos are averse to purchasing for domestic purposes persons of whose caste and previous condition they know nothing.

Dr.

* We have not been able to trace this proclamation.

Dr. Buchanan states, that most of the prostitutes attached to the houses of bad fame in Goruckpore are purchased from the hill tribes, and that the same is the case over most of the west of India. MSS.

Excepting in respect of Rohilcund and the Delhi territory, we have no information as to the extent to which the supply of slaves in the western provinces depends upon importation. We notice, however, the following cases as bearing on the subject:

In 1823, the magistrate of Bundelcund applied to government for authority to commit for trial two natives of the district for kidnapping children in the Rewah territory. Slavery in India, 1828, p. 376.

In May 1834, the magistrate of the southern division of Bundelcund reported to the commissioner of circuit the detention by the police of his district of 11 female children, who had been purchased or procured in the neighbouring foreign territory by a Mussulman prostitute of Allahabad, and despatched in banghies to her home. Two other persons of Allahabad (Mussulmen) also claimed them as having been procured by the prostitute on their account. He further reported that about the same time a covered hackery was stopped at the Sudder station, containing 13 children of both sexes "crowded together at the bottom of it, with hardly breathing room," one or two of them in a very weakly state, and who would not, the magistrate thought, have survived their journey into the Allahabad district, whither they were in progress. The parties concerned in these cases alleged that the children had been received gratuitously from their parents or other lawful guardians.

In June 1813, the magistrate of Cawnpore reported to the government, that a prostitute of the town had purchased at Jhansi, in a scarcity, a Jaat and a Rajpoot girl for 52 and 59 rupees respectively, and brought them into Cawnpore. The same magistrate in the following month reported another case, in which 14 men of the Jyepore state had been apprehended by his police officers with 59 slaves, women, and girls and boys of different ages and castes, from four to twenty years old, natives of the Marwar territory, whom they had brought to Cawnpore for sale. Ditto, p. 211–12.

In 1821 the acting magistrate of Allyghur applied to government for authority to commit for trial two inhabitants of his district for kidnapping a girl four years old from the Bhurtpore territory. Ditto, p. 371.

On the conquest of Kumaon and Gurhwal, and the hill country between the Jumna and Sutlege, by the Goorkhas, the land revenue was so arbitrarily assessed by the conquerors that balances soon ensued, to liquidate which the families as well as the effects of the defaulters were seized and sold. A ready market for these unfortunate beings was found in Rohilcund (including the Rampore Jaghire), the district of Saharunpore and at Lucknow, and many hundreds of both sexes, from three to thirty years of age, were annually imported, the traffic being carried on by a class of persons, some subjects of the Goorkha and some of the British governments, who from their profession were designated "burdeh-furosh" or slave-sellers. Many persons also, children and adults, were purchased by these dealers from their parents and relations, and sold into slavery. One of the public officers states, that in 1809 or 1810 he saw at Hurdwar a large number of children of both sexes brought down from the adjacent mountains for sale at the fair; and the magistrate of Bareilly, in 1813, considered that place to be the market at which a greater number of slaves had been sold than almost any other part of the British territories. Hamilton's Hindoostan, vol. 1, p. 433, 452; vol. 2, p. 629, 630, 635. Asiatic Researches, vol. 16, p. 189. Witness, No. 14. Appendix II., No. 26. Slavery in India, 1828, p. 146.

In 1811, the attention of Mr. T. Brooke, the Governor-general's agent in the ceded and conquered provinces, having been directed to this traffic by an application from the Goorkha local governors to co-operate with them for the suppression of it, that officer issued instructions to the magistrates of Bareilly, Moradabad, Saharunpore and Meerut, to take measures to put a stop to it, and the fact of 66 children having been immediately taken possession of in consequence of those orders by the police of the Bareilly and Moradabad jurisdictions, furnishes evidence of the extent to which the trade was carried on. All the above children had been purchased at Nudjeebabad and Auggunah, which were the established marts where these victims of oppression were collected in hundreds. Ditto, p. 111–119.

The circumstances thus brought to light led to the enactment of Regulation X. 1811; and the government, in a despatch to the honourable Court of Directors, dated the 30th January 1813, observed, that the statements of the local officers afforded every reason to believe that the new law had been "fully effectual in the Bareilly division in preventing the importation of slaves by land from foreign countries." We fear, however, that such was not the case. We see traces of the same traffic in the report of the second judge of the Bareilly court of circuit, dated 9th September 1815, in which Cassepore and Roderpore are mentioned as "the markets for slaves imported from the hills;" and one of the witnesses examined, who is a native of the Rampore Jaghire, though for the last 30 years resident in Calcutta, states that the trade is still carried on by the Burdeh furoshes, but clandestinely, and only to a very small extent. Ditto, p. Ditto, p. 342. No. 14.

In April 1837, 17 female children, mostly from eight to ten years old, but two or three of a still more tender age, were discovered by the joint magistrate of Kasheepore (district of Moradabad) secreted in the houses of two prostitutes of the town; and it appeared from the evidence of these children that their parents, inhabitants of the hills of Kumaon, had sold them to the parties in whose houses they were found; a proof that importation, at least for the purpose of a supply of prostitutes, still goes on. Slavery in India, 1838, p. 367.

An extensive traffic in slaves was also formerly carried on between Rajpootana and the Delhi territories, and through them to other adjacent countries. In 1808 measures were taken by Mr. Seton, the then resident at Delhi, and rajah Zalim Sing of Kotah, to check the Ditto, 1828, p. 98, 99.

the practice of kidnapping children in the country of the latter, and selling them in the Delhi territories. The sale of children in the assigned* territory was prohibited, unless the right of the seller was clearly established, and the slave merchants were ordered by the rajah to quit the Kotah territories.

Slavery in India, 1828, p. 109.

In 1813, Sir C. Metcalfe, then resident at Delhi, in writing to government on the subject of a proclamation for the suppression of the slave trade, mentions that a few days previously a native of Peshawar, a professed dealer in slaves, had brought to Delhi a number of children from Rajpootana, whom he was carrying to his own country for sale; and that instances had occurred of persons passing from Rajpootana, through the Delhi territory, with children, to Rampore, in the Rohilla Jaghire, where, he observed, "the importation and sale of slaves continues unrestricted." In the despatch to the Court of Directors, above quoted, the government concludes, from a report of the resident at Delhi, that Regulation X. of 1811 had the same beneficial effect in the Delhi territory as in the Bareilly division. The officiating magistrate of Paniput, however, speaking of the present state of slavery in the city of Delhi, says that it consists chiefly of females who are stolen or purchased in Rajpootana, and brought to Delhi for prostitution.

For an account of the dreadful extent to which slavery, particularly of females, prevails in Central India, and the various modes by which the supply is kept up, reference may be made to the late Sir J. Malcolm's work on Central India.—(Vol. 2., p. 199–204, edition 1823.)

From the volume of papers on East India slavery, printed by order of the House of Commons in 1838 (p. 4–8 and 55–69), it will be seen that measures were adopted by the Indian governments in 1832–3 for the suppression of the slave traffic in the native states subject to their influence. We find from the correspondence there recorded, that a traffic, carried on by regular slave merchants at Kotah and Boondee, by the import of slaves, chiefly females, from other parts of the country, was an avowed and considerable source of revenue. A large proportion of the persons thus consigned to foreign slavery were supposed to be kidnapped, that nefarious practice prevailing throughout Rajpootana, Malwa and Goozerat to the sea. It appears also that slave-markets were established in the camp at Gwalior, and many of the persons there disposed of were decoyed or kidnapped from the neighbouring districts in the Company's territories, and that some of the traders themselves were native British subjects. Of course, the recovery of kidnapped children, when once immured in the zenanas of wealthy and influential people, is next to impossible.

8.—Birth.

It is a general principle that the offspring of slave parents are slaves. This will be more fully noticed under the head of "Marriages of Slaves and Ownership of their Offspring."

No. 20.

In respect of illegitimate offspring of a female slave, one of the witnesses examined as to the state of slavery in Bhaugulpore says, that he never heard of an instance of a slave girl having an illegitimate child, their conduct being as strictly and jealously watched over as that of a daughter. We learn from Dr. Buchanan, however, that when young the slave women are usually alleged to gratify their masters' desires; and he mentions that among the Kayets in this district there were, when he visited it, about 100 families called krishnapakshyas, or bastards, being descended from Kayets and slave-women chiefly of the Dhanuk caste.

Buchanan. Martin, vol. 2, p. 99, and MSS.

In Shahabad, when a master has a child by his female slave, it is not removed from the state of slavery; the father only endeavours to procure for his child a marriage with another of the same spurious breed. Dr. Buchanan, on whose authority we state the above practice, infers that such connexions are numerous, from the price of young women being higher than that of men.

Ditto, vol. 1, p. 479–80.

In Tirhoot, the illegitimate children of a slave woman are the property of her master.

There are two parts of the country in which we are told certain illegitimate children of free parents are considered as born in a state of slavery.

In Cuttack, the illegitimate offspring of Hindoos of the higher castes by free women of low caste are slaves. There is some discrepancy, however, in the evidence on this point.

No. 6.

One witness (a Hindoo) considers this to be a source of Mahomedan slavery only, describing the persons whose slavery originates in this manner as the illegitimate offspring of women

No. 9.

of low caste, whether slaves or free women, by Mahomedan fathers. Another witness (also a Hindoo) first described this class as including both Hindoo and Mahomedan slaves, stating them to be children or descendants of men of high caste (excepting Brahmins) or of Mussulmans, by concubines of the inferior classes; but being more particularly questioned on this point, he said that the spurious offspring of a Mussulman by a woman of low caste would not be slaves. The officiating judge of the district describes this race of slaves to be the illegitimate children of Hindoos by women of a lower caste.

Appendix II., No. 7.

In Benares and its neighbourhood, a child begotten by a rajpoot on his concubine is a slave, as are likewise all its descendants. The witness who gives us this information says, "The begetting of slaves upon concubines is a practice which is not openly avowed, though it is done frequently; but in the Deccan this is done openly without scruple."

No. 28.

3.—*The*

* The city of Delhi and the conquered territory on the right bank of the Jumna, the revenues of which are assigned to his majesty the King of Delhi.

3.—*The Castes to which Hindoo Slaves generally belong.*

In Cuttack, the Hindoo domestic slaves consist of such low castes as are considered pure: viz., Sudra proper, Gowala, Gowria, Chasa, Khundait, Agari, Busbunnia, Barhai, Lohar, and Tanti.* Slaves of the impure castes are: Dhobee, Chumar, Gokha, Teli, Gola, Kewut or Kybert, Rungree, Raree, Pan or Pandra, Kundra, Napit, Baoree, Bagdee, Hari, Dome.

The owners of domestic slaves in this district are principally Mahomedans and Hindoos of the Kayet† caste, though some rajahs and zemindars who are Khundaits, Rajpoots and Ketryas, also keep them. But no Brahmins ever employ domestic slaves, having been prohibited so doing by rajah Pursottem Deo.‡ The reason of this prohibition does not appear, but it has continued in force ever since. The Byse sect are also precluded from the use of domestic slaves by the principles of their caste. The slaves of the impure tribes, who are employed exclusively in out-door work, are kept by all classes of people who can afford it.

In Tipperah, there are two classes of Hindoo slaves, the Kayets, who are a pure caste, and the Chundals, who are impure.

In some parts of Dacca Jelalpore, the majority of the Hindoo slaves are Kayets, and some few are Napits and Gowalas; in other parts all kinds of Sudras are to be found occasionally in a state of slavery, except Kayets.

In Rajeshahy, the Hindoo slaves are of the Kybert, Kayet, Jalia, and Mali castes, and generally of all the low tribes; nor is there any caste so vile as to be incapacitated for slavery.

In Purneah, they are Kewuts or Kyberts; and in the west of the district Dhanuks and Amats. §

Throughout the province of Behar, excepting Pachete and the district of Tirhoot, the slaves are principally of the two castes of Kurmis‖ (called also Juswar-Kurmis and Dhanuks) and Kuhars, called, by Dr. Buchanan, Rowanis. Slaves of both these tribes are employed in the same menial offices and in agriculture; the only difference which exists between them is that the Kuhars, being of inferior caste, carry palankeens, which the Kurmis do not. But, in Bhaugulpore, the Kuhars are considered impure, and are there consequently less useful as domestic servants; they are also less numerous.

In Pachete, in South Behar, the Hindoo slaves are in general Kayets, Koomars, Kamars, Kurmis, Chasas, Kyberts, aud Bhuyans; the Cayet slave being very rare. The slaves in the family of the rajah of Pachete are spurious Rajpoots.

In Shahabad, some of the Khanwar tribe are slaves to the Brahmins. Buchanan, MSS.

In Tirhoot, the slaves are all Kyberts, commonly called Kewuts, but these, according to our informant, are subdivided into Kybert proper, Dhanuk, Amat, and Kurmi. The slaves of these several classes are nearly the same in regard to purity, and are employed indifferently in in-door and out-door work. The great majority of the Kybert caste in this district are slaves, but the great proportion of persons of the other three classes are supposed to be free. Witness, No. 3.

In Goruckpore, as we learn from Dr. Buchanan, the slaves, except on the boundaries of Sarun, have all been received in marriage presents from Behar. In the police division of Parraona, bordering on the Sarun district, there are 250 families of slaves of the Kurmi tribe, mostly employed in agriculture. There are also about 30 families of the Khawas tribe settled on the private estate of the rajah of Palpa in the plains of this district. These Khawas, like the Rowanis, are all slaves, and are said to have accompanied the Chauhan rajah, when that chief retired from Chitore to the hills, and to have carried his baggage. They have ever since continued in the service of his descendants, and are partly employed in the cultivation of their lands, partly as the most confidential domestics. Buchanan. Martin, vol. 2, p. 427. Ditto, p. 471.

In Benares and its neighbourhood the Hindoo slaves are Kurmis and Kuhars, and the spurious descendants of rajpoots by their concubines.

In Allahabad, Kuhars, Ahurs and Chumars.

In Etawah, Kurmis and Kuhars.

In Rohilcund, Brahmins, Rajpoots and Kurmis of the pure castes; and Chumars and Kolees of the impure tribes.

The following account of the Kurmi, Dhanuk, and Rowani tribes, who constitute the greatest portion of the slave population in the province of Behar, and in some of the districts

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* In Southern Cuttack, however, the Tanti is considered an impure caste.—Witness, No. 9.

† Subdivided into Mynteas or Oriah Kayets, Bengal Kayets, and Lalas or Western Kayets.

‡ There were two rajahs of this name in Cuttack. The first reigned from A. D. 1478 to 1503, the second from A. D. 1609 to 1630.—Stirling's account of Cuttack, p. 117–121, 132.

§ "Cultivators of a tribe of pure Hindoos, who are divided into those who are free (Geruya) and those who are slaves (Khawas)."—Buchanan MS.

‖ Dr. Buchanan distinguishes between the Kurmis and Dhanuks, as will be presently noticed. According to him the slaves in Bhaugulpore are either Dhanuks or Rowanis; in Behar and Patna also by far the greater number are of the same two tribes, though there are some Kurmis; in Shahabad most of the slaves are of the Rowani caste, and the remainder Kurmis, with a very few Dhanuks at Arrah, the Dhanuks in this district not being slaves.—Buchanan. Martin, vol. 2, p. 99; vol. 1, p. 125, 479.

districts of the western provinces, is taken from the reports of Dr. Francis Buchanan.

Buchanan. Martin, vol. 1, p. 166, 492; vol. 2, p. 468–9, and MSS.

The Kurmi tribe is one of the most generally diffused and numerous tribes in India. On the right of the Sarayu or Gogra river, it is most commonly called Kunmi, or Kunbi, by which name it is also known in Mysore. In Malwa, it has risen to great power by the elevation of Sindhya, who was a Kurmi, to the government of Ujjain, and at his capital the Kurmis are reckoned Rajpoots. They seem to be the original tribe of military cultivators of the countries from whence they came, and some of them carry arms, as is usual with the pure agricultural tribes, who appear to be aboriginal Hindoo nations that were not of sufficient consequence to be admitted into the order of Khetrees, but too powerful to be thrust into the dregs of impurity. There are various subdivisions of this tribe; viz. Saithawar or Ayodhia, Jasawar, Sungsawar, Kurmi, Chandani or Chandami, Akharwar, Magahi, Ghaureta, Patanwar, Kanojiya, Gujarati, Dhalphor or clod piercers, Kuchisa, Desi. Most of these designations appear to be national distinctions. The Jasawars are thought to have come from Jayasa, a great manufacturing country south-east from Lucknow. The Patanwars (which name implies citizens) probably from their being confined to the vicinity of Nindaur, Patana, the old capital of the Siviras. The origin of the terms Ghameta and Chandani could not be ascertained. The Desi are a spurious race.

In Purneah, there are about 400 families settled in different parts of the district, where they are mostly cultivators, but some carry arms, and some are domestic servants, though not slaves.

In Bhaugulpore, there are between 14,000 and 15,000 families, most of whom are settled in the western parts of the district south of the Ganges, but a good many also in the Feizoollagunje division. Of these families one-half and more are Sungsawars; one-fourth, Kurmis; one-eighth, Chandanis; one-eighth, Ayodhias; a few Jasawars.

In the Behar and Patna districts, there are about 4,500 families, cultivators, and some carry arms; one-half and more are Magahis; one-sixth, Ghametas; one-seventh, Ayodhias. The remainder consist of Kurmis properly so called, who are very few, Sungsawars, Jasawars, Kuchisas, Chandanis and Desis.

In Shahabad, there are about 1,700 families; they sometimes still carry arms, although the great number of idle gentry has in a great measure thrust them out of their employment; 40 per cent. are Ayodhias; 25 ditto, Patanwars; 20 ditto, Jasawars; 8 ditto, Kanojiyas; 6 ditto, Magahis; 1 ditto, Chandanis. Some of the Jasawars are slaves.

In Goruckpore, there are about 44,335 families; of whom 52 per cent. are Saithawars (Ayodhias); 38 ditto, Jasawars; 6 ditto, Gujaratis; 2 ditto, Dhalpors; 1 ditto, Patanwars; 1 ditto, Chandanis or Chandamis, and Akharwars. The Kurmi tribe obtained the whole property in the division of Parraona in this district, bordering on Sarun. The families reckoned among the Ashruf or gentry of the district amount to about 110 houses, all willing to carry arms, and some do so. The Patanwars and Saithawars, unless exceedingly poor, will not hire themselves as ploughmen nor on any account act as domestics; but all, except the Ashruf families, are willing to plough, and, except the two above-mentioned tribes, all are willing to be domestic servants.

Ditto, vol. 1, p. 166–7, 492, and MSS.

The Dhanuks are another pure agricultural tribe, who, from their name implying archers, were probably in former times the militia of the country, and are perhaps not essentially different from the Kurmis; for any Jasawar Kurmi who from poverty sells himself or his children, is admitted among the Dhanuks. All the Dhanuks at one time were probably slaves, and many have been purchased to fill up the military; a method of recruiting that has been long prevalent in Asia. The province of Behar is the country where the Dhanuks appear chiefly to abound. There are also various subdivisions of this tribe, the names of which are local distinctions.

In Purneah, they are by far the most numerous in the western parts of the district. They are there a tribe both of Mithila and Magadha, a considerable portion being called by the name of the latter country; and these, and a few called Dojwar, are reckoned the highest. The most numerous by far are those of Mithila, who are called Sriyata, and there are many slaves who are called Khawas.

In Bhaugulpore, the Dhanuks do not exceed 8,000 or 9,000 families, divided into Silkhatrya, Maghiya, Jasawar or Yasawar, Tirahuti and Kanojya. A great many of them are slaves employed in agriculture, and most of the unfortunate persons in the district, reduced to this state, belong to this tribe. In some parts of the district it was alleged, that if a person procured a slave of any caste, the Dhanuks would receive the unfortunate man into their society; but in other parts the slaves pretend to be as nice as their masters.

In Behar and Patna, there are about 7,000 families of this tribe, of whom more than half are Yasawars (Jasawars). The next most numerous are Dhanuks (without any addition); then Magahis, Dojwars, and Chilatyas.

In Shahabad, the Dhanuks are only about 320 or 340 families; about half Kanojyas, the rest Chilatyas.

Ditto, vol. 1, p. 167–8, 492; vol. 2, p. 99, 471.

The Rowani Kuhars, called, in Bhaugulpore, Maharas, claim a descent from Jarasanda, king of India, in the 11th or 12th century before the birth of Christ; nor is this claim disputed by any except the Brahmins, who allege that this king was a Kshatri, and not a Rowani; but this cannot be considered as a valid objection, because some of the descendants of Viswamita, a kinsman of Jarasanda, are allowed to have been Brahmins, some Kshatris, and some even Mleechchhas. The tradition is so general, that in all probability these Rowanis are descended from the tribe which, during the government of the Brihadrathas, was master of the country. Magadha seems to have been the original seat of this tribe,

tribe, the number to be found any where else being very trifling. The Rowanis have been entirely reduced to slavery,* nor does any one of them pretend to a free birth.

In Bhaugulpore, Dr. Buchanan says, the Rowanis do not sell their children.

In Behar and Patna, the Rowanis amount to about 10,000 families; they are all willing to carry the palankeen, but not one-sixteenth of them are regularly employed in that way, and these have chiefly gone to cities for employment.† The remainder are cultivators, but carry palankeens at marriages, or other ceremonies, and at leisure hours catch fish for their own use.

In Shahabad, they amount to about 6,500 families, chiefly employed in agriculture, but perhaps 600 families of these are entirely domestic servants; a large proportion are slaves.

In Goruckpore, the Rowanis are confined to the parts adjacent to Mithila, and are only 116 families, and these are held on the borders of impurity.

Throughout the greater part of the Behar province, the Kurmis or Juswar-Kurmis or Dhanuks, and the Kuhars, are regarded as being essentially of a slave stock, a tradition prevailing (which, however, does not appear to extend to Tirhoot) that all persons of these castes were formerly slaves. The truth of this, as far as relates to the Dhanuks and Kuhars, is, as we have seen, confirmed by Dr. Buchanan. At the present day, the Kurmis or Dhanuks may be said to exist in three conditions; first, those who are actually slaves; second, those who are practically free, but have the taint of slavery derived from slave ancestors; third, those who are absolutely free, and without any taint of slavery. The Kuhar or Rowani tribe appear to exist in the two first conditions only.

In most parts of the Behar province, it is reckoned disgraceful to sell this kind of property; many masters, therefore, who can give their slaves no employment, and cannot afford to maintain them, allow them to do as they please, and to procure a subsistence in the best manner they can. The Patna council, in their report of 4th August 1774, say "the palankeen bearers in this province are all of this latter (the Kuhar ‡) tribe, and belong to some person or another, though allowed to intermarry, labour for themselves, and act at their own discretion, the same as if no such nominal bondage subsisted. The masters of these slaves, to avoid the expense of their personal attendance, suffer them to work elsewhere for a livelihood." On the death without heirs of the owner of a slave thus situated, the slave becomes entirely free, no one claiming him; and, even without such a contingency, many, doubtless, through the continued inability of their masters to maintain them, are annually passing from this state of partial separation to one of practical freedom, though it is well known who their masters are. Others, when dissatisfied with their situation, quit their master's service, and eventually establish their independence, it being seldom worth the master's while to incur the inconvenience of an attempt to reclaim a fugitive slave. In a general calamity, also, when whole families perish, many slaves are left without any assignable masters, and if in these dreadful visitations many freeborn persons are driven by necessity into a state of slavery, many slaves are at the same time released from their servitude.

Slavery in India, 1828, p. 5.

A person of the Kuhar tribe, however, absolutely free, is not supposed to exist, at least in the Behar and Patna jurisdictions, and when claimed will never pretend to be gurua or unowned. One witness states that persons of this tribe are sold by their owners, but never by any one else. The Patna council, in their letter above quoted, say, "It seems, that on the sale of a (Kuhar) slave, who separately procures his own subsistence, only one-half of the price is received by the owner, the other half going to the parents of the slave;" but this has not been confirmed by the evidence of the witnesses examined by us. According to Dr. Buchanan, in Behar and Patna a good many of the Rowani caste are practically, and in Shahabad many have become entirely, free.

No. 4.

Buchanan. Martin, vol. 1, p. 126, 167, 492.

Although, generally speaking, the sale of free persons into slavery, within the province of Behar, is confined to the castes which have been specified above, yet in times of urgent distress persons of all the lower labouring classes, such as Gowalas, Baris (or Bharees), Buruhees and Napits do, in some parts of the province, sell their children. In times of general calamity, even Brahmins and Khetrees have been known to do the same, but such sales are not considered valid; and it is reported that after the famine of A. D. 1770, persons who had purchased high caste children, during the distress, returned them to their families on becoming apprized of their condition. In such seasons, also, free persons, not of the ordinary slave castes, sometimes give up their children to be maintained and brought up by persons in good circumstances, but no price is taken, and the children are not slaves, though they perform domestic service.

In Rohilcund, which is inhabited chiefly by the descendants of the Afghan settlers, this deference to caste does not prevail; and there slaves of the Brahmin and Rajpoot tribes, in common

* Dr. Buchanan, in his accounts of Behar, Patna and Shahabad, mentions two other tribes, the Kharwars and Bhars, who, from being governing and military tribes, have also been reduced to the condition of carrying the palankeen.—Buchanan. Martin, vol. 1, p. 168, 492–3, and MSS.

The Patna provincial council, in their letter of 4th August 1774, on this subject, say, "they date the rise of the custom of Kuhar slavery from the first incursions of the Mahomedans, when the captives were distributed by the general among the officers of his army, to whose posterity they remained."—Slavery in India, 1828, p. 5.

† "Palankeen bearers are very numerous in these two districts, and many go to Calcutta for service; but most of the bearers supposed there to come from Patna are in fact from Sarun, and the two descriptions of people do not live together, those of Patna being chiefly of the Rowani caste, and those of Sarun being mostly Kharwars."—Buchanan. Martin, vol. 1, p. 124.

‡ It may be remarked, that the Patna council in their letter comprehend all the slaves under the two designations of Mussulmans or Moolazadas, and Kuhars, and make no mention of Kurmis.

common with those of the ordinary classes, may be kept by all descriptions of persons. The sale of children of these two castes, however, is not frequent even in that part of the country.

4.—*Mussulman Slaves.*

The Mussulman slaves consist, first, of Mahomedans of the labouring classes, who have sold themselves, or have been sold when children by their parents; and the descendants of all such; second, of Hindoos, who, having sold themselves to Mahomedans, have embraced the religion of their masters, or who, having been sold in childhood to Mahomedans, have been brought up in the Moslem faith; and the descendants of all such.

In Cuttack, the Mussulman slaves are supposed to bear a less proportion to the free Mussulman population than the Hindoo slaves to the free Hindoo population.

No. 5. In Sylhet, it is stated, by one witness, the greater part of the poorer classes, as of the whole * population, are Mahomedans; and as it is the lower orders who sell themselves or their children in times of scarcity, of course the greater part of the slave population are Mahomedans. There is also in this district a class of Mussulman out-door slaves, who are supposed to be low caste people who have embraced Mahomedanism, but have retained their servile state.

In the province of Behar, the labouring classes of Mahomedans, who sell themselves or their children into slavery, are principally of the Joolaha caste; but also Dhoonnias, Domes and Sekaras. The respectable classes of Mussulmans, viz. Syuds,† Sheikhs,‡ Patans and Malaks§ cannot, according to the custom of the country, be slaves; though in times of extreme distress, such as famine, even Syuds, like Brahmins and Khetrees, have been known to sell their children.

Hindoos who, on becoming enslaved to Mahomedans, have adopted or been bred up in the religion of their masters, are in this province called Moolazadas, literally "born of the priest," though the term is there sometimes applied indiscriminately to all Mussulman slaves. In some parts of the country it is not known; and we are informed that the practice of changing the religion of the slave, though formerly very common in the Behar province, is now little resorted to there; the Hindoo slave of a Mahomedan master retaining his own faith and being employed in out-door work.

In Bhaugulpore, the Hindoos do not sell their children to Mahomedans, but they do so sell them in the districts of Behar, Patna and Tirhoot.

In the Hazareebaugh and Lohurdugga divisions of South Behar, there are no Mussulman slaves.

Buchanan. Martin, vol. 1, p. 145–6. In the districts of Behar and Patna, according to Dr. Buchanan, there were 2,850 families of Moslem slaves, there called Moolazadas, whom he places in a list of persons converted to the Mahomedan faith, but adhering to the doctrine of caste in full vigour, and therefore excluded from communion.

Ditto, vol. 1, p. 489, and MSS. In Shahabad, he estimated the number of Moslem slaves, there also called Moolazadas, at 510 families, who were mostly employed in agriculture.

Witness, No. 26. In the district of Etawa, 30 years ago, there were few Mahomedans in so low a condition as to be obliged to sell their children.

With regard to the domestic slaves of Mahomedans of rank, and particularly those females who, being bought while children on account of their appearance, are bred up, under the name of Laundis, or slave girls, to administer to their masters' pleasures, Dr. Buchanan mentions he could obtain no estimates in the districts he visited. In his account

Buchanan. Martin, vol. 3, p. 121. of Purneah, he observes, "Every thing concerning the women of such persons being veiled in the most profound mystery, no estimate could be procured of their number; but this is a luxury in which almost every Mahomedan of fortune is supposed to indulge as far as he

Ditto, vol. 2, p. 100. can afford." He believed that in Bhaugulpore there were many such, as the chief persons in the district were Mahomedans, and some of them had dealt to a ruinous length in such property; and in the division of Monghyr alone, the Moslems had 50 male (Gholams) and

Ditto, p. 427–8. 70 female (Laundis) domestic slaves. He thought it probable that in Goruckpore female slaves were purchased, to administer to the pleasures of wealthy Mahomedans, from the mountaineers, many of whom were ready to dispose of their children.

5.—*Hindoo*

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* The following were the proportions of Mahomedans to Hindoos in the undermentioned districts, according to the reports of 1801:—

Jessore	9 to 7
Chittagong	3 to 2
Dacca Jelalpore	equal.
Sylhet	2 to 3
Rajeshahy	1 to 2

—Hamilton's Hindoostan, vol. 1, p. 135, 169, 182, 195, 198.

But the population returns for Rajeshahy, in 1834, gave a proportion of 1,000 Mahomedans to 587·8 Hindoos.—Mr. Adam's second report on education in Bengal, p. 6.

According to Dr. Buchanan, the proportion of Mahomedans to Hindoos in the districts of Rungpore, Dinagepore and Purneah, was as follows:—

Rungpore	10 to 9
Dinagepore	70 to 30
Purneah	43 to 57

—Buchanan. Martin, vol. 2, p. 723; vol. 3, p. 144, 512.

† The descendants of the prophet.

‡ The descendants of his companions.

§ The descendants of persons who have received titles from the sovereign.

5.—*Hindoo Masters of Mahomedan Slaves, and vice versâ.*

Generally speaking, the Hindoo masters have Hindoo slaves, and the Mahomedan masters Mahomedan slaves. A Hindoo slave of a Hindoo master, if converted to Islamism, would become unfit for domestic uses, but he would continue a slave, and might be employed in out-door work.

In Mymensingh, the sale of children by Mahomedans to Hindoos is common, but not the converse.

In Sylhet, where, it is said, the Mahomedan population exceeds the Hindoo, the poorer Mahomedans do not object to sell themselves to Hindoo masters; and there are a great many Hindoo masters have Mahomedan slaves, but very few Mahomedan masters have Hindoo slaves.

Of Rungpore, Dr. Buchanan observes, "The domestic slaves of the rich are almost entirely of castes that the masters consider pure. A rich Hindoo would not accept of a Moslem slave, and still less of one of impure birth. It is among the Mahomedans that the custom of nourishing poor children is chiefly practised." Buchanan. Martin, vol. 3, p. 497.

In South Behar, the Hindoo slaves are in the possession both of Hindoos and Mahomedans.

The possession of slaves does not appear to be confined to Hindoos and Mahomedans. The judge of Moorshedabad says, "Slavery, I believe, exists in Bengal as in the upper provinces; and, as far as I can learn, Mahomedans, Hindoos, Armenians, Jews, and East Indians, all hold slaves;" and the judge of Mymensingh mentions that "children are often purchased by Protestants, Roman Catholics, and also Greeks, and brought up not as slaves, but menials, in the creed of the purchaser." Appendix II., No. 25. Ditto, No. 47.

6.—*The Extent of the Master's Dominion over his Slave.*

Slaves are both heritable and transferable property; they may be mortgaged and let to hire; and they can obtain emancipation only by their owner's consent, except in some special cases.

It appears to be the generally received opinion that the earnings of a slave belong of right to his master; that he has no right to any portion of his own time wherein to work for his own benefit; and that he can hold no property acquired in this condition as against his master, excepting such things as the master himself may give him. In practice, however, the master would not deprive his slave of any thing given him by another person, and, by the indulgence of their owners, the slaves, particularly those of great people, frequently do possess property, which on their death descends to their heirs. This indulgence is in some places so general, that the public officers of several districts regard it as the established custom.

According to the acting joint magistrate of Midnapore, "the property of the slave at his death goes to the nearest of kin, and only to the master in the event of his leaving no relation." Ditto, No. 14.

According to the joint magistrate of Noakhollee,* "the property of a slave is his absolute property. He may dispose of it as he pleases, and his heirs succeed to it. If he die without heirs, it goes to his master." Ditto, No. 40.

The judge of Mymensingh says, "I am informed it has not unfrequently happened, that a slave has purchased the freedom of himself and family from his savings,—thus establishing that the property possessed or realized by a slave in servitude is his own. The property, however, of a slave reverts generally to his master at his death." "If there is at the marriage of a slave an understanding that his progeny are not to be slaves, then the children would succeed." "But," he adds, "slaves seldom have any thing to leave of their own; their clothes, and every thing they have on, or what they have for use, belong to their masters, who provide them with every thing; and unless he becomes a minion or favourite, it is impossible for him to accumulate any money." Ditto, No. 47.

The same officer states that the property of eunuch slaves, who are only retained in the families of nawabs and very wealthy Mahomedans, invariably devolves on their death to their masters, and he states, on the authority of one of the late government agents at Moorshedabad, that many landed estates have thus reverted to the nawab nazim of Bengal.

The judge of Dinagepore remarks, that his informants differed on the subject of the master's right to the property of his slave, "some thinking that slaves are free to acquire any property they can without its being liable to be seized, claimed or interfered with in any way by their masters, only that, on their death, the master can only be looked upon as the legitimate person to whom any property left would descend; while others consider that they can create no property for themselves; that all they make belongs to their master." Appendix II., No. 59.

The agent to the Governor-general in South Behar says, "By the custom of the country the master has no right over the property of his slaves, and in the event of the death of one leaving considerable property, which is not a rare circumstance, the property is inherited by his wife and children, although they may belong to another master." Appendix II., No. 64.

In the zillah of Tirhoot, it appears to have become the established usage that the slaves enjoy, and dispose of as they please, any property which they may acquire by working for others than their masters at times when the latter do not require their services.

A Mussulman

* The jurisdiction of this officer comprises portions of the districts of Backergunge, Tipperah and Chittagong.

Slavery in India, 1828, p. 304, and Witness, No. 4.

A Mussulman master has, by the Mahomedan law, a right to exact the embraces of his female unmarried slave of the same religion; but not of his Hindoo slave. But if a slave so subjected to the embraces of her master has a child by him, she is called "um-ool-wuld," *i. e.*, the mother of offspring, and becomes free at his decease, and the child so born is free.

In Rohilcund, and most probably all over India, it is a common practice for Mahomedan masters to avail themselves of this privilege; and sometimes the masters are married to their female slaves in the nikah form.

Ditto, p. 307. Buchanan. Martin, vol. 3, p. 693.

It will be seen from some of the preceding details,* that in Bhaugulpore and Shahabad Hindoo masters also allow themselves a considerable license with their female slaves; and, by the Hindoo law, likewise, whenever a slave girl has borne a child by her master, such slave, together with the child, becomes free. Among the Garrows in N. E. Rungpore, a man cannot keep a slave girl as a concubine.

7.—*The modes in which Slaves are employed.*

The slaves are employed either as domestic servants or out-door labourers, and sometimes in both ways. The duties of domestic slaves are, drawing water, pounding rice, and generally performing whatever services may be required about the house, including cooking if the family be Mahomedan. The males attend on their masters, and the women on the females of the family. Domestic slaves are commonly intrusted with the custody of the valuables of the house.

The duties of the slaves who are employed as out-door labourers are, carrying loads, cutting wood, tending cattle, ploughing and other agricultural occupations.

For the domestic service of a Hindoo family, it is necessary that the slave should be a Hindoo of pure caste, otherwise the family could not drink† the water drawn or brought by him, and would be in danger of pollution from him in various ways. Though, strictly speaking, perhaps, a master has a right to exact from his slave every species of labour proportioned to his ability and strength, it is not usual, and would be considered a harsh exercise of power, to require from a Hindoo slave of pure caste any service unsuitable or derogatory to his caste; and, indeed, any impurity contracted by the domestic slave of a Hindoo master, which must necessarily be communicated to his employer, would affect his usefulness. Such slaves, therefore, are not usually employed in the meanest offices; but in case of the illness of the master, or other emergency, the slave would perform whatever was required of him.

To give an example of the manner in which a Hindoo slave of pure caste might be unsuitably employed: we are informed that, in the district of Cuttack, it would be derogatory to persons of the pure tribes to work in company with persons of the impure tribes; some of the latter being considered so very unclean, that purification by washing becomes necessary after even accidental contact with them. To avoid exposure to such contamination, therefore, the slaves of pure caste, when employed in out-door work, are in this district kept separate from the impure classes. We are further informed by the witnesses whom we examined respecting the state of slavery in this part of the country, that formerly all persons of the impure tribes lived in separate villages, and gave the road whenever they happened to meet a person of pure caste; but since the district came under British ‡ rule they have become more independent: it is still, however, usual with them either to yield the road to a person of pure caste who happens not to observe them, or to give him timely warning, that by retiring he may avoid pollution. This perhaps is a solitary instance of such extreme deference paid to superior caste within the provinces under the Bengal presidency, and is to be accounted for by the fact that neither the Mahomedans nor any other invaders ever completely occupied or colonized this district, which still remains one of those in which the Hindoo manners are preserved in the greatest purity, and where the smallest proportion of Mahomedans is to be found.

Nos. 6 and 9. Appendix I.

Hamilton's Hindoostan, vol. 2, p. 32.

In Cuttack, the slaves of pure caste are employed both in domestic and agricultural labour; those of impure caste, of course, only in out-door work.

In the districts of Bengal, south of the Ganges, the slaves appear to be almost exclusively employed as domestic servants.

In Sylhet, they are chiefly used in agriculture.

In Rajeshahy, there are some estates in which the greater part of the cultivators are slaves.

Buchanan. Martin, vol. 2, p. 914.

Of the few slaves in Dinagepore, some are domestic and some agricultural.

Ditto, vol. 3, p. 123–5, and MSS.

The following details respecting the slaves in Purneah are taken from Dr. Buchanan's account of that district.

Distribution of the male adult slaves:

1. Slaves entirely domestic - - - - - - - - -	790
2. Khawas, or slaves partly employed in agriculture, partly in service	1,700
3. Slaves mostly employed in agriculture - - - - - -	3,650
	6,140

But

* See head "Origin of Slavery." "8.—Birth."

† "The natives always lift a vessel by putting their thumb in the inside, and their fingers without, so that the thumb is immersed in whatever liquor the vessel contains. It seems to be owing to this circumstance that so much anxiety is observed in taking water to drink out of the hand of impure tribes. Actual cleanliness is quite out of the question, no people on that point being more careless than the Hindoos; but they are afraid of taking water from the hand of a person whose thumb may have been soaked in an ox's gore before it was thrust into their drink."—Buchanan. MSS. (Shahabad.)

‡ A. D. 1803.

But he was very uncertain what proportion was really employed in agriculture, and what as domestics.

The first "are chiefly domestics, although they are sometimes employed to tend cattle, to dig, to build houses, or in such kinds of labour. These live entirely in their masters' houses, but are always allowed to marry. Their children are slaves, and their women act as domestic servants. These are not numerous, and chiefly belong to Mahomedans."

"The second class belongs chiefly to Hindoos of rank, who either have small free estates or rent lands, and in the cultivation of these such slaves are chiefly employed, although some are also employed as domestics." The whole that Dr. Buchanan considered "as belonging to this class are such as are allowed a separate hut and small garden for themselves and families, where they receive an allowance of grain and coarse cloth for subsistence. The men work constantly for their master, and the women, whenever their children do not require their attention, are either permitted to work on their own account, or, if required to work for their master, they and the children are fed and clothed entirely at his expense. The children, so soon as they are able to tend cattle, are taken to their master's house, where they are fed and clothed until married."

The third class "belong mostly to the great landlords, and each family receives a farm, free of rent, and sufficiently large for its comfortable subsistence. This the family cultivates with its own hands, or by means of those who take a share; and, when required, the men attend their lords, sometimes on grand occasions to swell out his numerous train, but usually either as domestics, or as confidential persons, to whom he can safely intrust the superintendence of his affairs. Their families live on their farms; only perhaps one woman or two in a hundred may be required to be in attendance on her lady."

In the province of Behar,* the slaves are employed in domestic or out-door work, including field labour, according as their services are required.†

Dr. Buchanan gives the following account of the slaves in Bhaugulpore: "None of them are employed as confidential servants, such as in Purneah receive a good farm for the subsistence of their family; on the contrary, they are generally very poorly provided, and the greater part of the men are employed in agriculture; most of the land rented by the high castes being cultivated by their slaves or hired servants. Some of them, when there is nothing to do on the farm, attend their masters as domestics; others are employed entirely as domestics, and living in their master's house receive food and raiment; finally, others are constantly employed on the field, and these get no allowance when there is no work on the farm, but are allowed to cut fire-wood, or do any other kind of labour for a subsistence. The women, when young, are usually alleged to gratify their masters' desires; and when grown up, sweep the house, bring fuel and water, wash, beat and winnow grain, and in fact are women of all work. At night they go to their husband's hut, unless when young and too attractive, in which case they are only allowed to make him occasional visits for the sake of decency. The boys, so soon as fit, are employed to tend cattle." Buchanan. Martin, vol. 2, p. 98–99, 219.

In Behar, Patna and Shahabad, the poorer class of masters, particularly the Rajpoots and Bamans, who have not much occasion for domestic service, employ their slaves in agriculture.

In Shahabad, according to Dr. Buchanan, the Mahomedan slaves are mostly employed in agriculture. Respecting the same district, he says, "In the northern parts, wealthy men usually have among their slaves a number of bearers, who in common cultivate their land, and, when called on, go with their master's palankeen; but in the south the bearers are mostly free." The women of the slaves in Hindoo families "occasionally attend on the ladies; but they are wretched dirty creatures, who pass most of their time in the hardest labours of the field." Ditto, vol. 1, p. 489, and MSS. Ditto, vol. 1, p. 479.

The same authority gives the following distribution of the able-bodied male slaves in the above-mentioned districts: Ditto, vol. 1, App., p. 15, 47, and MSS.

DISTRICT.	Men Slaves entirely Domestics.	Men Slaves partly employed in Agriculture and partly in Domestic Service.	Men Slaves employed entirely in Agriculture.	TOTAL Men Slaves.
Bhaugulpore - -	574	1,300	2,560	4,434
Behar and Patna -	5,055	9,270	18,495	32,820
Shahabad - -	720	850	3,765	5,335

In

* For an account of the agricultural slaves of South Behar, see head "Conditional Slavery and Bondage."

† The following extract from Hamilton's Hindoostan will show the dreadful purposes to which the services of slaves in the wild parts of South Behar have been applied: "Theft is common throughout Ramghur, but murder more prevalent among a particular class, which are the slaves possessed by persons inhabiting the mountainous and inaccessible interior, and of savage and ferocious habits. When petty disputes occur, these slaves are compelled by their masters to perpetrate any enormity, and are more especially employed for the purposes of assassination. Any hesitation or repugnance on the part of the slave is attended with immediate death, which is equally his fate should he fail in the attempt. On the other hand, if he succeed, he is sought out by the officers of government, and executed as a murderer. The usual police have hitherto been unable to seize the cowardly instigator; and if recourse be had to a military force, he retires into the jungles. Neither do the slaves attach the slightest idea of guilt to the murders they are thus delegated to commit; on the contrary, when seized, they always confess, and appear to expect applause for having done their duty."—Vol. 1, p. 283–4.

In Tirhoot, the slaves are principally of the domestic kind, but they are sometimes employed in the cultivation of the private lands of their masters.

When the establishment of slaves belonging to any one family is large, those employed in agriculture are kept distinct from the domestic slaves; and in agricultural labour the slaves are generally mixed with free labourers, and no greater quantity of labour is exacted from them than from the latter, both working the whole day with intervals of refreshment. The females of the agricultural class do light work in the fields.

Throughout the western provinces, the slaves appear to be almost exclusively employed as domestic servants.*

Buchanan. Martin, vol. 2, p. 427, Appendix, p. 12.

According to Dr. Buchanan, the following is the distribution of the able-bodied male slaves in Goruckpore:

Employed entirely as domestics - - - -	212
Partly employed in agriculture - - - -	*few*
Employed entirely in agriculture - - - -	200

Those employed in agriculture are four-fifths of the 250 Kurmis in the division of Parraona bordering on Sarun, who have been already mentioned. The women attend the ladies of the family, while the men work in the fields. The slaves received as marriage presents from Behar are all domestics.

In Rohilcund, the males are employed as domestic servants only whilst young, and when they grow up they are employed chiefly in agriculture, their masters being then averse to their remaining about the house; but the female slaves are always occupied in the house, and are never made to work in the fields. The cultivation is carried on by free ryots; but a zemindar, who keeps one or two male slaves for domestic purposes, will employ them likewise in agrestic labour.

8.—*Coercion of Slaves.*

Carelessness, laziness, impertinence, disobedience, insubordination, desertion, and other misconduct of a slave, is punished by reproof, abusive language, threats, temporary banishment from the presence of the master, stoppage of rations, slaps, blows or chastisement with a shoe, twisted handkerchief, whip, thin stick or ratan, or by confinement, as by tying up for an hour or two. The masters consider that they possess the right of correcting their slaves with moderation, as a father his child, or a master his apprentice. The quantity of correction actually inflicted depends no doubt upon the temper and disposition of the master; and although we have no reason to believe that in general these chastisements are excessive, we bear in mind that we possess no evidence on the part of the slaves on this subject. Two exceptions to this general information will be found in the evidence.

Witness, No. 26.

In the Behar district, ill-disposed masters among the inferior landholders of the Baman caste, who superintend in person the slaves they employ in the cultivation of their lands, are said to beat them severely, and sometimes to confine them by tying them up, though they keep them well fed, being prompted by self-interest to do so.

Ditto, No. 14.

The Pathans of Rohilcund, naturally a choleric race, enforce the services of their slaves by beating them either with a ratan or a staff; and the latter mode of punishment is sometimes carried to such an extent that the arms and legs of the slaves are broken by the violence of the blows inflicted. An absconding slave they tie with a string, or place fetters, light or heavy, on his legs, in the manner practised with convicts in the public gaols. Their free servants they beat to the same extent, but they do not confine them. It should be observed, however, that the witness who gives us this information, though a native of Rohilcund, has resided for the last 30 years in Calcutta.

But though sometimes refractory,† the usual character of the slave is obedience;‡ and if a slave is incorrigibly obstinate or vicious, the master will sell him or turn him away, the latter course being usually resorted to by the better kind of masters.

Appendix II., No. 46.

"The middle class of Mussulmen," says the joint magistrate of Fureedpore, "frequently provide against the escape of their (female) slaves by marrying them under the form of nikah; and thus, in the event of their running away, they can claim as wives those whom they could not, under the Mahomedan law, legally claim as slaves, though in fact they are nothing more."

Buchanan. Martin, vol. 3, p. 125.

In Purneah, Dr. Buchanan mentions, "servants being exceedingly scarce, few masters are supposed to be honest enough to refuse hiring a runaway slave; indeed, many will deny that there is any moral turpitude in protecting a fellow-creature who has escaped from that state of degradation."

In the province of Behar, if a slave runs away, the principal inhabitant of the place to which he has fled will persuade him to return on his master making application and proving his title; or, if the fugitive have taken service with a zemindar, the latter will surrender him on the master's paying the expenses which may have been incurred for the slave's subsistence.

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* "In Cawnpore, domestic slavery exists; but of an agricultural slave I do not recollect a single instance. In Upper India, the slaves are employed in domestic labour entirely."—Mr. T. C. Robertson's Evidence before the House of Lords Committee, 1830. Questions 1687, 1703.

† In Rungpore, "the domestic slaves of the rich are usually accused of being very full of tricks."—Buchanan. Martin, vol. 3, p. 497.

"In some places (in Purneah) it was said by the masters, that the slaves did more work than hired servants, and were better fed; but near Dinuya, where they are by far most numerous, it is alleged, that they will do no labour without the constant fear of the rod, which appears to me the most credible account."—Ditto, vol. 3, p. 124-5.

‡ In Bhaugulpore, "the slaves are in general industrious, seldom run away, and are seldom beaten."—Ditto, vol. 2, p. 99.

sistence. Remonstrances and kind treatment are the means resorted to by the master to retain a slave whom he has thus recovered.

In Rohilcund, we are told, persons residing in the country are restrained from purchasing children of their own village as slaves, by the difficulty of preventing them from running to their homes. Witness, No. 14.

9.—*Food, Clothing and Lodging of Slaves.*

The slaves are provided with food, clothing and lodging by their masters.*

The following are the usual allowances of food and clothing for an adult male slave in Cuttack. For his daily food, one seer of rice, half a chittack of salt, half a chittack of oil, and one quarter of a seer of dal, or a pice to buy vegetables; two pice per week for tobacco, and half a pice per day for fire-wood, unless the slave be allowed to cut it on his master's grounds. For his annual supply of clothes, four dhotees, two ungochas, one chudder, and one blanket. Some slaves have lands given them to cultivate, the master receiving half the produce, or such other portion of it as may be specially agreed upon.

In Rajeshahy, some of the agricultural slaves are fed by their masters, but others cultivate for themselves lands which their masters have allotted to them. In this case the master supplies cattle and implements of husbandry.

In Purneah, according to Dr. Buchanan, the slaves who are exclusively domestic live entirely in their master's house, whilst those who are employed partly in agriculture and partly in domestic service are allowed a separate hut and small garden for themselves and families, where they receive an allowance of grain and coarse cloth for a subsistence. The allowance usually given annually to a slave of this description is about 15 maunds, at 64 sicca weight a seer, or 985 lbs. of grain, and a piece of coarse cloth; his wife's labour and his garden must furnish every other article of expense. When the women are required to work for the master, they and the children are fed and clothed entirely at his expense. The children, so soon as they are able to tend cattle, are taken to their master's house, where they are fed and clothed until married. Buchanan. Martin, vol. 3, p. 123.

In the province of Behar, those who live in the master's house receive a portion of the food dressed for the family; the quantity so allowed is not fixed, but proportioned to the appetite of the slave. Those who live in a separate house, and choose to dress their own food, have fixed rations.

In Bhaugulpore, according to Dr. Buchanan, the slaves are generally very poorly provided. Those who are employed entirely as domestics live in their master's house, and receive food and raiment. Those who are employed partly as domestics and partly in agriculture, and those who are employed entirely in agriculture (which is the case with the greatest part), receive an allowance. "The usual daily allowance is about three seers, Calcutta weight, or about six pounds of rough rice, or of the coarser grains, the great quantity of the husks of the former making it of less value than the latter. The slave from this must find clothing, salt, oil and other seasoning, fuel and cooking utensils. His master gives him a wretched hut, where he lives almost alone, for, although he is always married, his wife and children live in the master's house, and there receive food and clothing." But the allowance above described is, in the case of the purely agricultural slave, contingent on his master having employment for him. When there is no work on the farm, the slaves of this class get no allowance, but are allowed to cut firewood, or do any other kind of labour for a subsistence. Ditto, vol. 2, p. 98, 99.

In the district of Behar, according to the evidence we have received, the daily allowance for an adult male slave is three seers of rice in the husk, or two seers of wheat unground, and, in addition, three-quarters of a seer of suttoo, which is the meal made from inferior grain or pulse; and this being more than the slave can consume, he barters the surplus for salt and other condiments. He can sometimes get a little tobacco out of the surplus, but it is not enough to purchase paun and betel. He has no allowance of fuel, but must find it for himself. The usual allowance of clothing is two suits in the year.

This information, however, does not tally with the account given by Dr. Buchanan, who states that the allowance given to the slaves in the Behar and Patna districts is in general more scanty than that given in Bhaugulpore; and we gather from his remarks that the slaves in Shahabad are in this respect on the same footing as in Behar. Ditto, vol. 1, p. 125, 479.

In the district of Goruckpore, the Kurmi slaves, who have been described as confined to the Parraona division, and four-fifths of whom are employed entirely in agriculture, live in their masters' houses, receiving food and clothing. Ditto, vol. 2, p. 427.

In Rohilcund, the slaves are fed from the family meals, and they are provided with two or three suits of clothes in the year. They also receive occasionally a few pice, and opulent masters will give them one or two rupees per month, besides food and clothing.

The slave is entitled to maintenance from his master in age and infirmity; and according to the evidence taken by us regarding the province of Behar and the western provinces, this support is never withheld. But the Governor-general's agent in South Behar says, there is no "provision for those slaves who from old age, or from any other cause, become unable to work, so that if they happen to have no families to support them, they must depend on charity." Dr. Buchanan, also, in his account of the slaves in Bhaugulpore, says, "When old, their allowance is in general exceedingly scanty, and commonly depends, in some measure, and sometimes in a great part, upon what their children can spare. If they have Appendix II., No. 64. Buchanan. Martin, vol. 2, p. 98, 99.

* The officiating judge of Sylhet says, "Whether the actual services to be performed by slaves are required, or otherwise, it seems to be incumbent on the master to support them and their children."—Appendix II., No. 49.

Buchanan. Martin, vol. 1, p. 125, 479.

have no children, they are sometimes turned out to beg." And as he states that the allowance given to the slaves in the districts of Behar and Patna is in general more scanty than in Bhaugulpore, and that the slaves in Shahabad are on the same footing as those in Behar, it may be presumed that the aged slave is as little cared for in those parts of the country as in the district of Bhaugulpore.

10.—*Treatment and General Condition of the Slaves.*

We are led to conclude, from the information before us, that the system of slavery prevailing in this part of India is of a very mild character. In general, the slaves are well fed and clothed, humanely treated, and contented with their lot; instances of cruelty and ill-usage are rare, and the correction which they receive at the hands of their masters is moderate. In respect of the supply of their physical wants, and particularly of the certainty of that supply, their condition is as good or better than that of the free servants and labourers of the country, for the wages of the labouring classes are here limited to a mere subsistence. In times of scarcity they have greatly the advantage of the generality of the lower orders, and in most cases the condition of children sold into slavery is better than the condition they were born to. The slave, however, must usually share the fate of his master. If the master is pinched, so is the slave, and if the master is prosperous, the slave fares well; and this community of interests is a stimulus to the labour of the slave.

The domestic slaves are generally the most favoured servants of the family; they are treated with more kindness and attention than free persons who are hired, and trusted in preference to the latter in important matters and confidential employments. In some respectable families a clever slave will be invested with the entire superintendence of his master's household, and the slaves of wealthy zemindars are sometimes employed as agents and managers of the estates and property at a distance from the residence of their owners. In the simplicity of manners prevailing in India, the servants of a household live in a great measure on a footing of equality with the rest of the family, and the reciprocal regard generally existing between a master and his slave, particularly a hereditary slave, is sometimes heightened into an attachment resembling that between parent and child; and it is stated by the judge of Mymensingh, that the slave often succeeds by will to the property of his master. Female slaves are regarded with great affection by their owner's children whom they have brought up. Slaves who have been liberated, or left to seek their own livelihood, in consequence of the inability of their owners to maintain them, have been frequently known to support their former masters or mistresses from the earnings of their industry, or by begging for them, and the expectation of this support in time of distress is stated by one witness to be a principal inducement to purchase a slave.

Appendix II., No. 47.

No. 20.

Though less kindness is felt for the slave who does not live in his master's house, he is treated in the same way as a hired labourer, and even perhaps with greater indulgence, as the full measure of work is generally exacted from the latter; though a severe master might oppress his slave in a way which a free hired person of the same caste would not submit to.

The general feeling of the judicial functionaries in favour of freedom has, no doubt, greatly tended to the amelioration of the condition of the slaves since the introduction of the British rule. The fear of punishment restrains the master from grossly ill-treating his slave; and though great harshness will on occasions be submitted to, if the general conduct of the proprietor be merciful and indulgent, yet if such harshness becomes frequent the slave absconds, and often finds a refuge on the estate of some landholder, whose protection secures him from molestation, whilst the inconvenience and expense attending an application to the courts, and the uncertainty of the issue, must frequently deter the masters from having recourse to that measure for the recovery of the fugitive. This is specially the case with Mahomedan masters, who are conscious of their inability to establish a strictly legal claim to their slaves. With those masters, therefore, to whom the services of slaves are an object of importance, self-interest ensures kind and considerate treatment to the slaves, their owners being sensible that they cannot retain them in their service against their inclinations.

We give a few extracts from some of the reports of the public officers on this subject.

Appendix II., No. 39.

"Slavery in these provinces," says the acting judge of Chittagong, "exists only in name. It is a species of servitude almost reduced to a contract, which, if not explicit, is implied. Kindness and good treatment, sustenance and a home, are the articles on one side, faithful service on the other."

Ditto, No. 42.

The acting joint magistrate of Tipperah observes, "In fact, slavery is now looked upon by the natives themselves as extinct. They see that the days of slavery are past, and they have almost ceased to regard their slaves in the light of property. Slavery even in name would speedily disappear from among the native population were it not for the vain and fallacious notion that prevails in the upper classes of native society, that the possession of a long train of slaves increases their respectability, and enhances their importance in the eyes of the humbler classes of their fellow-countrymen. Slavery, as it exists at present in this part of India, assumes the very mildest form, and I have doubt whether it be not, upon its present footing, rather beneficial than otherwise in a country like this. Masters now well knowing that under a British administration the only hold they have over their slaves is by the engagement of their good-will and affections,—being aware that any thing approximating to ill usage or hard treatment would be resented by an appeal to the magistrate, and followed by speedy and total emancipation,—they, for the most part, being accessible to the dictates of self-interest, if not to the voice of humanity, take ample care to provide for the wants, and even

even for the comforts of this class of their dependents; and I have known not a few instances of slaves, who, being bred and born in the families of their masters, have felt and expressed for them the most tender and affectionate regard."

The acting magistrate of Allahabad. "Here slavery exists but in name." Appendix II., No. 99.

The magistrate of Muttra. "The general belief amongst the natives is, that our government does not recognize slavery. It certainly does exist, but it is merely in name; the slaves are always well treated, and looked upon as part of the family." Ditto, No. 114.

The judge of Allyghur. "Slavery in its general meaning is not known in this district. A species of it exists in a very mild form in the houses of the wealthy under the term Khaneh-zad, but merely in name, for an individual of this class enjoys the same rights, and is in every respect as free as other men." Ditto, No. 115.

The commissioner of Bareilly. "Whatever the original Mahomedan or Hindoo law may have been on this subject, I believe it to be an undeniable fact, that slaves in Western India are no longer property. I come to this conclusion from never having met with an instance in which the right to a slave was disputed amongst members of families, who for every other inheritable or saleable portion of the ancestorial property were at the most bitter discord." Ditto, No. 118.

The joint magistrate of the Rohtuk division of the Delhi territory. "It may be said, indeed, that slavery is unknown in this district, save by name, and only in this respect in a very limited degree. In some of the Mussulman communities there exists a class of people denominated Gholams, the signification of which word would seem to denote that the class so designated is in a state of slavery. But this does not practically hold true. These people are not in a state of servitude, and no rights, to the best of my knowledge, are claimed over them, which place them on any other legal footing than that on which stand the other inhabitants of the district." Ditto, No. 138.

Doubtless, however, the slaves are differently treated; some are well, some are ill used. Allowance must be made, in estimating the value of the information before us, for the fact, that of the witnesses we have examined, several are slave-owners, and all are of the class of slave-owners, and that the public officers who have favoured us with reports on the subject are not in general, from their peculiar position, likely to be well informed of the condition of the slaves; and the latter can seldom possess the means of applying to them for the redress of their grievances. Yet even in the information so obtained, we find exceptions to what has been above described as the general treatment and condition of this portion of the population.

One of the witnesses, describing the state of the slaves in Cuttack, says, "The condition of slaves is harder than that of free labourers. Their work is harder, their fare and clothing worse; and they are sometimes beaten." No. 9.

The magistrate of Backergunge says, "The female slaves of ordinary persons are generally well treated, for they can easily run away. But it is to be feared that the slave girls of powerful zemindars, whose houses are surrounded by their own villages, through which escape is almost impracticable, are often treated with oppression and cruelty." Appendix II., No. 37.

The severities to which the slaves of ill-disposed masters of the Baman caste in the district of Behar are subjected has been already noticed.*

The judge of Furruckabad observes, complaints (of cruelty or hard usage) are of rare occurrence; "which is not, however, proof of non-existence of evil of the kind; for it is well known that great cruelty is often exercised: I have personal knowledge thereof. The want of freedom probably stifles complaint." Ditto, No. 116.

The judge of Moradabad. "I imagine that slaves are frequently worse fed and worse clothed than hired servants, from motives of parsimony in their masters; but I am not prepared to state that they are generally maltreated, and many instances doubtless occur in which they meet with the greatest kindness and protection." Ditto, No. 123.

The severe treatment and cruelty to which the slaves in Rohilcund (including Moradabad) are sometimes subjected, from the choleric disposition of their Afghan masters, have already * been mentioned; and the agent to the Governor-general of the ceded and conquered provinces, in 1811, speaking of the importations from the hills into Rohilcund, Meerut and Saharunpore, says, "The males are for the most part employed as domestic servants, who sometimes obtain comfortable establishments in the families by whom they are bought as slaves; this occurrence I believe to be rare, the greater number leading a laborious life for bare subsistence, and are often hardly treated." Slavery in India, 1828, p. 115.

One of the officers employed in Assam observes, "Though the slavery of India is mild, compared to what it is elsewhere, I have seen myself cases of intolerable hardship." Ditto, 1838, p. 357.

The statements of Dr. Buchanan on this, as on every other point connected with the subject, are valuable, and we therefore give them.

In his account of Rungpore, he says, "Poor parents who are under the necessity of parting with even their male children, whom they sell with more reluctance than females, as being a greater resource for support in old age, give them for a few rupees to any decent person that will undertake to rear them. These are in general considered as a kind of adopted children, and are called Palok-beta, or sons by nourishment. Wealthy people seldom take such children, because, if active and industrious, they usually leave their nourishers when they grow up, and in fact are not slaves, though while they remain with their master they receive no wages. It is among the Mahomedans that the custom of nourishing poor children is chiefly practised." Buchanan. Martin, vol. 3, p. 496–7.

Describing the domestic slaves in Purneah, he says, "So far as I can learn, they are in general Ditto, vol. 3, p. 123.

* Head, "Coercion."

general tolerably well treated, and fare as well as the ordinary class of servants, whose state, however, in this country is not very enviable. They have, however, wherewithal to stay the cravings of appetite for food, and the comfort of marriage, without the care of providing for a family." Again; "They (the slaves) frequently run away, and, going to a little distance, hire themselves out as servants, which shows that their former state was not enviable."

The condition of the slaves in respect of food, clothing and lodging in the districts of Bhaugulpore, Behar, Patna and Shahabad, according to the same authority, has already been described; it must be added, however, that, in speaking of the Mahomedan slaves in the districts of Behar and Patna, he says, "Converts are occasionally made from the Pagans, especially by the purchase of slaves, who are treated with great kindness." And he describes the domestic slaves in Goruckpore, received in marriage presents from the province of Behar, also as "treated with great kindness."

Buchanan. Martin, vol. 1, p. 141.

Ditto, vol. 2, p. 247.

11.—*Slave and Free Labour compared.*

In Cuttack, slave labour is more economical than free, both for domestic and agricultural work; and the land is said to be better cultivated by the slaves than by freemen, because the former feel that they have an interest in it.

In Calcutta, the domestic service of slaves is cheaper than that of free persons.

In those districts* of the Bengal province, respecting which we have any information on this point, slave labour, both domestic and agricultural, is considered either on a par with, or more expensive than, free labour, excepting in Dinagepore, where, according to the judge's account, a slave, for his daily food and two sets of clothes, costs about 18 rupees per annum, while a hired servant gets his daily food and wages at the rate of one rupee four annas per mensem, equal to about 30 rupees per annum. But Dr. Buchanan says, the free domestic servants of this district have miserable wages, and are very poorly clothed.

Appendix II., No. 59.

Buchanan. Martin, vol. 2, p. 703.

In the province of Behar, it is considered on the whole more economical to employ slaves than freemen. The same quantity of work is required from both, but the zeal inspired by a permanent attachment to his owner's family causes the slave to accomplish more than the hired labourer, who gives to his employer as little labour as he can. According to the account given by the Patna council in 1774, it was only persons living on their own free estates in the country, and who employed their slaves both in the house and on their land, to whom it could answer to keep male slaves, as the grain produced by their labour served for their support. "In the city," they observe, "few people choose these Kuhar slaves, being indifferent to their business, and equally expensive with other servants."

Slavery in India, 1828, p. 5.

Regarding the western provinces we are only informed, that in Rohilcund the labour of the slave is very little cheaper than that of the freeman.

Independently of considerations of economy, slaves are, in general, as domestics, and particularly as female domestics, much preferred to free servants. From their greater fidelity they can be more safely trusted with the custody of money and other valuables; and the comfort and privacy of the women's apartments are better secured by the ministration of female slaves than by temporary servants of the same sex, who would more frequently give rise to scandal, and be more disposed to aid and abet intrigues.

Moreover, in some parts of the country there is a difficulty in procuring free domestic servants. "In the civilized parts (of Rungpore)," says Dr. Buchanan, "many are induced to keep slaves from the difficulty of procuring servants, especially of the female sex." Again; "The most striking circumstance in the domestic economy of the people of Dinagepore is the want or scarcity of female servants, even in houses of distinction. This does not proceed from the want of female delicacy in the women of rank; but from the difficulty of procuring women that will serve, as the whole almost are married." So also in his account of Purneah; "In many parts no free women servants are on any account procurable. In some they can be had for nearly the same wages that are given to men; most of them are elderly women that have lost their connexions; but some are young, and are probably concubines veiled under a decent name. In the eastern parts of the district, again, many poor creatures give up their services for merely food and raiment, as is usually the case with the women-servants in Dinagepore."

Buchanan. Martin, vol. 3, p. 496.

Ditto, vol. 2, p. 704.

Ditto, vol. 3, p. 120–1.

In the province of Behar, free domestics are in some places procurable, particularly in towns, and in such places the females belonging to Hindoo families in poor circumstances have no objection to hire themselves as servants, nor is it considered disreputable to do so. It is usually widows who thus take service, as married women cannot be spared from the management of their own households. In other parts of the province free female servants are not to be had; both males and females of the lower classes thinking it derogatory to take menial service; and to the females in particular it is disreputable. In other parts, again, free servants, either male or female, are not attainable, though there is nothing disreputable in the condition of a female servant.

Ditto, vol. 2, p. 98.

Dr. Buchanan, in his account of Bhaugulpore, says, "Female free servants are in general not procurable, and those that can be had are commonly old women, who have lost all their kindred, and attend as domestics for food and raiment." And in his account of Behar and Patna; "Some of the women servants are young, and none are commonly procurable of any age without wages as high nearly as those given to men." In Shahabad the women servants, according to the ame authority, have nearly the same allowances as the men. He adds, "I know

Ditto, vol. 1, p. 125.

Ditto, vol. 1, p. 479.

* Burdwan, Jessore, Backergunge, Rajeshahy and Dinagepore.

"I know that all the free female domestics in one of the three (police) divisions where any are kept, are employed in a Mahomedan family, and suspect that the same is the case in the other two divisions. The Hindoo ladies, therefore, perform most drudgeries, except the bringing water, or other such labours as would expose them to view." He states, also, "that in the two greatest Hindoo families in the district there is no female domestic."

Respecting the western provinces, we learn only from Dr. Buchanan, that free domestic servants, both male and female, are more numerous in proportion in Goruckpore than in Shahabad; and from one of the witnesses examined by us, that in Rohilcund no difficulty is experienced in obtaining free female domestic servants. Buchanan. Martin vol. 2, p. 426. No. 14.

The preference given to slave service is, however, by no means universal. In Cuttack, though slaves are generally preferred, one witness states, that families who have, under the British rule, risen from poverty into affluence, have not purchased slaves, because they think them saucy and faithless, and also because there is an impression among the people that such purchases are prohibited. No. 15.

"It is a general remark," says the additional judge of Burdwan, "that slaves are more troublesome and more expensive than hired servants, and with the exception of a few slave girls for the female apartments, the Mahomedan masters would not much regret the enactment of any law which might give to their slaves the option of leaving the houses of their masters, or of remaining there as hired servants. At present, useless, idle slaves are in many instances retained by their masters, merely from a feeling that they ought not to drive away from their house one born and brought up under their roof; and they know that if they were to do so, their good name would in some degree suffer in the estimation of their friends and neighbours. There is also some consequence and respectability attached in the eyes of the natives to the possession of slaves, and this also induces some individuals to keep them, while it will, at the same time, be almost always admitted, that free servants are more useful and less troublesome than the present race of slaves." Appendix II., No. 20.

The magistrate of Backergunge. "Dealing in male slaves has nearly, if not entirely, ceased in this district. Plentiful harvests, the difficulty of retaining male slaves against their will, unless they are married to slave girls, together with the circumstance of male servants being easily procurable, and maintained at less expense than slaves, have contributed to cause the cessation of the traffic. The few male slaves in this district are nearly all kept only to ensure the stay of the females." Ditto, No. 37.

The joint magistrate of Furreedpore. "I am told that the value of slaves is small, and that they are more expensive generally than hired servants, and but for the convenience of them, as regards the security of the haram, they would be in a great degree dispensed with altogether." Ditto, No. 46.

The judge of Dinagepore, after stating the great comparative cheapness of slave over free service, and which he supposes the chief inducement to keep slaves, adds, "In the case of those masters who have inherited slaves for two or more generations, I have heard some say, that they would not feel at a loss if they were deprived of their slaves by an act of liberation on the part of government, inasmuch as, from having lived long in their family, they become much less attentive and useful than hired servants, conceiving that they cannot be turned off, that their masters must support them, and so become rather a burthen on their support." This accords with Dr. Buchanan's account: he remarks, "Some rich Mahomedan farmers (of Dinagepore) said, that in the last famines (of 1770 and 1788) some children had been purchased in order rather to keep them from starving than with a view to profit. These have turned out very ill, and were so idle and careless that their labour became much more costly than that of hired servants." Ditto, No. 59. Buchanan. Martin, vol. 2. p. 913–14.

The witness whom we examined on the state of slavery in Rohilcund says, "Slaves are not worked harder than free servants, and the labour of the former is very little cheaper than that of the latter, whilst it has this disadvantage, that a slave cannot be turned off at pleasure." No. 14.

12.—*Slaves rendering occasional Service, or temporarily separated from their Masters.*

Between those slaves who are constantly occupied in their master's service, and those persons who, having been slaves, have, by the course of events, attained to a practical independence, there are some who, being located on their owners' lands, or left to procure their own maintenance, render to their masters only occasional service; and others who are in a state of temporary but complete separation from their owners.

Many of the numerous slaves of wealthy landholders are settled on the estates of their masters, and are supported either by having lands given them to cultivate at a reduced rent, or by small assignments of land rent-free, paying the ordinary rent for any lands they may be allowed to hold beyond such assignments for their support. Strictly, however, they have no right to any part of the produce of the land, nor to any property as against their masters, and sometimes the latter, in a moment of displeasure, will deprive them of every thing they possess. The slaves maintained in this manner may be said to be kept for purposes of state, as they are not required to perform any service except that of attending at ceremonies, unless, indeed, on any particular emergency their master should summon them to his assistance.

Some of those described by Dr. Buchanan as being in Purneah mostly employed in agriculture, are probably of this class. Of these he says, "Such persons are in fact by far the easiest class of labouring people in the district, and of course never attempt to run Buchanan. Martin, vol. 3, p. 125, and MSS.

away, and are in general very faithful to their masters, who, although at a vast expense of land in maintaining them, very seldom sell them; but they possess the power, which operates strongly in rendering these slaves careful in the performance of their master's com-
No. 27. mands, and regardless of its nature." According to one witness these slaves in Purneah receive a small pecuniary allowance and rations while rendering occasional services.

When also the slaves of any master have multiplied * beyond his wants, or his means of providing for them, those whose services are not required are permitted to settle on lands either of their owner (in which case a spot of ground is given them for the erection of a residence) or of others, and to take and cultivate lands as other free tenants paying rent, or to go out to service, or otherwise to follow their own occupations, and are so left to maintain themselves. In Sylhet, some of the slaves in this condition are police burkundauzes, receiving government pay to their own use. The masters do not by this measure relinquish their right of ownership over the slaves, and the slaves attend them at marriages, deaths, and festivals, and render them other occasional service, for which, in Sylhet, they receive no remuneration; but in the province of Behar they receive the same rations as a freeman during the period of their attendance, and usually a present also, and sometimes they receive wages in addition to their rations, but not so high as those of a freeman. In Chittagong, if called on for extra service beyond the usual attendance at festivals, they are entitled to receive the regulated hire of a free labourer.

Further, when a master falls into distress, he will direct his slaves to seek their own livelihood, reserving his right of ownership, and of recalling them to his service should his circumstances at any future time allow of his so doing. In this case it is not usual for the master to receive any of the slave's earnings, except in Cuttack, when the slave is the child
Buchanan. Martin, vol. 1, p. 479. of the master; and, on the authority of Dr. Buchanan, we may except the district of Shahabad also, where, "when a master is so poor that he cannot feed his slaves, he usually
No. 28. requires them to give him a share of their wages." One of the witnesses, speaking of the customs of Benares and its vicinity, gives it as his opinion, that the master could not legally appropriate the earnings of a slave so situated, if he afterwards recalled him to his service.

Many slaves, also, on the decay of their masters' fortunes, quit them without formal permission, and work for themselves.

13.—*Manumission.*

Manumission is extremely rare—so rare, that the slaves generally regard it as unattainable, and when well used probably do not desire it. It sometimes takes place when a master has particular cause of satisfaction with his slave; in which case it is usually accompanied with a gift of the means of earning a subsistence, either in the shape of land, or a present of money. It also occasionally happens that a master, anticipating from the evil disposition of his children that they will maltreat his slaves after his death, manumits such of them as he has a regard for. Further, when a family of respectability is reduced to distress, and can no longer maintain the slaves attached to it, they are sometimes set at liberty.

In Cuttack, on the manumission of a purchased slave, the master delivers up to him the deed of sale; if there is no such deed he executes a farigh-khuttee, or release. In the southern division of this district, if a slave girl marries a freeman with her owner's consent, she becomes free. In Chittagong, also, if a Mussulman master marries his Mahomedan female slave to a freeman, and permits her to go away with her husband, it amounts to emancipation.

No. 14. In Rohilcund, according to the only witness we have had an opportunity of examining on the state of slavery in this part of the country, when a slave attains the age of about 40 years, though his owner continues to maintain him, he relaxes in his demand of service: he also after that period permits him to seek other employment. If the slave takes advantage of this license, he separates from his owner, and works as a freeman; but if he remains with his master, his services being less rigorously exacted, he has time to work for himself, and the master does not interfere with his gains in this way. Here, also, a master reduced to distress generally lets his slaves go free.

Sometimes a master turns away a slave for continued misconduct.

Severity, and even extreme ill-usage, though punishable as a criminal offence, confers no
No. 4. right to emancipation; but one of the witnesses considers that the withholding support, or inability to give it, would authorize a court to set the slave free.

But though not actually manumitted, which can only be by express words, many slaves annually obtain their freedom in the modes which we have already described, when treating of the Kurmi and Kuhar slaves of Behar. Of those slaves who, in consequence of their masters having no employment for them, or of their inability to maintain them, are permitted to seek their own livelihood, many probably return to their masters (as we are told is the case with the Kurmi slaves of the Patna and Behar districts), if the latter are in a condition to reclaim them before any considerable time has elapsed; but the partial separation is frequently prolonged until it terminates in the practical freedom, or even absolute independence,

* Dr. Buchanan, in a passage already quoted, observed, that in the civilized parts of Rungpore the slaves did not appear to be on the increase, and that the importation did not seem to do more than keep up the number, although the master always procured a wife for his slave: and, according to Witness, No. 20, a slave family in Bhaugulpore is never on the increase, the average issue of one woman being 3 or 4, of whom not less than one-half die in infancy.

pendence, of the slave or his offspring, particularly when the decay of the master's family is the cause of the separation, or the secession of the slave, in which case it seldom happens that the slave can ever be again reduced to actual slavery.

As an illustration of the effects of a public calamity on the condition of the slave population, we may here notice the evidence of one of the witnesses examined respecting the slavery of Cuttack. In consequence of the famine which prevailed in 1790 in that district, many persons in the northern or Balasore division, who possessed slaves, were unable any longer to support them, and the slaves became practically free. This he states to have been the case with his own family, who, before that period, possessed more than 20 houses of slaves; and persons of those very slave stocks are now in the service of his family as freemen, receiving wages. He further states, that there are now no slaves *de facto* in his pergunnah (Rumna), though there are many *de jure*, which he considers to be the result of the famine, and of the decay of the ancient families, since the acquisition of the country by the British. He has been told also that in other parts of Cuttack masters have generally lost all practical dominion over their slaves. No. 15.

14.—*Transfer of Slaves by Gift.*

It is customary for a father on the marriage of a daughter to give, as part of the marriage present, one or more of the female slaves of the family to be her attendants; and in the province of Behar,* upon occasion of funerals, it is usual to give one or more slaves, amongst other presents, to the officiating Brahmin. We have already stated, on the authority of Dr. Buchanan, that almost all the domestic slaves in Goruckpore were received in marriage presents from the province of Behar.

15.—*Transfer of Slaves by Sale.*

In Cuttack, such slaves as are the spurious kindred of their masters are never sold, but all others are constantly transferred by sale from one master to another, excepting in the southern division of the district, where, in consequence of their being scarce, they are seldom parted with.

In all the other provinces of the presidency, it is generally considered as disreputable to sell a slave; and, in Rohilcund, any master resorting to such a measure would be called a burdeh-furosh,† or slave-dealer. Besides that, the relation between master and slave is considered a family tie; the rank and respectability of a family is measured by the number of its dependents; and, according to the prejudices of the people, few of these dependents can be dismissed without incurring disgrace. Hence the sale of this description of property is seldom resorted to unless when the owner is reduced to distress, and can no longer maintain his slaves; and, even in that case, persons of respectability prefer either to give their slaves their liberty, or to dismiss them to seek their own livelihood, reserving their proprietary right should circumstances afterwards allow of their asserting it. Such sales, therefore, are not common in the above provinces, though they appear to be more so in the districts of Behar and Tirhoot than in other parts; but a master will sometimes sell a slave who gives trouble by his misconduct. An indistinct knowledge of the regulations respecting the slave trade, and the leaning of the courts in favour of liberty, have probably rendered the sale of slaves less common than formerly.

The above account, however, founded on information lately collected by us, must be received with some limitation. The assistant to the magistrate of Dacca Jelalpore stated, in 1816, that the custom of disposing of persons already in a state of slavery was common throughout that district, and that regular deeds of sale were executed in such cases, some of which were registered in the court. The father of one of the witnesses examined, a native of Sylhet, purchased 10 families of slaves from their masters. The Council of Patna, in 1774, said, "Whole families (of slaves) were formerly sold together; but we do not find that the custom, though of old standing and still in force, is now attended to, except in the Mofussil, where sometimes the survivor of an old family, retired on his altumgah, cultivates his lands by the hands of these slaves, who also perform the menial offices of the house." The officiating judge of Cawnpore mentions, that, as register and civil judge in South Behar, he daily decided cases of purchase of whole families of predial slaves. Slavery in India, 1828, p. 247. No. 33. Slavery in India, 1828, p. 5. Appendix II., No. 105.

The statements of Dr. Buchanan confirm the account of the disgraceful light in which the sale of slaves is regarded in most parts of the districts of Behar and Patna; but he says, that in Gyah, and some other places, the slaves are occasionally sold, and that in Shahabad they are often so disposed of. According to the same authority, in Bhaugulpore, they are not often brought to market, and in Goruckpore neither the domestic nor agricultural slaves are ever sold. Buchanan. Martin, vol. 1, p. 125, 479. Ditto, vol. 2, p. 99, 427.

There appears to be no legal restriction on the right of the master to sell his slave, but custom and the general feeling seem to have imposed restraints in some cases.

1. It is not usual, according to our information, in any part of the country, to sell slaves so

* This is probably true of many other parts also, though our evidence on this pointis confined to Behar.

† See Evidence, No.14. Another witness (No. 17) characterises such transfers as "sales of human flesh." The dewan of the provincial council of Burdwan, in his report to the council, dated in July 1774, on the subject of slavery in that part of the country, stated, that the children of slaves "cannot be sold either by the parents or by the master."

Buchanan. Martin, vol. 3, p. 124. so as to separate husband and wife, or children of tender age from their parents;* but Dr. Buchanan remarks on the subject of slavery in Purneah, that, although "in most parts (of that district) man and wife, provided they belong to the same master, are not usually sold separate, nor is it the custom to separate children from their parents until they are marriageable; in others they are sold in whatever manner the master pleases, and there the price rises considerably higher." He likewise states it to be the case in Bhaugulpore, that slaves may be sold in whatever manner the master pleases, and he observes generally, that the slaves in Patna, Behar and Shahabad are (with some specified exceptions) nearly on the same footing as in Bhaugulpore, but whether the general remark extends to this particular point or not, we cannot be certain.

Ditto, vol. 2, p. 99; vol. 1, p. 125, 479.

2. In the districts of Sylhet, Behar, Patna and Tirhoot, it is not usual to sell a slave to a purchaser residing at a great distance, so as to place him beyond the reach of communication with people of his own class; in Tirhoot especially, according to the reports of the public officers, sales of slaves are entirely confined within the limits of the district, or rather to the immediate neighbourhood of their master's residence; and were a master to sell a slave beyond the boundaries of the zillah, the slave would in a short time quit his new owner and return to it. "It is not in my power," observes the judge, "to give a reason for this fact, but I have been given to understand that such has invariably been the custom, and the result of every attempt to evade it." In Bhaugulpore, it would not be considered hard to sell a slave to any distance, or into another district. In Shahabad the sales are practically confined to the neighbouring zillahs.

Appendix II., No. 81.

3. In the district of Cuttack, the consent of the slave is considered necessary to the validity of the transfer. According to one witness, such consent was necessary by ancient local usage; but according to another witness, a slave formerly might be sold to a purchaser living at any distance, and the master was not considered to act oppressively in so doing; and the consent of the slave has been deemed necessary only since the issue of a proclamation in 1824, by the then Commissioner of the district, declaring the sale of slaves illegal; the effect of that proclamation having been, not to put an end to such sales, but to prevent their taking place without the consent of the slave. In Sylhet, it is not common to sell a slave against his will. The Decca court of circuit, however, in a letter of the 26th April 1816, on the state of slavery in their division,† say, "The transfer of slaves, we are informed, sometimes takes place both with and against the consent of the slaves themselves, but in the latter case, the mildest and most indulgent conduct can alone secure to the purchaser any favourable result from such transaction." In Rungpore, the arbitrary sale of slaves is understood to be very unfrequent. In Bhaugulpore, neither would the slave's consent be asked, nor any objection he might make be attended to. In the districts of Behar, Patna and Tirhoot, the usage is, after the master has fixed the price of his slave, to allow the latter to object to the purchaser, and to select any other who is willing to pay the price; but if the slave cannot within a reasonable time find another purchaser, the transaction must proceed. In Rohilcund, the slave of a Mahomedan master has no right to choose his purchaser.

No. 9. No. 6.

Slavery in India, 1828, p. 245.

4. In Tipperah, no adult Hindoo slave can be sold to a Mahomedan against his will; and in Bhaugulpore, a Hindoo master would not sell his Hindoo slave to a Mussulman.

The form of instrument used to record these sales is either an absolute bill of sale or a deed of lease, the latter being resorted to for reasons already stated when describing the forms used in cases of self-sale, and sale of children and adults, from freedom into slavery. One witness, speaking of the usages of Tirhoot, states, that property in slaves being, by the Hindoo law, treated with the same respect as immoveable property, and transferred with equal formality, no person purchases a slave without full inquiry, and all particulars are recorded in the conveyance; and when a slave is purchased of a stranger, it is usual to require that some known person should become security that the vendor has a right to sell.

No. 3.

16.—*Prices of Slaves.*

Of course the prices of slaves vary according to circumstances; their age, their merits, the nature of the service for which they are intended, and the wants of the contracting parties. In the districts of Bhaugulpore and Behar, the price is settled either by the parties themselves or by a committee of arbitrators, who determine the value after a personal examination of the slave.

In Cuttack, the price of a young adult slave, male or female, varies from five to thirty rupees; children of five years old fetch about one-fifth the above. Generally, the slaves of pure caste bear a higher price than those of the impure tribes, as the latter cannot be employed in domestic service; but slaves of the Gokha caste, which is an impure one, sell for more than others; the men being fishermen, their wives skilful in buying and selling, and their occupation a productive one both to the slave and the master. The Gokha is allowed to retain a large share of the produce, making over the remainder to his master. The females of this class never sell for less than 50 rupees; the males fetch a lower price, the reason whereof does not appear.

In

* One witness (No. 20), speaking of Bhaugulpore, says, "No one would purchase young children under 10 or 11 years of age separately from their mother, as the trouble and expense of rearing them would not be compensated by any services they could render."

† Viz. the districts of Backergunge, Chittagong, Tipperah, Dacca Jelalpore, City of Dacca, Mymensingh and Sylhet.

In Calcutta, Hindoo and Mahomedan boys and girls, brought by dealers in ordinary times from Dacca, Mymensingh and Sylhet, to be disposed of as domestics, sell for prices varying from 20 to 30 rupees.

In Tipperah the price of a young Kayet man varies from	-	Rs. 20 to	40
A young Kayet woman	-	„ 40 to	100
A Kayet male child	-	„ 10 to	25
A Kayet female child	-	„ 20 to	30
A young Chundal, man or woman	-	„ 10 to	20
A Chundal child, male or female	-	„ 7 to	10

The cause of the high comparative value of the female Kayet is, that she attends upon the ladies of the family. The free females who were formerly inveigled away and exported from Sylhet fetched a higher price than males, being more in demand as domestic servants. Slavery in India, 1828, p. 246.

According to Dr. Buchanan, poor parents in Rungpore sell their male children for a few rupees. The same authority states, that the slaves formerly imported from Assam into Bengal, and who were mostly children, brought the following prices; viz., girls from 12 to 15 rupees; a Koch boy, 25 rupees; a Kolita, 50 rupees. Buchanan. Martin, vol. 3, p. 496–7. Ditto, p. 681.

In Dinagepore, the children of free parents, sold at six years of age, seldom fetch above 10 rupees, as they frequently abscond before or after they become adults.

In Purneah, according to Dr. Buchanan, a grown man costs about from 15 to 20 rupees; a lad at 16 years of age, from 12 to 20 rupees; a girl at eight or ten years, when she is usually married, from five to 15 rupees; but in those parts of the district in which there is no customary restriction on the right of sale, the price rises considerably higher than in other parts where such restrictions exist. Ditto, vol. 3, p. 123–4.

In South Behar, a young female Kuhar sells for from 25 to 80 rupees; a young male Kuhar for from 25 to 40 rupees.

In Bhaugulpore, the following are the usual prices of slaves when valued by arbitrators:

A female of 12 or 13 years old, from	-	Rupees 25 to	40
„ 15, 18 or 20 „	-	„ 40 to	60
A male of 12 or 13 „	-	„ 15 to	22
„ 18 or 20 „	-	„ 26 to	40

In the Behar and Patna districts, according to one witness, the price of a Hindoo slave girl is from 30 to 100 rupees; that of a young male Hindoo, from 25 to 40 rupees. No. 4.

In the Behar district, according to another witness, the price of a young female may be from 50 to 125 rupees; that of a young male, about one-third less. The price of children from six to eight years old, from 10 to 15 rupees, the females fetching about one-third more than the males; the reason of the higher price of the female being, that the offspring would belong to her owner. No. 2.

The magistrate of Behar has given the following table of the average prices of slaves in his district:— Appendix II., No. 73.

From 1 to 7 years old, about	-	Rupees	10
„ 8 to 14 „	-	„	35
„ 15 to 30 „	-	„	50
„ 31 to 50 „	-	„	30
„ 51 to 60 „	-	„	12

These, he states, are the usual prices for both males and females purchased for ordinary purposes or general work; but a young and handsome slave girl bought as a concubine will fetch 100 or 200 rupees.

Dr. Buchanan mentions, that in the districts of Behar and Patna, the slaves usually fetched a rupee for each year of their age, until they reached 20, when they were at their highest value; but that, in general, the price had risen, and in many parts had doubled. Buchanan. Martin, vol. 1, p. 125.

In Shahabad, according to the same authority, young women fetch 20 rupees; men usually 15 rupees. Ditto, p. 480.

In Tirhoot, one witness states, the prices of slaves range between 40 and 100 rupees; and another, that the probability that the courts will not enforce the rights of the master, has caused the prices of slaves to fall considerably, and he gives the following scale of former and present average prices: No. 17. No. 3.

	Former Prices.	*Present Prices.*
A young girl, from - -	Rupees 50 to 60	From - Rupees 25 to 40
A young male of 18 or 20 years old,	„ 30 to 40	„ 16 to 20

We find in the returns mention made of a sale in this district, in the form of a lease for 99 years, of a person, his wife and children, and children's children, for 19 rupees. Appendix II., No. 86.

In Rohilcund, the price of a child is from 20 to 30 rupees. The price obtained for males and females, both children and adults, imported by the burdeh-furoshes from the hills into this part of the country, used formerly to be from 10 to 20 rupees each; but it has now risen to 20 or 30 rupees. According to Hamilton, the prices used to be from 10 to 150 rupees. Hamilton's Hindoostan, vol. 1, p. 452.

The scales of prices above given are those of ordinary times. In periods of scarcity and famine, children are sold by their parents for prices varying from four rupees to 12 annas, and sometimes even for a single meal.

17.—*Mortgage of Slaves.*

In Cuttack, it is common to borrow money on the mortgage of slaves; but the slaves, when mortgaged, continue in the possession of the mortgager.

We have no information whether the practice obtains generally in the province of Bengal or not; but it exists in the district of Rajeshahy in two forms: in one, the mortgager receives possession of the slave, and his services discharge the interest of the principal sum lent; in the other, the possession continues in the mortgager, and the security of the creditor depends upon the deed only.

In the province of Behar, the mortgaging of slaves appears to be regarded by the better classes as equally disreputable with the sale of this description of property.

In the district of Behar, however, this species of contract is common;* and here also it prevails in two forms, the mortgaged slaves either remaining in the possession of their owner, or being transferred to the mortgagee. In the latter case, the mortgagee supports the slave, and has the benefit of his labour, which, however, does not, without special agreement, go to discharge the interest of the debt. Under both forms, the children born during the mortgage belong to the mortgager. The magistrate of the district says, "Mortgages are common, and foreclosures applied for and obtained from the courts. These contracts are usually attested by the cauzies, and not unfrequently registered in the courts."

Appendix II., No. 73.

In Tirhoot, the interest of a debt is sometimes paid by the services of a slave, the slave remaining in the possession of the debtor, and being maintained by him. In this case, if the slave dies, the mortgager must provide another slave; but if the death be occasioned by the fault of the mortgagee, the loss falls upon him.

In the western provinces, the custom of mortgaging slaves does not obtain.

18.—*Letting Slaves to hire.*

In no part of the provinces, as far as our information extends, does it appear to be the custom to let slaves to hire, excepting in Jynteah, recently† annexed to Sylhet; the districts of Mymensingh and Rungpore, where, according to one witness, masters let their slaves to hire, particularly females, generally for short periods of from two to six months; and in Pachete in South Behar, where however it is resorted to only when the master is in low circumstances. The magistrate of the district of Behar also mentions the practice of taking slaves on short leases of from two to ten years.

No. 7.

Appendix II., No. 73.

19.—*Slaves Adscripti Glebæ.*

There appear to be no slaves *adscripti glebæ* in any part of these provinces; but in three districts of Bengal the agricultural slaves seem to be generally sold with the land.

The magistrate of Backergunge, in 1816, speaking of Sylhet says, "Some (slaves) there are, whose families have been in a state of slavery for the last hundred years, and who, when a sale of an estate takes place, are included in the purchase."

Slavery in India, 1828, p. 247.

The assistant to the magistrate of Dacca Jelalpore thus writes in the same year: "When an estate to which slaves are attached is disposed of by private sale, the slaves are very commonly sold at the same time, though a separate deed of sale is always executed."

Ditto.

And we are told by one of the witnesses, that in the district of Rajeshahy, if an estate is cultivated by slaves, no one would purchase the estate without the slaves, but on such sales separate bills of sale are executed for the land and the slaves; and he instances the sale by public auction for arrears of revenue of a portion of an estate, in which the slave cultivators not having been sold with the land, he considers them *de jure* to be still the property of the ex-zemindar, but *de facto* they have become free ryots paying rent to the new one.

No. 7.

Mr. Henry Colebrooke, in his minute on the slavery of Bengal written in 1812, says, "In the lower provinces under this presidency, the employment of slaves in the labours of husbandry is nearly if not entirely unknown. In the upper provinces, beginning from Western Behar and Benares, the petty landholders, who are themselves cultivators, are aided in their husbandry by their slaves, whom they very commonly employ as herdsmen and ploughmen; and landholders of a higher order have, in a few instances, the pretensions of masters over a part of their tenants long settled on their estates, and reputed to be descended from persons who were acknowledged slaves of their ancestors. Their claims to the services of those hereditary serfs are nearly obsolete, and scarcely attended with any practical consequences. The serfs pay rent and other dues for the lands which they till and the pasture on which they graze their herds, and are not distinguished from the rest of the peasantry, unless by a questionable restriction of the right of removing at choice. But those

Slavery in India, 1838, p. 311.

* But witness, No. 23, speaking of the districts of Behar and Patna, says, "The general belief of the illegality of sales has also put a stop to all mortgages."

† 21st March 1837.

those employed in husbandry by the inferior class of landholders are strictly slaves, and their condition differs from that of household slaves only as the one is occupied in out-door work, and the other in business of the interior of the house."

There is no evidence in the information before us of the present existence of this system of villainage in the western provinces; but probably something of the kind prevailed up to the period at which they were brought under British rule.

Dr. Buchanan in his account of Goruckpore observes, "During the government of the nawab, the people on each property were held in a great measure as *adscripti glebæ*. Perhaps no law existed to this effect, but it was not usual for one landlord to take away his neighbour's tenants; and whoever did so would have been liable to reproaches, which would generally have occasioned the displeasure of the governor." And in a recent report on the settlement of the ceded portion of the neighbouring district of Azimgurh, by the late collector, Mr. J. Thomason, we find the following passages :— Buchanan. Martin, vol. 2, p. 537. Journal of the Asiatic Society, 1809, p. 115–16.

"The urzal consists of Bhurs, Chumars, and low caste persons, who are generally located on the estate at some expense of capital, and are liable at any time to be left entirely dependent on the zemindars, who must either support them during a season of scarcity, or see his estate depopulated, and his future sources of profit destroyed."

"The third class, or tenants at will, consist mostly of those who are styled urzal in the preceding paragraph. They neither have nor assert in general any rights, other than the will of the zemindar. They take what land he gives them, and pay the utmost that they can, either in money or in kind. Besides their direct contributions to his rental, they render him many personal services. If Kuhars, they carry his palankeen, merely receiving in return food to support them during the time. Other classes bring him wood, tend his cattle, or perform numerous other similar services for very inadequate remuneration. Under former governments this power was no doubt recognized and permitted. They were then predial slaves, who were beaten without mercy for misconduct, and were liable to be pursued and brought back if they attempted to escape. Their state is now much improved. The power is now conventional. A Chumar can now sue his zemindar in the criminal court for an assault, and, if detained against his will, can bring his action for false imprisonment; he can even recover in a civil court the wages of labour performed. Nothing vexes or annoys the zemindars in our whole system so much as this. It has struck at the root of a power, which has long been exercised most tyrannically, and yet, so strong is the force of habit and custom, that often, as the power of the zemindar is still abused, it is very rarely that they are brought into court to answer for their misconduct."

"The foundation on which the right of the zemindar now avowedly rests is that of pecuniary obligation. He expends capital in locating the cultivator in the village; he builds his house, feeds him till the harvest time, supplies him with seed, grain and implements of husbandry. On all these, an exorbitant interest is charged, and, in consideration of the pecuniary obligation thus incurred, the services of the man are exacted. Hence the connexion is rather personal than resulting from the tenure of the land, and various circumstances support this view. In mortgages those rights are seldom, if ever, transferred; in private sales very rarely, unless specified; in public sales, by authority, for arrears of revenue, never. Hence an auction purchaser never acquires any rights over the tenants at will of a former zemindar."

20.—*Marriages of Slaves, and Ownership of their Offspring.*

The same rites are observed at the marriages of slaves, both Hindoo and Mohomedan, as of free persons of the same castes or classes. The expense* is defrayed by the masters,† who are considered to be under a moral obligation to provide for the suitable marriage of their slaves; but sometimes, when the slaves can afford it, the charge is borne by them. In Purneah, the master usually gives about four rupees, and a quantity of grain, on the marriage of his slave; in Bhaugulpore, the ceremony costs from 10 to 25 rupees, according to circumstances.

The children are married before or on attaining the age of puberty. In Bengal, a Hindoo slave girl of pure caste would be regarded as defiled if she remained single after that period, and it would be improper to receive water at her hands. In Purneah, a girl is usually married at 10 years. The wishes of the parents and relatives of the slaves are consulted on these occasions, at least in the province of Behar; and the inclination of the male slave also if he be adult. Buchanan. Martin, vol. 3, p. 124.

1. A master prefers that his own slaves should intermarry, as in that case no difficulty arises in respect of their services, and their children will belong to him; and if he has no slave girl of an age proper to give in marriage to one of his slave boys, or *vice versâ*, he sometimes endeavours to procure a spouse, by purchasing a slave from another owner, or a free person from himself, or a free child from his or her parents. But if a suitable match cannot

* The judge of Mymensingh seems to consider this fact as the foundation among Hindoos of the right of the owners over the offspring of their slaves: "This," he says, "gives them a lien, or a prospective claim, to the produce of such marriage, and constitutes the only legitimate claim (among Hindoos) of hereditary slavery." —Appendix II., No. 47.

† The expenses of the funeral ceremonies of deceased slaves, which are likewise the same as for free persons of the same class, are also borne by the masters; or occasionally by the slave relatives when they can afford it.

cannot be obtained in either of the above ways, it is sought for either among the slaves of another master, or in a free family.

2. The customs obtaining on the intermarriages of slaves of different masters with regard to the property in and services of the female, and the ownership of their offspring, vary in different districts, and even in different parts of the same district.

In the northern and central divisions of Cuttack, if such a marriage takes place with the consent of the female's master, the wife goes to live with her husband, rendering only occasional service to her master, and the respective owners take the children alternately: and if the woman ceases to bear when the number of her offspring is uneven, the last child goes to one owner, he paying half its value to the other. But if the marriage be made without the consent of the girl's master, he allows the husband to have access to her, but all the children belong to him. In the southern division of the district, if the owner of a slave girl consents to her marriage with another's slave, he loses his property in her, and she becomes the slave of her husband's master.

Appendix II., No. 37.

In Backergunge, according to the magistrate of the district, the Hindoo male slaves being few, several female slaves are married to one of them; which he distinguishes from the marriages with the Beeakara or professional bridegroom, hereafter described. "A Mussulman," he says, "generally marries a slave girl born in his house to some one who will live by his house. Such husbands often serve elsewhere; but the wives, perhaps from motives of jealousy, are not allowed to do so."

In Chittagong, the offspring of the intermarriage of slaves of different masters belong to the owner of the mother.

In Tipperah, when two masters agree to the intermarriage of their slaves, it is usual for the owner of the female to give her to the male's master, receiving a present, which is always less than her value; but if the marriage takes place without the consent of the female's master, the offspring are all his slaves.

In Dacca Jelalpore, if the master of a female slave permits her to marry any but a slave of his own, his property in her, and of course in her future offspring, is *ipso facto* extinguished, and that without any consideration received in exchange, unless there be a special stipulation to the contrary. His property in her likewise ceases on such marriage, even although it may take place without his permission.

Appendix II., No. 49.

In Sylhet, the judge informs us, the daughters of slaves are generally married to strangers, of whom the master usually receives a douceur of a few rupees, which is termed the mooneebanah, or master's fee, and thereby makes over his right to another.

In Rajeshahy, when intermarriages of slaves of different owners take place with the consent of the owners, a stipulation is made as to the division of the children; when they occur without the consent of the female's owner, the offspring belong to him.

In Purneah, according to our information, the children of married slaves belonging to different owners are the property of the master of the male slave; but the following account is given by Dr. Buchanan. "The two masters sometimes agree, and, having allowed the parties to marry, the master of the boy is entitled to one-half of the male children, and the master of the girl to the other half, with all the females. In other cases, the master of the girl at the marriage takes two rupees from the master of the boy. The male children are, as before, divided equally; but the master of the boy gets two rupees for every female child when she becomes marriageable. In both cases the female slave continues to live with her master, who, if he requires her work, feeds and clothes her and the children, until they are marriageable, and at any rate gives them a hut; but in general the male slave passes the night with his wife, gives her part of the allowance which he receives from his master, and she works for whatever else she may require. These contracts can therefore only be entered into between neighbours."

Buchanan. Martin, vol. 3, p. 124.

In the province of Behar, when it becomes necessary to obtain a match from among the slaves of another master, an arrangement is generally made for the purpose with a neighbouring owner.

In South Behar, the female remains in her master's house, and the husband visits her when he can find leisure; nor can he take his wife to his own house without her owner's consent. We are told, indeed, that if a male slave be married to the female slave of another master, who resides 150 miles off, her master has a right to remove her and her children to his own house, separating them from the husband and father, unless he can obtain his owner's permission to accompany them. The offspring of the marriage belong to the owner of the female, excepting in Pachete, where they are the property of the father's owner.

Appendix II., No. 64.

In Bhaugulpore, Behar and Patna, the female likewise remains at her master's house; but the husband is entitled to have access to her, though he cannot remove her to his own house without her owner's consent. The offspring are the property of her master.* But according to one witness, in Behar and Patna, a female slave, married with the consent of her own master to the slave of another master, becomes the property of the latter.

No. 23.

Buchanan. Martin, vol. 1, p. 497.

In Shahabad, according to Dr. Buchanan, the slaves are generally on the same footing as in Behar and Patna. The children of masters by their female slaves, who, as has been stated, in this district are slaves, generally intermarry with others of the same spurious breed.

The

* The Patna council, in 1774, describing the custom of the province generally, say, "Children born of slaves are the property of the owner of the woman, though married to a slave of a different family."—Slavery in India, 1828, p. 5.

The acting magistrate states, generally, that "the children remain with the mother, nor does the father or the master exercise any right of property over them." Appendix II., No. 78.

In Sarun, the children of a marriage between slaves of different owners belong to the master of the father.

In Tirhoot, according to one witness, the woman resides with her husband, and performs service both for his master and her own, though the former has no right to her services. She is usually supported by her own master, but if she work also for her husband's master, she is supported partly by one and partly by the other. The two masters divide the offspring between them; and should the family not consist of an even number of children, either the child in excess of the even number performs services for both masters, or it is valued, and one master retains the child, paying half its value to the other master, and this distribution is not affected by the circumstance of the marriage of a slave having taken place without the consent of the master. The above is stated by the witness to be the custom of his own pergunnah (Suresur), in respect of the distribution of the offspring; but different customs, he observes, prevail in different places. No. 17. Another witness says, that the male children of such marriages follow the father, and the female the mother; and if the marriage take place without the consent of the female's master, the husband may, nevertheless, have access to his wife, but so as not to interfere with her service more than conjugal rights require. No. 3. According to the judge of the district, the husband and wife continue to reside with, and serve their respective masters; and the male children are the property of the father's owner, but the female are not necessarily slaves, and may on mature age marry as they please; but they are generally disposed of by their parents by some agreement at the time of marriage, which is never disputed, and they continue slaves. Appendix II., No. 81. The magistrate also states, that male slaves, whether born in the family of a Hindoo or a Mahomedan, become the property of the father's master, but the female slaves may be married out of the family to any one the parents choose. Ditto, No. 83.

But, whatever may be the local usage in the province of Behar respecting the ownership of the offspring of marriages between the slaves of two different masters, it is very frequently, and in particular parts in most cases, superseded by a special agreement between the masters at the time of the marriage. This agreement is sometimes made in consideration of the occasional deprivation of his slave's services, to which the master of the male may be subjected by the visits of the slave to his wife, when she remains at her owner's house, and it is at some distance from his own. Sometimes it depends upon the whole expense of the marriage being defrayed by one party, or some such cause. In Bhaugulpore, however, it is never stipulated, by such agreement, that the owner of the male slave shall have any of the female offspring.

In Goruckpore, Dr. Buchanan states, the children of the Kurmi slaves belong to the master of the father; but no master scruples to give his slave girl in marriage to another man's slave when he wants her. Buchanan. Martin, vol. 2, p. 427.

In the other western provinces, the issue of the marriage of slaves of different owners belong to the master of the mother, unless any special stipulation is made between the masters. In Rohilcund, on such occasions, the slave girl of a neighbour is selected, so as to cause no interruption of their services to their respective owners, whose houses the slaves so married mutually frequent.

3. Though, generally speaking, slaves are married to persons in their own condition, in some parts of the country they intermarry with free persons.

In Cuttack, the low castes to which the slave population belong exist in three conditions: viz., first, those who are in actual slavery; secondly, those who, having been themselves slaves, or, having sprung from slave ancestors, bear the stigma of slavery though in the enjoyment of liberty; thirdly, the altogether free. Marriages are not contracted between persons in the first and third conditions, but those in the first and second conditions intermarry without prejudice to the latter. Marriages of this last description, however, do not take place in Northern and Central Cuttack, except when the slave spouse can be purchased from the master. In Southern Cuttack, if a master consents to the marriage of his slave girl with a freeman, she becomes free; and if a freeman marries a slave girl without her owner's consent, the offspring belong to the father; the maxim which regulates the local usage being that "the seed is more worthy than the soil."

In Backergunge, a free Hindoo seldom marries a female slave, such a match being considered discreditable; and Mahomedan male domestic slaves rarely marry slave girls, but often quit their masters and unite themselves in marriage with the daughters of villagers.

In Chittagong, if a Mussulman master marries his female slave to a freeman, and permits her to go away with her husband, it amounts to emancipation, and the children are free; but if she remains in her master's service, the children are his property. Marriages between free persons and slaves, however, are not frequent, for, though a free person does not forfeit his or her liberty by marrying a slave, a freeman will very rarely give his daughter in marriage to a slave, and only when he is in low circumstances.

In Dacca Jelalpore, also, it very rarely happens that a freeman marries a slave girl; such a connexion does not affect his liberty, but it causes degradation, which can only be removed by divorcing his wife, and making atonement and presents to the priest.

In Rajeshahy, a freeman will sometimes consent to marry his daughter to a slave, and thus consign her to slavery, for the purpose of obtaining the master's favour. The slavery of the bridegroom is not considered derogatory to the family of the bride, nor as debarring her from communion with them. If, as sometimes happens in this district, a husband sells

his wife into slavery, and afterwards has access to her, the offspring will belong to the purchaser, or, to use the words of the witness, "to the owner of the soil."*

No. 7.

Buchanan. Martin, vol. 3, p. 496, 693.

In Rungpore, free parents do not give their daughters in marriage to slaves.

Ditto, vol. 2, p. 914.

Among the Garrows, also, in N. E. Rungpore, intermarriages between free men and slaves are not tolerated.

In Dinagepore, the slaves that are employed in agriculture, and probably the others also, are allowed to marry free women, but, as all the children are slaves, the master must pay a high price (five or six rupees) to the girl's parents, and the ceremony costs three or four rupees more.

Ditto, vol. 3, p. 124.

In Purneah, "in some places it is not usual for free persons to marry with slaves; but in other places it is not uncommon. When a free man marries a slave girl, he is called chutiya golam (*cunno servus*), and works for her master on the same terms as a slave, but he cannot be sold. His male children are in some places free, but are called Garhas, and are looked upon as of lower birth than persons of the same caste, both of whose parents were free. In other places, the male children are slaves, and the female children in all cases are reduced to that state. A man sometimes gives his slave in marriage to a free girl, paying her father two rupees. In this case all the male children are slaves, but the females are free; only, when each of them is married, either her relations or bridegroom must pay two rupees to the father's master. The woman lives with her kindred, and works on their account, receiving the husband's allowance from his master." According to one of the witnesses, in this district a free Kyburt readily gives his daughter in marriage to a Khawas, and the master of the male slave is the owner of the offspring.

No. 27.

Among the Kurmi and Kuhar tribes of the province of Behar, slavery is not considered a degradation as respects caste; and the free male Kurmi or Kuhar has less reluctance to marry a slave girl, because, even if he were to marry a free woman, the children would be under her dominion, and not under his, according to the rules of those castes. One witness, however, says, that in the Behar and Patna districts, a free Kurmi would not willingly marry his daughter to a slave; but the free Kuhar, being always tainted with slavery, has no objection to such a connexion.

No. 23.

In Pachete, in South Behar, if a free woman marries a slave, both she and her offspring follow the husband's condition.

In Bhaugulpore, the liberty of a free person, either male or female, is not affected by marriage with a slave; and the children of such a marriage follow the condition of the mother, and are slave or free according as she is one or the other. On the occasion of such a marriage, the master usually provides a hut for the new-married pair near his own house, and the free husband either follows his own occupation, or, as is always the case with the free wife, works for the master, in consideration of being maintained by him. The free children, likewise, work for the master, and are maintained by him until they grow up, when they seek their own livelihood as they please. Dr. Buchanan's statement differs slightly from the above; he says, "In general a free man marrying a slave girl is not personally degraded to slavery, as in Purneah; in other places he becomes a chutiya golam (*cunno servus*), but cannot be sold; he works for his wife's master at the usual allowance that a slave receives."

Buchanan. Martin, vol. 2, p. 99.

Ditto, vol. 1, p. 126.

In the districts of Behar and Patna, also, the children of intermarriages between slave and free persons follow the condition of the mother. Dr. Buchanan, in his account of these districts, says, the Molazadah slaves "form a kind of distinct caste, which does not intermarry with the free person of this (Mahomedan) religion; although the children which the highest have, by girls purchased for the haram, are considered as nearly if not altogether equal to those by legitimate wives."

Neither in Shahabad nor Sarun, are intermarriages between free persons and slaves admitted.

No. 17.

In one part of Tirhoot,† according to one witness, if a slave man marries a free woman, the female offspring are free, but the male offspring are the property of the owner of the husband; and if a slave girl marries a free man, the children are divided, but the father takes only one share, and the owner of the mother receives two shares; and in neither case does the free spouse forfeit his or her liberty. According to another witness of this district, a free person of either sex is degraded to the condition of a slave on marrying a slave, unless the contract is accompanied with an express stipulation for continuance of freedom, in which case the children are slave or free according to the sex.

No. 3.

Buchanan. Martin, vol. 2, p. 427.

In Goruckpore, the few Kurmi slaves are not suffered to intermarry with free persons.

No. 28.

One of the witnesses states, that in Benares and all the country to the westward of that province, if a freeman marries a slave girl, the offspring belong to her owner, whose slave the husband likewise becomes for so long as he cohabits with his wife, but he may put an end to his servitude at any time by relinquishing her. But if a free woman marries a slave, she becomes permanently the slave of her husband's master.

No. 14.

In Rohilcund, on the marriage of a free person with a slave, the free husband or wife resides at the house of the master of the slave consort, and serves him for maintenance, but remains free. The witness whom we examined respecting the system of slavery prevailing in this part of the country, informs us, that there the slavery of the parents, in whatever manner that slavery may have originated, does not descend to the children, whether both or one only of the parents be in that condition. The children during infancy, and it may be afterwards also,

* This figurative expression, as well as a similar one occurring above (p. 41), has reference to a maxim of Hindoo law, according to which the female is considered as the soil, and the male as the seed.

† Pergunnah Suresur.

also, remain in the house of the master where they were born, and receive their maintenance from and work for him; but on becoming adult, they are at liberty to seek their own livelihood as they please.

4. The practice of Punwah Shadee will be fully described in a subsequent part of this Report.

21.—*Prostitution.*

The sale of free female children by their parents, and of slave girls by their owners, to bawds, for the purpose of prostitution, though considered immoral and disreputable, is very prevalent; and we fear that the kidnapping of free children with the same object is but too common.

The officiating judge of Cuttack says, "The female children of the following castes: viz., of Mahtis, or writers, Khundaits, Shukar Furoshes, Gowalahs, Chasas, Rajpoots, Duroodghurs, Ahungers, Bidoors, Patarahs and Potlee Baniahs, are sold by their parents to Luleans and Mahareans, as public singers and dancers, and for purposes of prostitution." "The Luleans," he adds, "are common bawds, who make no distinction of sects or caste, in contradistinction to the Mahareans or Deodasees,* who restrict their traffic to Hindoos, and are admitted to the temple of Juggurnath at Pooree." According to one of the witnesses, however, no addition is permitted to be made from without to the band of Deodasees belonging to that temple, of whom there are 50 or 60 families. The males of these families are not married to the females, but live with them in a state of concubinage, and their number is kept up by their own progeny. There is another temple in Cuttack, that of Ruggonath, which has a similar establishment. Appendix II., No. 7. No. 9.

An iniquitous system prevails of inveigling women and kidnapping children from the country, sometimes from as far as Moorshedabad, for the purpose of selling them in the city of Calcutta; we are informed by Mr. Blaquiere, one of the city magistrates, that from the year 1800 to 1831, during which period this particular branch of the police was under his charge, he released and restored to their families, or placed with respectable housekeepers, about 600 or 700 persons of this description, the greater part of whom were girls about to be sold for the purpose of prostitution; and he states his belief that such sales are still of frequent occurrence, a case having been brought to his notice, only six months ago, of two women who had been decoyed to Calcutta to be sold. "The houses of bawds in the city," he says, "swarm with women who have been inveigled from their families, and prostituted against their will." Witness, No. 13.

In Backergunge, in 1816, the sale to prostitutes of female children, by their mothers, was a frequent occurrence. Slavery in India, 1828, p. 247.

In Dacca Jelalpore, at the same period, the females who were occasionally procured from their parents, in low circumstances, were generally purchased by public women, who brought them up to the same line, and made a profit by their prostitution. Ditto.

In Mymensingh, female children are sold to the keepers of brothels, who are to be found in every large town, and in the vicinity of most bazars and petty haunts in the district. "These unfortunate children," says the judge, "are thus brought up from infancy to infamy, and often complain (when able to do so) of the treatment they receive from these commonly termed "surdarnees" or mothers. They often have good cause; but sometimes they are instigated by some paramour or favourite, who wishes to get them out of the hands of the bawd." Appendix II., No. 47.

"Rungpore, being a section of Camroop (the Hindoo region of sensual love), public prostitution is so common, that, in 1809, 1,200 houses were occupied by females of that profession, which has assumed the organization of a regular society, with a priesthood adapted to their manner of life. In 295 of these houses, there were found to be 460 females between the ages of 12 and 25 years; 218 advanced in life, who acted as servants and superintendents; and the community also contained 39 old men, 35 youths, and 14 boys, all born of the sisterhood. These prostitutes, although mostly born of Mahomedan parents, affect Hindoo manners, on which account they abstain from all impure food, and before the age of puberty undergo the ceremony of marriage with a plantain tree.† In this district, in 1809, there were 78 sets of female dancers and singers, all prostitutes. Here they are called Nutti, and belong to the same kind of institution as the common prostitutes, and have the same religious guides. All the girls are purchased when children; the handsomest and smartest is generally the head of the set, which usually consists of two or three girls, and four or five men, who are usually born in the caste." We learn from Dr. Buchanan, that in this zillah free parents do not give their daughters in marriage to slaves; and, if very poor, prefer selling them to a prostitute. The magistrate, after stating that it is very common for parents to sell their female children to prostitutes, says, "the prostitutes, in some measure, retain Hamilton's East India Gazetteer. Buchanan. Martin, vol. 3, p. 496. Appendix II., No. 57.

* Female slaves of the god.

† Dr. Buchanan, in his account of this district, says, "Premature marriage is considered so necessary to Hindoo ideas of purity, that even the unfortunate children who are bought for prostitution are married with all due ceremony to a plantain tree, before the age when they would be defiled by remaining single."—Buchanan. Martin, vol. 3, p. 555.

The females of the Newar tribe, in Nepaul Proper, at eight years of age are carried to a temple and married, with the ceremonies usual among Hindoos, to a fruit called bel. When a girl arrives at the age of puberty, her parents, with her consent, betroth her to some man of the same caste.—Hamilton's Hindoostan, vol. 2, p. 670.

retain a personal control over them, and in some cases dispose of them again to other prostitutes."

Appendix VI., No. 13. The magistrate of N. E. Rungpore states, that 99 out of 100 prostitutes in his district are slave girls, or bondswomen; and we gather from his expressions that many females of those two classes are compelled to prostitution by their masters.

Buchanan. Martin, vol. 2, p. 746, and printed report of this district, p. 79, 80. In Dinagepore, poor parents, in times of scarcity, or when unable to procure husbands for their daughters before the age of puberty, are sometimes induced to sell them to procuresses. "Every prostitute," observes Dr. Buchanan, "holds out her house as an asylum for the girls who choose to join her, adopts them as her daughters, gives them clothes and ornaments to the utmost of her ability, and expects in return to be supported in her old age; with this view they endeavour, if possible, to purchase children from their parents who are indigent, although this practice is contrary to law. It is, however, perhaps owing to this, that few children in a state of common mendicity are to be seen; but the number sold in Dinagepore is very inconsiderable."

Buchanan, MSS. In Purneah, most of the prostitutes are said to be purchased while infants, from the northern parts of Dinagepore and Rungpore.

In Bhaugulpore, neither free females nor slave girls are ever sold to prostitutes.

Buchanan. Martin, vol. 1, p. 127. In the district of Behar, all the prostitutes are Mahomedans, and their number is kept up by purchase from the west of India, or from the country north of the Ganges. The parents in this district will not sell their children for this purpose.

Ditto. In the Patna district, also, the greater part of the prostitutes are Mahomedans; but there are many Hindoos, partly Rumzanis, partly Khatranis, and partly Bengalese. All the Rumzani women are prostitutes, and the men musicians; but they adopt girls of any caste, whom they procure by purchase. The Khatrani prostitutes keep up their number by adoption.

Ditto, p. 481, 491. In Shahabad, in 1809, the prostitutes amounted only to 130 houses. They are mostly Mussulmans, and are nearly on the same footing as in Behar. In the western parts of the district, there were four houses of Gandharvinis. "No one," says Dr. Buchanan, "disputes the purity of their birth, nor scruples to drink water from their hand, although they supply their numbers by handsome girls of any kind that they can procure. In Benares, they are numerous."

There are no dancing girls attached to the temples in Behar as there are in Cuttack.

Buchanan, MSS. In Goruckpore, the houses of bad fame were reported to Dr. Buchanan at 95 only. They were all said to be of the Mussulman faith, though 15 houses were in fact Rumzanis. It has already been stated, that most of these women are purchased from the hill tribes, and that the same is the case over most of the west of India. "Many of the mountain beauties," says Dr. Buchanan, with reference to this fact, "have a great deal of the Chinese or Tartar countenance, which seems to me to be admired by the natives more than their own regular features; a taste probably introduced by the Moguls, and spread, by the usual imitation of the great, even among their Hindoo subjects."

Slavery in India, 1828, p. 115. In Rohilcund, the greater part of the prostitutes, both Hindoo and Mahomedan, purchase children from their parents and from the burdeh-furoshes, so that almost all the prostitutes in that part of the country are slaves. The great majority of the children imported into Rohilcund, Seharunpore and Meerut, by the burdeh-furoshes, in 1811, were females, who, after importation, were purchased for concubines, and to supply the stews and brothels with prostitutes, and some as attendants in zenanas.*

22.—*Conditional Slavery and Bondage.*

Besides the status of absolute slavery, there prevails in these provinces a system of conditional slavery, determinable under certain circumstances; and this system is of several kinds or degrees.

1. The first, when a person, or a man and his wife, in a season of calamity or distress, offer themselves, with or without their children, as slaves to the more wealthy, without compensation, and merely for maintenance.† These may be considered slaves at will, being at liberty to quit their master at pleasure, but bound to work for him so long as they continue to receive their food and raiment from him.

This

* For further particulars connected with the subject of prostitution, *see* under the head of "Origin of Slavery," "Kidnapping," and "Importation."

† It appears, from Dr. Buchanan's accounts, that, in Rungpore, Dinagepore, the eastern parts of Purneah, in Bhaugulpore, Behar and Patna, the free female domestics are generally aged women, who have lost their husbands and kindred, and give their services for merely food and raiment; and probably it is servants of this description to whom the magistrate of Backergunge (Appendix II., No. 37) alludes, when he states, that, in that district, many Hindoo widows, who are unchaste, have quarrelled with their relations, or have other means of livelihood, voluntarily become domestic slaves in Hindoo families.

In Purneah, Dr. Buchanan states, "These servants are sometimes called Bhatuyanis, but they are also called Gulmi or Laundi, that is, slaves, although it is admitted that they have not been purchased, cannot be sold, and that they may change their master whenever they find one that will treat them better." He adds, "There are some such persons employed, not only as domestics, but in agriculture, and some of them are males." Of these males, he estimated the able-bodied at 2,250, whom he designates as "Balams, called also Golams and Laundas." He reckoned that there were 28 persons of the same description in Bhaugulpore.—Buchanan. Martin, vol. 3, p. 121, and MSS.

This species of servitude obtains in Cuttack, the district of Behar and Rohilcund; and in the last-mentioned tract of country it is very frequent. In Cuttack, this description of slave is regarded as having lost caste by this voluntary act of submission; and though such persons can put an end to their servitude when they please, the stigma of slavery continues to attach to them. They differ from the free hired servants of the district, in respect that they live upon the leavings of their master's table, which degrades them to the rank of slaves. They can acquire no property during the continuance of the servitude, and their children, if born after the servitude commences, are slaves for ever. In the district of Behar, the children are not affected by the relation between the parent and master.

A servitude of a similar kind prevails extensively in the district of Purneah, and originates in the voluntary submission of a free person to a superior for the sake of protection and support. This kind of slave is designated Khawas, the various meanings of which word have already been adverted to* as mentioned by Dr. Buchanan in his account of this district. The Khawases are of the Kewut or Kyburt, and Dhanuk castes; and occasionally a Kayet submits himself to this condition. The Brahmins are the only owners of this kind of servant, the Khetries being few, and none submitting to serve a Kayet in this manner. The wealthy Brahmin zemindars have many families of Khawases. The dominion of the master over a person who has thus sought his protection is not complete, for though the relation once established is seldom broken, the Khawas may, if he pleases, seek other protection, or again become independent; but the dominion over the descendants of the original Khawas is more perfect. Of the Khawases, some render constant domestic service, and these are also employed in superintending the cultivation, and in reaping, threshing and storing the crops of their master's private lands; ploughing and weeding being generally done by means of hired labour, which in this district is very cheap. They receive monthly wages of one rupee and rations, and are entitled to support in old age and sickness. It is not usual to beat them for misconduct, but they are dismissed if they do not give satisfaction. But most of the Khawases belonging to the great zemindars are supported by small assignments of land, paying the usual rent for any lands they may be allowed to hold beyond those assigned; and these render only occasional service to their masters at ceremonies, receiving at such times a small pecuniary allowance and rations. In strictness, the master has perhaps a right to the earnings of his Khawas, but it is not enforced; and some of those who are maintained by assignments of land accumulate property, and are extensive farmers. Their condition is easier than that of free labourers. On the marriage of a Khawas, the master gives a small sum, usually four rupees, and a small quantity of grain. The offspring belong to the owner of the male, whether the wife be slave or free. Witness, No. 27.

There is another description of Khawas, who is only nominally the slave of some person whose patronage and protection he has sought. In great families there is a sirdar or chief Khawas, who, when a stranger seeks the patronage of the master, is directed to admit him into the brotherhood of Khawases, and the person thus admitted to clientship derives protection and distinction from the use of his patron's name, and may become a tenant on his estate, but does not usually receive any assignment of land, and has no title to support in infirmity and old age.

It has been said, that "in this district the principal object of all native expenditure is to maintain as many dependents as possible." This will account for the existence of the particular species of servitude above described. Hamilton's East India Gazetteer.

2. Another description of conditional slavery has already been adverted to under the head of "Marriages of Slaves," where it was stated that, in Benares and the country westward of it, a freeman, marrying a slave girl, becomes the slave of her owner for so long as he cohabits with his wife, but he may put an end to his servitude at any time by separating from her. Perhaps the particular kind of slavery (chutiya golam), to which in Purneah and some parts of Bhaugulpore a freeman subjects himself by marrying a female slave, may be terminated in the same manner.

3. Slavery for a stated period has been mentioned by several of the public functionaries as existing within their jurisdictions.

"In Midnapore," says the acting joint magistrate, "there is generally a written agreement between the master and slave, the latter stipulating to serve the former a certain period, the former engaging to provide food and clothing for the latter during his service." Appendix II., No. 14.

"In Hooghly," the officiating magistrate states, "there is a system (very much resembling that of apprenticeship in our own country) in which a person receives a small sum of money, usually from 40 to 50 rupees, and binds himself down, frequently in a regular written agreement, to serve as a slave for a certain number of years. A person of this description is termed an Ajeer, and the practice is said to be extremely prevalent." Ditto, No. 18.

The magistrate of Sylhet. "In Jyntea it is common to borrow money, the borrower mortgaging his services for a short term of years." Witness, No. 5.

The officiating judge of Dacca. "In the Purneah district there were two or three cases pending (regarding slaves); but the suits were brought on written agreements for limited periods, and the object of the suit was to get the money (paid on the execution of the deed) returned with interest, or that the person should be made to perform the conditions of the bond. They were not, however, disposed of when I left." Appendix II., No. 44.

The officiating additional judge of Tirhoot. "Individuals of the poorer classes are frequently found willing to sell themselves, either conditionally for a certain number of years, or Ditto, No. 82.

* See page 10 of these Details.

or otherwise. And in seasons of scarcity and distress, they readily avail themselves of such a mode of providing subsistence and comfort for themselves and offspring."

Appendix II., No. 92. The judge of Juanpore. "A practice obtains of mortgaging the services of children for a certain number of years, commensurate to the probable term of life, but it is never enforced. When the children arrive at maturity, they remain with their masters or not, as they please. In all cases they receive wages and food, and, in the event of harsh treatment, immediately leave their masters and seek for service elsewhere; and I do not believe any attempt would be made to compel them to return."

Ditto, No. 103. The officiating judge of Futtehpore. "There is the custom of hiring the services, or rather of receiving children, by deeds of contract or mortgage for a certain number of years, about as many as they can be useful, perhaps about 36 years."

The two last descriptions, however, appear to be absolute sales under the disguise of long leases.

4. The fourth description of conditional servitude, and which is usually termed bondage, is a pledge or mortgage of service, or of person and service, for the repayment of a debt; but there is very little uniformity in this kind of servitude, according to the explanation we have received of it, as existing in particular parts of the country.

Ditto, No. 7 The officiating judge of Cuttack thus describes a class of slaves in that district, called Purjahs. "Slaves, peculiar to Orissa, denominated Purjahs (signifying subjects, tenants or renters), and who are restricted to the castes of Hujjam, Dhobee, Kewut, Gokha, Rahri, Pan, Kundra, Koomer, Mehter, Baoree, Tantee, Dome, Bagdee and Chumar (toddy-sellers and tar-leaf mat-makers.) They are to be found, moreover, only in some of the northern pergunnahs of Cuttack. These Purjah slaves sell themselves and their whole families to either Hindoos or Mussulmans for a pecuniary consideration, rendering themselves amenable for the service of their profession until the purchase-money is repaid. The subsequent births in such slave families also become the master's property, and these slaves are sold, pledged and let out to hire. The issue of marriages between the male Purjah slave of one master, and the female slave of another, does not fall to the latter (*partus sequitur ventrem*), but is divided equally between the two masters; and in the event of an uneven number, half the estimated value of the odd slave is given by the master who keeps the slave. These Purjahs, it is to be observed, do not by selling themselves forfeit their caste, as they live and take their meals separate from their masters, and retain throughout servitude their hereditary profession."

Ditto, No. 58. The officiating magistrate of N. E. Rungpore writes, "In the district under my charge, I am of opinion that in ninety cases out of the hundred, those held as slaves are not so legally, either by Mahomedan or Hindoo law; but their slavery has originated either by their forefathers having made themselves bondsmen by borrowing small sums of money (which bondage ought to have expired with their lives), or the descendants of cultivators who have died in debt, either to the zemindars, or persons holding small farms under them; as experience has proved to me, that neither would scruple to compel the widows or children of their deceased bondsmen, or insolvent deceased cultivators, to give them written engagements of being slaves or bondsmen for life; and this instrument would cause the parties and their descendants to become slaves in perpetuity."

In South Behar, a great portion of the agricultural labourers are slaves or bondsmen of the outcaste tribes of Bhooyian, Rajwar, Ghatwar, Turi, Bokta, Cole and Sontal; sometimes also Kandoors, Khyrwars, Dosadhs and Gowalahs become slaves for life and bondsmen; but Kurmis and Kuhars are very rarely found in the latter condition. Kamiah and Sewuk are the generic terms by which these slaves and bondsmen are designated.

First.—One class of these labourers are absolute slaves, having sold themselves, or having been sold when children by their fathers or other persons exercising parental authority. These are included in the generic term Kamia, but are called Saunkias. The Saunkia has two beegahs of land and two Mohwa trees, and has the use of his master's bullocks to cultivate the land, and seed grain supplied to him. He is allowed at all times and under all circumstances three seers of grain in the husk daily, and, whilst employed in his master's work, one seer of rice besides. During harvest he receives an extra allowance of one and a third sheaf of the crop every day. He is also clothed by his master. If his wife labours in the fields, she also receives three seers of grain in the husk; but if sick, or if for any cause she does not labour, she receives nothing. The average price of a Saunkia is 50 rupees. The Saunkia marries his female children as he pleases, the master never interfering with the disposal of them, though in strictness he may perhaps have a right to do so.

Secondly.—The Kamia or Sewuk, who sells himself for life, and is called Bunda Sewuk. He receives from a person a sum of money, and executes a deed called Sewuk Ruttra, binding himself to become that person's slave for life; and he cannot be released from his bond though he tender payment of the money he received. To the validity of this sale it is requisite, by the custom of the country, that the seller have attained his majority. These slaves are transferable property; the price of one varying from 10 to 40 rupees. The master feeds and clothes him, and generally defrays his expenses, always those of his marriage. The deed of sale executed by the parent in no way affects his children, nor can the parent sell his child to his own master or to any one else; but the son generally sells himself to his father's master. It must be observed, however, that one witness asserts, that there is no such practice as a man selling himself for life without his children.

No. 34.

These

These two descriptions of permanent slavery belong properly to the former portion of these details, but we have postponed the mention of them to this place, to bring under one view the system of agricultural slavery and bondage prevailing in South Behar.

Thirdly.—The bondsman, called Bunduck-Kamia or Sewuk, or Chootta-Sewuk, or Kamia simply, or Saunkia, though this last term is applied by the witness above-mentioned to the absolute slave first described. The bondsman is a person who, in consideration of a debt previously contracted, or of an advance of money, varying from 10 to 30 rupees or more, engages by a written deed, or sewuknameh, to serve the lender until he repays the principal; which being done, he is entitled to freedom; but, according to the same witness, he cannot leave his master except at the end of the agricultural year, though he should have the money to redeem himself before that period. In most parts the bondsman is not transferable except by his own consent; but in Pachete, the master may assign him over to another without his consent. One of the witnesses conceives, that if a bondsman does not perform his duty, the master is entitled to compel him by force. No. 30.

Three different statements have been made to us respecting the manner in which these bondsmen are maintained. One is, that he receives nothing but three seers of grain in the husk daily; another, that he has a piece of land, generally about two beegahs, which he is allowed to cultivate on his own account, and receives about three seers of grain per diem as rations, also, for clothing, two dhotees and one blanket annually; the third, that they are generally fed and clothed by their masters, and are entitled at the harvest to a bundle out of every twenty-one of grain, which they cut and carry to the threshing floor; the whole allowance amounting only to a bare subsistence.

The master is not considered to have any right over the property either of the slave for life (2d class) or of the bondsman; and in the event of the death of one leaving considerable property, "which," says the Governor-general's agent, "is not a rare circumstance,"* the property is inherited by his wife and children, though they may belong to another master. In neither class does any provision appear to be made for those who from old age or other cause become unable to work, so that if they happen to have no families to support them they must depend on charity. Appendix II. No. 64.

It seldom happens that the debt or loan is ever repaid, though sometimes the bondsman procures himself to be transferred to a new master, who of course pays a consideration to the former one. Further advances of money are generally required for the marriages of the bondsman's children, and then fresh sewuknamehs are executed in their names. The option of redemption, therefore, becomes a dead letter, and the bondsmen remain for generations under the same proprietor and his heirs, and are subject to partition like any other property. A circumstance which also contributes to this result is, that if a bondsman dies before the loan is repaid, it is the established custom that one of the sons of the deceased shall take his place.

These systems of agrestic slavery and bondage are very prevalent in South Behar, and seem to have been so for a series of years; their comparative cheapness, and the constant supply of labourers which they ensure, being stated as the ground of preference over free service. The system of bondage is supposed to be more economical than that of slavery, as the master of the bondsman is not bound to defray the costs of the marriages of the bondsmen's children. All the respectable landholders cultivate their lands by means of these descriptions of labourers; the rajah of Ramghur alone having 400 or 500 of them on those lands of his estates which he keeps in his own hands. In Ramghur and Kurruckdeea, one-third of the entire population is supposed to consist of slaves of the Kuhar and Kurmi castes, and Kamia or Sewuk slaves and bondsmen, the Kamias and bondsmen being the most numerous. These slaves and bondsmen are possessed both by Hindoos and Mahomedans; but a Mussulman agrestic slave or bondsman is rarely found in the possession of a Hindoo, though there are instances of Joolahas becoming bondsmen.

We extract the following observations on these systems of agrestic slavery and bondage from a report of one of the principal assistants to the Governor-general's agent in this part of the country. No. 67.

"Slavery in one or other of the above (three) forms is so general in Ramghur and Kurruckdeea and Palamow, that a great majority of the agricultural labourers in those countries are slaves. Their condition in general is very miserable. They receive barely sufficient food to keep them in working condition, in some cases are obliged to find their own clothes, and in others are entitled to a piece of coarse cloth yearly."

"Men generally become slaves by falling into arrears to their landlords, from bad seasons, or other similar accidents, or from borrowing money for the performance of marriage ceremonies; being unable to pay, they are compelled or persuaded to write sewuknamehs for the amount of their debts, and thus become slaves, frequently for life, and very often the

* The officiating judge of Cawnpore mentions a case which once came before him when magistrate of Ramghur or Behar, in which the charge preferred by the complainant was, that the defendant falsely claimed him as his slave. "The fact is," says the officiating judge, "that the plaintiff had himself acquired a considerable fortune by traffic, and the defendant wished to avail himself of his rights as master, to participate in this affluence."

It may be observed, that this officer calls the predial slaves of South Behar, Kahars; and after stating that, as register and civil judge in that part of the country, he daily decided cases of purchases of whole families of predial slaves, he remarks: "With the exception of this one instance (the one above mentioned), I never saw a cause in any court, where the persons sued for as predial slaves did not acknowledge the fact of being so, and the dispute used to be merely as to the fact of ownership. The slaves themselves were oftentimes called upon by the parties to declare to which side they belonged."—Appendix II., No. 105.

the same miserable condition extending to their children. The smallness of the sums for which these bonds are occasionally executed is almost incredible. I once had a case before me, when in charge of the Hazareebaugh division, where the amount stipulated in the bond was only one rupee; and the amount of the debt for which these men sell themselves is generally less than 20 rupees."

"It is always an object with farmers and landholders to have as many slaves as possible; and the facilities they possess of making up their claims of debts against poor and ignorant ryots are very great. The consequence, as above stated, is, that a great majority of the agricultural labourers are slaves."

"If a poor man, when in debt, objects to write a bond binding himself to slavery, the creditor prosecutes him in our courts; and as the claim has always some foundation, although often the amount of it is exaggerated, finds no difficulty in getting a decree in his favour; after which the threat of imprisonment, in execution of the decree, speedily compels the unfortunate debtor to agree to the terms required, and he executes the bond. In numerous cases I have seen great unfairness used in attempting to make out a claim against a man who it was notorious had no property whatsoever, and this for the sole object of getting the debtor to bind himself as a slave, in satisfaction of the decree."

"The sons of slaves, whose condition does not extend to their children, are always advised to marry as soon as they become of age; the master of the father advances money for the performance of the necessary ceremonies, generally less than 10 rupees, on condition that the boy binds himself by a bond similar to that by which his father is bound. This he almost invariably does, and so renders himself a slave for life, or until the money is repaid, according to the terms of the bond."

A somewhat similar system of bondage, though in a milder form, exists in other parts of the Behar province, in respect of the ploughmen,* of which we give the following particulars from Dr. Buchanan:

Buchanan. Martin, vol. 2, p. 226–7.

"In the Behar part of the (Bhaugulpore) district, ploughmen (Krisan) are seldom hired by the year, but generally for the ploughing season alone; they usually, in fact, sell themselves for that time, for they receive from 5 to 20 rupees as a loan, without interest, and, until they can repay that, they ought to work every ploughing season for their master, receiving daily about three seers, Calcutta measure, of rice in the husk, or of some coarse grain. If the master has four beasts, the ploughman works six hours; if there are six beasts, he works nine hours. He does nothing for his master but work the cattle, either in the plough or with the plank or rake; so that, if he is industrious, he may do little jobs in the afternoon. The money advanced defrays the expense of marriages, funerals, and such ceremonies, and is lost when the labourer dies."

Ditto, vol. 1, p. 307.

"The plough servants (Kamiyas) in the districts (of Behar and Patna) are exactly on the same footing with those in the part of Bhaugulpore that belonged to Behar; the chief difference that I observed was, that in many places the son was considered bound to repay the money advanced to his father, even should the effects left on the parent's decease be far less in value than his debts. This seems to be an extreme hardship, reducing the whole of this class to a condition little better than that of slavery, and ought to be declared totally illegal. I was assured, in some places of the district, that within the memory of man the price necessary to be advanced to servants has doubled; formerly no one gave more than 20 rupees, now they are content to give 40; this seems, in a great measure, owing to the increased quantity of money. In some places, the ploughman receives a small spot of land, from 5 to 20 kathas ($\frac{5}{20}$ or $\frac{13}{20}$ of an acre) of the country measure; this he cultivates with his master's plough, but finds the seed, and gives his master one-half of the produce, that is, pays the rent. The usual daily allowance, when ploughing, is three seers of grain, or, in some places, from 1 $\frac{1}{2}$ to 2 paysas, with half a seer of the unboiled porridge called chhattu. It is seldom that, in this season, they work more than nine hours for their master, and when required to work the whole day, receive an additional allowance. They seldom, however, at this season earn more; but they do little jobs about their own house or spot of ground, when they have any."

MSS.

"In Shahabad, the (free) plough servants (Kamiya or Horoya) are much on the same footing as in Behar, only that the system of making advances is confined to the vicinity of Arrah, and there varies from 5 to 20 rupees; but, even there, I do not learn that the son was held bound for advances made to the father, although part of the debt is often no doubt incurred on the son's marriage."

No. 34.

According to one of the witnesses, however, a system of agrestic bondage exists in the district of Behar, of even a worse description than that obtaining in South Behar. These bondsmen are of the Bhooyian and Moosur tribes, and they are bound, not only to repay the principal of the loan, but also to pay interest, which makes the condition of this class of bondsmen amount, in fact, from the high rate of interest, to the absolute slavery of himself and one or more of his descendants; for, on the death of the father, one or more of his sons become bondsmen for the payment of the increased debt; the arrangement being settled by

No. 2.

arbitrators, and new engagements executed between the parties. Another witness, speaking o the same district, states that self-mortgage sometimes occurs both with and without possession

* In his account of Dinagepore, Dr. Buchanan says, "The rage for marriage is such, that a man who has not money sufficient to defray the expense of the ceremony is every where willing to borrow it at any interest, and thus involves himself and offspring in difficulties, from which death alone can relieve them. In some divisions, I found that even common labourers sold their services for from 18 to 24 months, in order to raise at once a sum sufficient to enable them to marry; and during that time the wife of course is left to provide for herself in the best manner she can. The master in such cases finds the servant in food and raiment."—Buchanan. Martin, vol. 2, p. 688.

possession of the person mortgaged. In the former case the mortgagee supports the person pledged, and has the benefit of his labour, which, however, does not, without special agreement, go to discharge the interest of the debt; but this kind of contract does not affect the children of the self-mortgager.

In Goruckpore, Dr. Buchanan states, the hired ploughmen are of three kinds; the first chiefly strangers, who come from the Oude territory for employment, and remain during the ploughing and sowing season; the other two kinds "are such as reside at all seasons, and have been tied down by advances (sawok or bhot) which they are not able to liquidate, nor can they procure stock, otherwise they would take lands of their own. The money advanced, and which thus holds them in bondage, is often five rupees, and seldom exceeded 10 rupees, until of late, when some, in order to secure workmen, have been obliged to advance as far as 50 rupees for each. They pay no interest." MSS.

"The one kind of this class, called Pariyas or Pariwalas, is most common in the eastern parts of the district. They are the same with the Dhuriyas of Behar, and work two days on their master's (gosaingya) field, and one day on their own. This is only during the ploughing season, and they only plough and sow for their master." "In some cases the servant furnishes one half of the stock, in which case he works two days on his own fields, and one on that of his master."

"The last kind of ploughman, called Karoya or Chataiya, and most common in the west parts of the district, work the whole year for their master, having no land of their own. They are allowed daily a quantity of grain, fully more than they can eat, and which may indeed feed one or two children beside themselves; and they usually get one-sixth, although some are contented with one-seventh, of the whole produce of land which they have cultivated, after deducting what is given to those who reap the portion that they are not able to accomplish, and the whole charges of the farm, such as keeper of the oxen, blacksmith, carpenter, &c." "In some places persons of this description only plough for their master, in which case they get one-seventh of the grain, making similar deductions, and without any additional allowance."

In Allahabad, also, the system of bondage prevails. Persons there mortgaging their labour for a certain sum, and binding themselves to serve their creditors till the debt be liquidated, are called Hurwas, and are generally employed in agricultural labour; a very considerable number of the ploughmen being persons thus bound to labour for their creditors. The debts are at first generally between 20 and 30 rupees; they receive scanty variable wages, and cast-off clothes; they are at liberty to work for themselves when their services are not required by their masters, and it is the prevailing opinion, that when a master becomes unable to support his bondsman, the latter may shift for himself. Some masters claim a right of transferring their Hurwas to any other person who may make good to them the sum advanced; but this is seldom if ever done, the debtors generally managing to select a creditor; and when a Hurwa leaves his master and takes service with another, it is understood amongst the people that the new master should repay the sum advanced to the Hurwa. On the death of the original debtor, his sons become answerable for the debt in equal proportion, and are bound to serve until their debt be liquidated. The daughters are not answerable. Many persons of this class have been from generation to generation in one family.

It is stated by one of the public officers, that in the western provinces not only do men sometimes pledge themselves to serve their creditors as slaves till the redemption of a debt, but even parents pledge their children, and husbands their wives, as security for money borrowed; the person so pledged being maintained by the pawnee, and rendering him the ordinary services of a domestic. No. 26.

Practice of the Courts and Magistrates in cases respecting Slavery and Bondage.

We shall now proceed to give an account of the practice of the Mofussil courts and magistrates in cases relating to slavery and bondage in the territories which were subject to the presidency of Bengal prior to the year 1814.

With a view to ascertain the practice of the courts and magistrates under this presidency, in cases involving the relation of master and slave, the following queries were addressed on the 10th October 1835 to the courts of Sudder Dewanny and Nizamut Adawlut, at Calcutta and Allahabad.

1. What are the legal rights of masters over their slaves with regard both to their persons and property which are practically recognized by the Company's courts and magistrates?

2. To what extent is it the practice of the courts and magistrates to recognize the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment? What protection are they in the habit of extending to slaves on complaints preferred by them of cruelty or hard usage by their masters? and, How far do they continue to Mussulman slaves the indulgences* which in criminal matters were granted them by the Mahomedan law?

3. With reference to the apparently unlimited power allowed to the master over the person of his slave by the Hindoo law, by what law or principle would the mal-treatment of a Hindoo slave by his Hindoo master be considered as an offence cognizable by the criminal courts?

4. Whether there are any cases in which the courts and magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters?

5. With

* By the Mahomedan law, a slave is exempted from the extreme penalty of adultery, viz. lapidation, and is liable only to half the flagellation prescribed for adultery, fornication, the slanderous imputation of those offences, and for drinking intoxicating liquors. Also, in offences against the person, short of death, retaliation is barred if the offender be a slave.

5. With reference to sec. 9, Reg. VII. 1832, of the Bengal Code, would the courts support the claim of a Mahomedan master over a Hindoo slave, when, according to Hindoo law, the slavery is legal, but according to Mahomedan law illegal, and *vice versâ?*

6. Slavery not being sanctioned by any system of law which is recognized and administered by the British Government, except the Mahomedan and Hindoo laws, would the courts admit and enforce any claim to property, possession, or service of a slave, except on behalf of a Mahomedan or Hindoo claimant, and against any other than a Mahomedan or Hindoo defendant; and, if so, by what law or principle would the courts regulate their decisions in such cases?

These questions were circulated by the Sudder courts to their subordinate judicial officers, and the reports furnished to the commission in reply amounted to 136, according to the subjoined statement.*

COURTS AND OFFICERS.	Lower Provinces.	North-Western Provinces.	Total.
From the courts of Sudder Dewanny and Nizamut Adawlut	1	1	2
„ commissioners of circuit	8	6	14
„ judges and additional judges	29	19	48
„ magistrates	28	26	54
„ joint magistrates	9	5	14
„ Governor-general's agent in South Behar	1	-	1
„ principal assistants and assistant to ditto	3	-	3
GRAND TOTAL	79	57	136

With a few exceptions, however, these returns supply little or no information of the nature required, a result which is attributable to the fact, that, in most parts of the country, cases involving the relation of master and slave are seldom or never made the subject of judicial cognizance. This will appear from the following specification:—

NUMBER OF OFFICERS WHO	Commissioners of Circuit.	Judges and Additional Judges.	Magistrates.	Joint Magistrates.	Total.
State that, to the best of their recollection, no such cases have ever been before them	2	8	5	4	19
Remember to have had only one or two such before them in the course of their experience	2	1	1	-	4
Remember only to have tried a few cases in zillahs Mymensingh, Ramgurh, Behar, and at Delhi	- -	4	- -	- -	4
Have had no such cases before them whilst holding their present appointments	- -	4	2	2	8
Have had no such cases before them in the north western provinces	- -	1	1	- -	2
Who, in consequence of having little or no experience of such cases, can give no information on the subject	1	1	- -	1	3
GRAND TOTAL	5	19	9	7	40

The civil and criminal courts, in the records of which, it is stated, no cases of the kind are to be found, are the following:—

COURTS OF	Lower Provinces.	North-Western Provinces.
Sudder Dewanny Adawlut	- - -	- - S. D. A. (established in 1832).
Commissioners of circuit	Dacca.	
Judges	Hooghly - -	Bundelcund.
	Burdwan - -	Agra.
	Beerbhoom -	Furruckabad.
	Nuddea - -	Moradabad.
	Jessore - -	Meerut.
	Dacca Jelalpore.	
	Rungpore.	
	Dinagepore.	
		Magistrates

* Under the titles of commissioners, judges, &c. are included officers officiating as such. The civil judges are likewise session judges within their respective local jurisdictions.

COURTS OF	Lower Provinces.	North-Western Provinces.
Magistrates	Balasore Burdwan Beerbhoom 24-Pergunnahs Rajeshahy Perneah. Sarun.	Hummeerpore. Futtehpore. Mynpoorie. Agra. Meerut.
Joint magistrates	Pubna Bograh. Maldah.	Kasheepore.
Assistant to Governor-general's agent, South Behar	Manbhoom.	

Courts in the records of which one or two cases only have been found.

Judges	Backergunge	Ghazeepore. Goruckpore.
Magistrates		-- Bijnore (N.D.) Moradabad.
* A case of prostitution		* Sahuswan (lately established). Bareilly.
Joint magistrates	Bancoorah.	

The following are the only courts before which we can gather from the returns that cases of slavery are brought:—

LOWER PROVINCES.

COURTS OF THE JUDGES.

* 19 suits instituted from 1805 to 1807
1 - ditto - - in 1828 - * Cuttack.
Moorshedabad.
Chittagong.
Tipperah.

† 9 suits instituted from 1827 to 1834; in all the parties were Hindoos. †Dacca Jelalpore.

* From January 1828 to 30th June 1836:
Original suits 227
Appeals 168 * Mymensingh.
Sylhet.
N. E. Rungpore, or Gowalpara (Register's Court)
Purneah.
Courts of South Behar.
Bhaugulpore.
† 71 Suits from 1825 to 1835 inclusive. † Behar.
Sarun.
Cuttack.

COURTS OF THE MAGISTRATES.

‡ Cases respecting young females purchased by prostitutes. ‡ Jessore.
Dacca.
Mymensingh.
§ 10 Cases from 1824 to 1836, both inclusive. § Sylhet.
‡ Rungpore.
N. E. Rungpore, or Gowalpara.
‖ 72 Cases from 1825 to 1835 inclusive. ‖ Behar.
¶ 6 Cases from November 1828 to June 1835. ¶ Patna.
Shahabad.

NORTH-WESTERN PROVINCES.

Benares.
Banda (S. D. Bundelcund).
Cawnpore.
Furruckabad.
Boolundshehur.
‡ Moradabad.

It does not appear from the returns that the records of the Moonsiffs' courts of any district have been searched for the purpose of ascertaining whether suits respecting slavery are instituted

instituted before those officers. In the evidence we find mention made of cases brought before the magistrates in the Cuttack and Tipperah districts, and we have obtained the following further information:—

The annual statements of civil and criminal business disposed of by the courts of the Lower Provinces, the former during the years 1837 and 1838, and the latter during the years 1834, 5, 6, 7 and 8, exhibit only the following suits and cases connected with slavery; not including the offence of child-stealing for the purpose of selling into slavery, or cases under Regulations X. 1811, and III. 1832, for which, *see* "Kidnapping" and "Importation."

		No. of Suits.	
CIVIL SUITS:			
Sylhet	1837	18	for slaves.
	1838	25	- ditto.
		2	for price of slaves.
		2	to recover amount of bondage.
Behar	1837	7	to obtain possession of slaves.
	1838	4	- - ditto.
South Behar	1837	8	- - ditto.
	1838	7	- - ditto.
CRIMINAL CASES:			
Balasore (N. D. Cuttack)	1836	1	-- enticing away a girl belonging to a prostitute.
		1	-- selling children without their mother's knowledge.
Beerbhoom	1836	1	-- eloping with a slave girl belonging to the prosecutor.
24-Pergunnahs	1834	3	purchasing a girl for prostitution.
Baraset (joint magistrate)	1835	1	- -. ditto.
Chittagong	1838	4	enticing away slave girls.
Noakholle (joint magistrate)	1838	25	runaway slaves.
Tipperah	1837	34	slaves absconding.
	1838	8	complaints for slaves.
Mymensingh	1836	- -	-- abduction of slaves; number of cases not specified.
		1	selling as slaves.
	1837	3	-- kidnapping and enticing away slave girls.
	1838	2	- - ditto.
Sylhet	1836	1	-- decoying away slaves, and selling them elsewhere.
Rungpore	1835	1	selling people.
	1836	1	- - ditto.
		2	selling female children.
	1838	2	selling male and female children.
N. E. Rungpore, or Gowalpara	1836	1	selling slaves.
Monghyr (joint magistrate)	1838	1	abduction of a boy for purpose of sale.
Behar	1836	1	-- tyranny, and forcing to execute a deed of sale of a girl.

There are also numerous cases entered in the statements of criminal business under the heads of—

Illegal* confinement; false imprisonment.

Keeping forcible possession of females; forcibly detaining men.

Assault; abuse of power; oppression; tyranny.

Absconding, deserting or escaping from service or employment; running away; escaping; escape from employment with money; quitting service without good and sufficient cause.

Some cases of complaint of masters against their slaves and others, and of slaves against their masters and others, may be included in these; but in the absence of more detailed information, this cannot be ascertained.

We shall now give, in a condensed form, the substance of the answers of the various Mofussil courts and officers to the questions proposed to them, and in so doing we shall endeavour to distinguish between those replies which are founded on actual experience and those embodying opinions only which the officers entertaining them have not had occasion to apply in practice. With a view to perspicuity, we shall first dispose of those which relate to the civil branch of judicature, and then proceed to those connected with the criminal branch.

SUBSTANCE

* Sixty-five cases of illegal detainer appear in the Tipperah statement for 1838.

SUBSTANCE of the ANSWERS to Query First.

CIVIL COURTS WHICH	Lower Provinces.	North-Western Provinces.
Recognize the right of the master over the person of the slave.	Sylhet. South Behar. Behar. Tirhoot.	
And a party enticing or sheltering a runaway slave can be sued for damages for loss of service.	Behar.	
Admit the claims of Hindoo masters to the personal services of their slaves; but the claims of Mahomedan masters to such services have been admitted by some judges of this court, and rejected by others.	Chittagong.	
Recognize the master's right to transfer his slave by gift, sale or mortgage.	Mymensingh. Lohurdugga (in South Behar). Behar. Shahabad. Bhaugulpore.	
To sell even so as to separate husband and wife, parent and child, at the caprice and will of the master.		
Recognize the right of the master over property acquired by the slave during servitude.	Behar.	
Do not recognize any legal rights of masters either over the persons or property of slaves.	- - -	Allahabad. Meerut.
Do not recognize the right of a master over the property of his slave.	- - Governor-general's agent, South Behar. Principal assistant, Lohurdugga.	
By the practice of our courts the right of the master over the slave, as far as his services are concerned, is fully recognized; as also the property or title to sell, lend, or mortgage his services; and property acquired by the slave becomes that of his master.	- - -	- - Commissioner of the northern division of the Doab.
OFFICERS WHO		
Would recognize the right of a master over the person of his slave.	- - Judge of Backergunge.	
To the same extent as a master possesses over his free servant.	- - -	- - Judge of Bareilly.
Would admit the right of a Mahomedan master to exact service from his slave according to his ability; to sell his slave for gross misbehaviour, and in emergence; and would adjudge such master bound to maintain and protect his slave.	- - ditto.	
Would recognize the master's right to property acquired by his slave.	- - ditto - -	- - ditto.
If both master and slave were Hindoos, or both Mussulmans; otherwise the slave would perhaps be allowed to acquire property, under sec. 9, Reg. VII. 1832.	- - Additional judge of Burdwan.	
Suppose the civil courts would recognize such right -	- - Officiating magistrate of Cuttack. Officiating magistrate of Gowalpara.	
As well as the power of the master to sell the person of his slaves;	- - ditto.	
Has in a civil action given a slave his freedom by dismissing the claim of the master, when acts of cruelty and hard usage were established against the latter.	Judge of Patna.	
To decree emancipation on proof of gross ill-treatment would be considered by the natives as an infringement of their laws guaranteed by government.	- - Acting judge of Sylhet.	
Considers that clause 1, section 16, Regulation III. 1803, would bar a claim for damages for personal injury on the part of a slave against a Hindoo or Mussulman master, as the slave is presumed to possess no civil rights.	- - -	- - Magistrate of Agra.

The following STATEMENT exhibits the Principles by which some of the Civil Courts have been guided, and by which the several Officers, who have expressed their Opinions on the Subject, have regulated or would regulate their Decisions, in Cases involving the Civil Rights adverted to in the 1st Query, when brought before them.

	Lower Provinces.	North-Western Provinces.
In the civil court of Tipperah, it has been the practice, when both parties are Hindoos or both parties Mahomedans, to decide according to the Hindoo and Mahomedan laws, respectively.	-- Judge of Tipperah.	
The civil courts are guided as above - - - - -	-- Officiating judge of Behar.	-- Judge of Goruckpore.
The judge of Goruckpore has always so regulated his decisions	- - -	- ditto.
Officers who would regulate their decisions in the same way:	-- Judge of Midnapore. Acting magistrate of Nuddea. Judge of Dinagepore. Judge of Tirhoot.	
Admitting of no slavery not strictly legal according to those laws.	- - -	-- Officiating judge of Agra.
And giving the alleged slave the benefit of the slightest doubt respecting that legality.	- - -	-- Magistrate of Benares.
Officers who think that there are very few slaves strictly legal:	-- Officiating judge of the 24 Pergunnahs. Acting magistrate of Nuddea.	-- Magistrate of Agra.
Either under the Hindoo or Mahomedan law - - -	-- Officiating magistrate of Gowalpara.	-- Magistrate of Mynpoorie.
Who think there are very few slaves legal according to the Mahomedan law:	-- Commissioner of Chittagong. Judge of Tipperah. Joint magistrate of Furreedpore. Officiating judge of Sylhet. Ditto of Behar.	-- Commissioner of Muttra.
Such has been the invariable result of investigations before the magistrate of Cawnpore.	- - -	-- Magistrate of Cawnpore.
The Mahomedans themselves are aware that their alleged rights as masters cannot stand the test of their law.	-- Acting judge of Chittagong. Joint magistrate of Furreedpore.	
Presumes that if the purchase of a Hindoo slave, or descent from a slave so purchased, be proved, the slavery would be held to be established.	- Officiating judge of Sylhet.	
In Cuttack,* it is well known that sales of children by their parents, in scarcity, are not binding on the persons so sold; the purchasers have no remedy.	-- Judge of Behar, late judge of Cuttack.	
In the civil court of Mymensingh, the Hindoo law is administered for Hindoo slaves, and the Mahomedan law for Mahomedan slaves; but custom and precedent are admitted.	-- Judge of Mymensingh.	
The acting judge of Dacca would consider himself bound by Hindoo and Mahomedan law, unless they did not define the power of the master and rights of the slave; in which case he would act as justice and reason seemed to require, not deeming the master's power unlimited because undefined.	-- Acting judge of Dacca.	
The courts being bound to administer to the natives their own laws, the officiating judge of Shahabad would recognize the right of a master over his slave and his property, agreeably to Hindoo and Mahomedan law, as the case might be, provided no right was claimed inconsistent with proper, *i. e.*, kind treatment of the slave.	-- Officiating judge of Shahabad.	

* With this statement may be here contrasted that of the magistrate of Mymensingh, who regards the circular order of the Nizamut Adawlut, dated 5th October 1814, "as virtually sanctioning the sale of infants." "During two seasons of scarcity," he adds, "while I was employed in Cuttack, I invariably upheld such transactions."

	Lower Provinces.	North-Western Provinces.
The judge of Purneah would be guided by the spirit of the regulations and humanity, and, if necessary, require a legal opinion from the Hindoo or Mahomedan law officer. He considers that all the rights of a Hindoo or Mahomedan master in reference to his slaves, sanctioned by the respective religious institutions of such persons, would be recognized by the courts, if they did not militate against the humane spirit of the British laws. Where they did, a British judge or magistrate would suspend their operation, as expressly done by Regulation VIII. 1799. A British functionary would always favour the alleged slave as far as consistent with the spirit of the regulations. A large discretion is felt, no doubt, allowable on the subject, and a very loose administration of the law to be excusable.	-- Judge of Purneah.	
All the cases in the civil court at Bhaugulpore for the last 10 years have been decided as mere matter of sale (in the form of leases for 70 or 90 years), and no questions of law taken. The only proof required is the sale having been made, and the person making it being the owner of the slave.	-- Judge of Bhaugulpore.	
The judge of Backergunge understands that the courts are guided by custom and usage.	-- Judge of Backergunge.	
The judge of Jessore would be guided by custom, if it was just and reasonable.	-- Judge of Jessore.	
The commissioner of Bauleah conceives, that whatever may be the Hindoo or Mussulman law, cases before the civil courts would be treated as common contracts.	-- Commissioner of Bauleah.	
The commissioner of Bhaugulpore thinks the courts have been guided more by the English law relating to master and servant than by Hindoo or Mahomedan law, respecting the rights in question.	-- Commissioner of Bhaugulpore.	
The principles by which cases respecting slavery are adjudicated in the civil and criminal courts of zillah Behar have been different at different times.		
The additional judge of Ghazeepore, who was for five years judge and magistrate of the Behar district, describing his practice there, states, that, subject to the regulations and humanity, he adhered to the Mahomedan and Hindoo law; and in civil cases followed those laws strictly.	- - -	-- Additional judg of Ghazeepore.
The acting judge also says, that the civil courts are guided by the Hindoo or Mahomedan laws, according to the creed of the parties.	-- Acting judge of Behar.	
The magistrate says, "In the district of Behar, the courts would appear, by their decisions, to have recognized generally the rights of masters over their slaves, to the extent of enforcing any engagements voluntarily entered into by the parties, according to the custom of these parts, and provided that they be not repugnant to the feelings of a British judge."	-- Magistrate of Behar.	
The judge of Patna, who was likewise nearly five years in zillah Behar, after commenting on the uncertainty of the practice of the courts of that district, in regard to rights claimed or exercised over slaves, proceeds: "In the usages which had thus become common and binding, certain principles of natural equity were more or less discernible. For instance, the right of disposing by sale of infant offspring, male or female, rested exclusively with the mother, or, failing her, with the maternal grandmother." "It seems to be generally admitted, that to make the sale of a person born of free parents valid, such sale should have been made under circumstances of distress, such as dearth and the like, and that the party sold be an infant or of immature age."	Judge of Patna.	
In leases of 90 years (substituted for deeds of sale), this officer used to allow redemption, on the slave attaining majority, on payment of the principal advanced, and interest, where there was no express condition in bar of such redemption.		
In assigning the reasons for having, in a civil action, given a slave his freedom, when acts of cruelty and hard usage were established against the master, he says, "believing that I was not acting contrary to the Mahomedan law, and strictly in accordance with the principles of justice and equity, which, by the regulations, in cases not specifically provided for, were to form my rule of conduct. The principle upon which slavery of person, not infidels or taken in battle, is justified by Mahomedan law and practice, is simply to preserve life; if, therefore, the master will not feed or provide for his slave, or otherwise by carelessness or neglect endanger his life, the avoidance of the obligation on the side of the master will form a legal ground for emancipating the slave. Cases of this description I have never met with."		

(continued.)

	Lower Provinces.	North Western Provinces.
"It will appear then," he concludes, "that civil and criminal courts have hitherto afforded remedy to slaves for injuries, whether affecting person or property, not according to the strict letter of Hindoo or Mahomedan law, but according to the laws of custom and equity,—for this simple reason, that parties so complaining, whether master or slave, have never pleaded to have the provisions of either law enforced."		
"In this part of Upper India," says the magistrate of Agra, "Hindoo or Mahomedan slavery can scarcely be said to exist. In the district of Agra, there is not, I believe, one single individual in the state of a lawful slave. By lawful slave is meant, of course, an infidel who has fought against the faith, or the descent of a person of this class. Of course, during famines, and even under the pressure of ordinary poverty, parties are in the habit of selling (as the phrase of the common people runs) their children to those who can provide for them. But the dictum of the sale of free children being invalid in a Mahomedan country, is regarded by the ablest Mahomedan lawyers as sound in law, as it is clear that it is so in jurisprudence; and this being admitted, the disposal of any infant to any party, Hindoo, Mahomedan, Armenian or European, subsequent to the subjection of any province to the sway of the Delhi empire, is clearly illegal. After this period, the attempt to infringe this law must of necessity be a criminal offence, and the successful infringement of it can convey no rights whatever over any particular individual or his offspring in after times.* Doubtless, however, there exist in Behar † on the north-eastern frontier, in the Deccan, and in other parts of India, parties, who were made lawful slaves under Hindoo monarchies, never subjected to Mahomedan rule, or who became such previous to the spread of the Mogul empire beyond the north of India. The nature, therefore, of the status of those unfortunate beings will of course be defined with more difficulty. It is obviously, however, useless for local officers to enter into detailed discussions as to laws which were never enforced, rights which have never been defined, and involving principles of reasoning of a fixed character which were never thought of by the semi-savage despots who have ruled in India from the earliest periods to which her annals reach. The number of lawful slaves, under the more restricted rule of the Mahomedan law, must, in every part of India once subject to the Delhi emperors, be very small indeed."	- - -	Magistrate of Agra.

SUBSTANCE of the ANSWERS to Query Fifth.

OFFICERS WHO		
Would not admit the claim of the plaintiff if the slavery was not legal according to his law. ‡	- - Judge of Dinagepore. Judge of Purneah. Principal assistant at Lohurdugga (in South Behar). Officiating judge of Shahabad.	- - Additional judge of Ghazeepore. Magistrate of Benares. Officiatingcommissioner at Allahabad. Acting magistrate at Banda.
Such is the practice in the Moorshedabad courts - -	- - Judge of Moorshedabad.	
Are of opinion that the claim of a Mahomedan could not be supported against his own law.	- - Acting magistrate of Beerbhoom. Acting magistrate of Purneah.	- - Acting judge of Ghazeepore. Magistrate of Mynpoorie.
Would decide such cases according to the law of the plaintiff.	- - Acting additional judge of Nuddea. Acting judge of Behar.	- - Commissioner of the N. D. of the Doab.

* "Abul Fuzl states of the Hindoos: 'They have no slaves among them;' and this too when the empire embraced 15 soobahs, extending from Mooltan to the Bay of Bengal, and from the Himalaya to Mandow. The descendants of this class of people, in the provinces now under the Bengal government, must therefore be very few."

† "The parties of whom Mr. Fleming makes mention in his evidence before the House of Lords clearly exist in a mere state of contract service."

‡ The two courts of Sudder Dewanny Adawlut concur in this view.

OFFICERS WHO	Lower Provinces.	North-Western Provinces.
Would decide such cases according to the law of the defendant.	- - Judge of Nuddea. Judge of Patna.	
Considers that a Hindoo master could not claim a Mahomedan slave not a legal slave by Mahomedan law.	- - Joint magistrate of Fureedpore.	
Would decide by the law of the plaintiff or defendant, according as one or the other was most favourable to liberty.	- - Acting judge of Dacca.	- - * Officiating judge of Etawah. * Officiating commissioner of Muttra.
Would hold the slavery established only when the laws of both parties coincided as to its legality.	- - -	- - Officiating judge of Cawnpore.
Would decide against the claim of the plaintiff in these cases.	- - Additional judge of Burdwan.	- - Officiating judge of Saharunpore. Officiating magistrate of Paniput (Delhi Territory).
Would give the slave the benefit of any doubt in claims of this nature to his person or property, on the principle of British justice, equity and good conscience.	- - -	- - Judge of Mirzapore.
By Hindoo law, Hindoos cannot be slaves to inferiors, and a Mahomedan being by them considered such, by that law a Hindoo could not be a slave to a Mahomedan.	- - Judge of Nuddea. Officiating magistrate of Nuddea.	
Such being the case, although by the Mahomedan law a Hindoo can serve a Mahomedan, yet a Mahomedan slave, being of little use to a Hindoo master, considers that it would be the best course not to support the claim of a Mahomedan to a Hindoo, or *vice versâ*.	- ditto.	
Would admit the claim of a Hindoo master to a Mahomedan slave, such claim being *primâ facie* legal, the *onus probandi* being on the claimant.	- - -	- - Officiating judge of Ghazeepore.
Would support the claim of the Mahomedan master, in the two cases supposed, if it was just.	- - Judge of Midnapore.	
Thinks that a Hindoo is not likely to claim a Mahomedan slave, and that such a claim would not have been admitted under a Mahomedan government.	- - -	- - Magistrate of Mynpoorie.
Slavery being customary in this country does not see how the religion of the plaintiff could affect his claim.	- - Magistrate of Sylhet.	
In either of the two cases would support the claim if the contract was made with an adult, and the claim was for the person sold; in special cases would support the claim when the slave claimed had been sold by the parents in infancy, *i. e.*, in the extreme cases of famine and scarcity.	- - Judge of Mymensingh.	
The same right has been allowed to Mahomedans over their Hindoo slaves by the Sheergotty court (in South Behar) that was allowed to a Hindoo master over his Hindoo slave, the custom of the country having been the guide. Has not heard of Hindoos having Mahomedan slaves in those parts.	- - Governor-general's agent in South Behar.	
In the civil court of Bhaugulpore no notice appears to have been taken with regard to the party being either Mahomedan or Hindoo in any of the cases decided by that court.	- - Judge of Bhaugulpore.	
The courts in zillah Behar, in enforcing written contracts or voluntary engagements, make no distinction in regard to the religion of the parties.	- - Magistrate of Behar.	
Consider that the claim of a Hindoo master over a Mahomedan slave would be cognizable under the custom of the country.	- - Judge of Tirhoot. Acting additional judge of do.	
And *vice versâ* - - - - - - - - - -	- ditto.	
A Hindoo or Mahomedan slave is regulated by the usages of his own caste, and not by the law of his master.	- - Acting magistrate of Shahabad.	

* The asterisk in this and the following statements distinguishes the officers who have given a less decided opinion than others on the particular point.

REASONS assigned for some of the foregoing Opinions.

	Lower Provinces.	North-Western Provinces.
For deciding against the plaintiff when the slavery is not legal by his law.		
Would restrict the system to its narrowest legal limits, and would not support a claim to property, which the law the claimant would desire to have administered to him in the decision of all other questions of a civil nature pronounces to be illegal.	-- Officiating judge of Shahabad.	
Because such a decision would be most favourable to the slave, and most consonant to reason.	- - -	-- Officiating commissioner of Allahabad.
Because the Mahomedan law ordains that no Mahomedan shall exercise power over any person as a slave except slaves legal by their law, and the *onus probandi* lies on the plaintiff. The same principle would reasonably apply to a Hindoo claimant.	- - -	-- Acting magistrate of Banda.
For holding a claim to slaves conclusive only when the laws of both parties coincided as to the legality of the slavery.		
The plaintiff could not claim, and the defendant could not be enslaved, against his own law; 1st, because persons putting themselves in such positions should themselves be fully aware of the liabilities they incur, and of the insecurity of such transactions, from the natural difficulties of the case; 2d, because such a course would reduce an evil, not likely to be otherwise removed, to a minimum.	- - -	-- Officiating judge of Cawnpore.
For deciding against the claim in both the supposed cases.		
Because, with reference to section 9, Regulation VII. 1832, to admit such claims would be to deprive a man of what is better than any property, dearer than any other right; viz., freedom.	- - -	-- Officiating magistrate of Paniput.
For supporting the claim of the Mahomedan master in the two cases supposed, if it was just.		
Because, according to section 9, Regulation VII. 1832, the Mahomedan and Hindoo laws are not meant to operate to deprive of property persons entitled to it.	-- Judge of Midnapore.	
For supporting the claim, if the contract was made with an adult, and the claim was for the person sold; or when the slave claimed had been sold by the parents in infancy, during famine and scarcity.		
On the *lex loci* and usage; and also because both parties have heretofore been allowed to sell themselves into slavery, and both have had the privilege to purchase slaves. The *lex loci* has its influence and weight even where the Mahomedan law is in force, and it is part and parcel of the Hindoo law; therefore a *bonâ fide* contract of an adult could not equitably be set aside, because there is no precedent in Menu for the purchase of a Mahomedan by a Hindoo.	-- Judge of Mymensingh.	

SUBSTANCE of the ANSWERS to Query Sixth.

OFFICERS WHO		
Would admit no claims except where both parties were Hindoos or Mahomedans.	-- Officiating magistrate of Beerbhoom. Judge of Nuddea. * Judge of Rajeshahy. Judge of Dinagepore.	-- Officiating judge of Ghazeepore.
Think that no person but a Hindoo or Mahomedan could maintain a claim to a slave.†	-- Judge of Moorshedabad. Additional judge of Burdwan. Judge of Beerbhoom.	-- Magistrate of Mynpoorie. * Magistrate of Benares. Officiating commissioner of Allahabad.

† The Calcutta court of Sudder Dewanny Adawlut agree in the opinion of the judge of Moorshedabad on this question.

	Lower Provinces.	North-Western Provinces.
Think that no person but a Hindoo or Mahomedan could maintain a claim to a slave.	-- Judge of Midnapore. Judge of Mymensingh. Acting judge of Behar. Acting judge of Shahabad.	-- Additional judge of Ghazeepore. * Officiating commissioner of Muttra. Commissioner of N. D. Doab. Magistrate of Mozuffurnuggur.
Or a seceder from either of those religions. Would give judgment for a Hindoo converted to Islamism, that he was entitled to a slave by succession or inheritance, either before or after apostacy, and that the slave was a legal slave by Hindoo law. Thinks also that a Hindoo or Mahomedan converted to Christianity or other religion, should get his decree for a slave who was a legal slave according to the law from which the plaintiff had seceded. †	-- Judge of Moorshedabad.	
Think that the claim of a British-born subject to be a slaveholder could not be recognized.	-- Judge of Purneah. Acting magistrate of Purneah. Principal assistant at Lohurdugga. Judge of Tirhoot. Acting additional judge of Tirhoot.	-- Officiating judge of Etawah.
Nor that of any Christian - - - - - - -	-- Acting magistrate of Purneah.	
Would not uphold the claim of a European or East Indian.	-- Acting magistrate of Shahabad.	
Thinks the circumstance of a plaintiff not being a Hindoo or Mahomedan would not bar his claim, if the plaintiff's law recognized slavery.	- - -	-- Officiating judge of Cawnpore.
As amongst the Americans and many European nations slavery is still permitted by law, conceives considerable doubt may be entertained with respect to foreigners being entitled to hold slaves.	- - -	-- Officiating judge of Etawah.
As a magistrate, would support the claim of a British subject to the services of a slave purchased when an infant, but would not uphold a transfer in such cases when the subject was of age.	-- Magistrate of Mymensingh.	
If the plaintiff was not a Hindoo or a Mahomedan, but the defendant was, as there is no law on one side, would take the law of the defendant, giving the plaintiff the benefit of the law of the country as admissive of slavery.	-- Acting judge of Dacca.	
Would uphold a good purchase by a claimant not a Hindoo or Mahomedan, on the principle of established usage.	-- Acting judge of Sylhet.	
Slavery being customary in this country, does not think the religion of the master would affect his claim.	-- Magistrate of Sylhet.	-- Judge of Bareilly.
The right of ownership would depend upon the validity of the title acquired by the purchaser.	Judge of Patna.	
Thinks that a foreigner not subject to the supreme court might claim under the laws of the country.	-- Judge of Tirhoot.	
Thinks that in claims of other classes than British-born subjects, *e. g.* Parsees, the courts would be guided by the custom of the country, whatever that on inquiry might appear to be.	-- Principal assistant at Lohurdugga.	
Would entertain no claim against any but a Hindoo or Mahomedan.	-- Judge of Midnapore. Acting judge of Dacca. Judge of Tipperah.	-- Officiating commissioner of Allahabad.
In disposing of claims of Hindoos and Mahomedans to a slave who was not of either of those persuasions, would regard the law of the defendant as well as that of the plaintiff.	- - -	-- Additional judge of Ghazeepore.

(*continued.*)

† The Calcutta Sudder court agree in this opinion.

	Lower Provinces.	North-Western Provinces.
In disposing of claims of Hindoos and Mahomedans, does not think the caste or persuasion of the defendant would be attended to, provided he was not a British or foreign European subject.	- - -	- - Commissioner of the N. D. Doab.
Admitting that any plaintiff whose laws allowed of slavery might sue, would not admit the legality of the slavery unless the laws of both parties coincided therein.	- - -	- - Officiating judge of Cawnpore.
A claim to a slave not a Hindoo or Mahomedan, might be supported under the *lex loci*; but would not allow the claim to extend to the offspring.	- - Judge of Mymensingh.	
The *onus* of proof would fall on the purchaser, to show that the slave was the child of Hindoo or Mahomedan parents, or was otherwise legally the property of the party from whom he was purchased.	Judge of Patna.	
Sees no reason for exempting a Christian, if a native of India, from a claim to him as a slave.	- - -	- - Additional judge of Ghazeepore.
The courts in zillah Behar, in enforcing written contracts or voluntary engagements, make no distinction in regard to the religion of the parties.	- - Magistrate of Behar.	
In cases not of Hindoos or Mahomedans, would decide by the laws of the parties.	- - Acting additional judge of Nuddea.	
On principles of British justice, equity, and good conscience, would give the slave the benefit of any doubt in claims to his person or property.	- - -	- - Judge of Mirzapore.

REASONS assigned for some of the foregoing Opinions.

For not admitting the claim except when both parties are Hindoos or Mahomedans.		
Because slavery is nowhere recognized by our regulation law in such cases.	- - Judge of Rajeshahy.	
For not admitting any but Hindoo or Mahomedan claimants.		
Because there is no law requiring such an admission, and neither justice, equity, nor good conscience can admit such a claim.	- - Judge of Midnapore.	
Christians, Parsees, Chinese, or any other claimants than Hindoos or Mahomedans, would be required to show by what law they could claim; and as no law exists in India by which such claims could be supported, the slave would of course have the benefit of the absence of the plaintiff's right.	- - Additional judge of Burdwan.	
Because slavery is only allowed in deference to Hindoo and Mahomedan law, and by no other law which is the rule of our courts.	- - Judge of Beerbhoom.	
The claimant must prove by his law, and thinks no one can expect to establish such a claim but a Hindoo or Mahomedan.	- - -	- - Magistrate of Benares.
Because the plaintiff could not ground his claim on a law not his own, and against humanity.	- - -	- - Officiating commissioner of Allahabad.
For not admitting the claims of any but Hindoos or Mahomedans, or seceders from those religions.		
Because slavery is not sanctioned by any system of law which is recognized by the government, except the Hindoo and Mahomedan laws. †	- - Judge of Moorshedabad.	
For not allowing the claim of a British-born subject to hold a slave.		
Because, he imagines, a British-born subject might be punished in the supreme court for purchasing a slave.	- - Judge of Tirhoot.	
Because the customs of the country are not exactly applicable to such persons.	- - Acting additional judge of Tirhoot.	
For not allowing the claim of a European or East Indian.		
Thinks he should be justified on moral grounds, and authorized by the spirit of the British Government, in not allowing Europeans and East Indians to hold slaves.	- - Acting magistrate of Shahabad.	

† The Calcutta Sudder court concur in this view.

	Lower Provinces.	North-Western Provinces.
For admitting the suits of others than Hindoos or Mahomedans if their laws recognized slavery. Because it has been the custom of the civil courts that all parties should have their cases decided by their own laws.	- - -	- - Officiating judge of Cawnpore.
For admitting the claims of others than Hindoo or Mahomedans. Because where no direct law or regulation applies to a case, the decision should be regulated by established usage, and equity and good conscience.	- - Acting judge of Sylhet.	
Because, if slaves by purchase from their parents in times of scarcity be allowed by the laws of nature to be right, does not see why any claimant should be debarred from preferring such claims.	- - -	- - Judge of Bareilly.
Reasons for not admitting a claim against any but a Hindoo or Mahomedan. Because section 9, Regulation VII. 1832, declares, that the rules referred to in the preceding section were designed for the protection of the rights of *bonâ fide* Hindoos and Mahomedans, not for the deprivation of the rights of others.	- - Judge of Midnapore.	
Because there is no law to authorize such person's bondage -	- - Acting judge of Dacca.	
Because in that case he would be guided by the law of the defendant, which, in the absence of any direct regulation or construction, must be taken to be that of an ordinary British subject in settlements in which slavery is not authorized by law.	- - -	- - Officiating commissioner of Allahabad.

The following cases, adjudicated in the civil courts of the interior, are selected from the returns of the public officers.

Cuttack.—In a case tried by the sudder ameen in 1805, 6 or 7, in which a purchaser sued the former master to obtain possession of a slave, the plaintiff was nonsuited on the ground that the slave was not present when the engagement was entered into between the parties, and he was directed to sue for the recovery of his money.

Backergunge.—Case tried by the sudder ameen, also the Mahomedan law officer of the court, September 1820. Claim of two Mahomedans to two persons (Chundah and Asghurrea), as their hereditary slaves, dismissed, because "no claim to slavery on persons of Mahomedan faith could be deemed valid in the absence of a regularly-executed deed of sale, or other equally conclusive proof." This decision was confirmed in appeal by the zillah judge, who remarked that the moulovy had in his decision declared, "that the Mahomedan law prohibited persons from consigning to slavery for an indefinite period, and restricted them to a temporary transfer in farm—an obligation which was alone binding on the person so consigned, and not on his heirs."

Chittagong.—In a recent case, a Mussulman sued to obtain possession of the daughter of a poor woman whom the mother had sold to him. The moonsiff (a Mahomedan) dismissed the claim as being contrary to the plaintiff's law, and directed that the purchase money should be returned with some deduction as hire or wages of the girl. The decision was confirmed by the principal sudder ameen (a Hindoo) in appeal, and by the zillah judge on a special appeal. The remark made by the judge on this case is to the effect, that custom will not supersede law.

Behar.†—From a list of suits instituted in the court from 1825 to 1835, inclusive.

Suit to obtain possession of slaves under a deed of mortgage, or by bye-bil-wuffa (conditional sale). Dismissed, on the ground that the plaintiff could not obtain possession until he had petitioned to foreclose the mortgage.

Suit for possession of slaves on plea of having purchased them to save from starvation. Dismissed, on the ground that the plea advanced by the plaintiff is not recognized by any regulation.

Claim to the services of a slave who had received consideration for the same. Judged, that the slave must not consider himself emancipated until he has repaid the money advanced to him.

Suit for possession of a slave in virtue of a sale by the mother. Decreed for plaintiff.

Sarun.—The judge of Goruckpore states, from recollection, a case decided in this zillah, which he examined among others when commissioner of the Sarun division, and in which the decision gave freedom to the slave (the plaintiff) on condition of his repaying 12 rupees, the net sum for which he had compounded his liberty, his services being considered equivalent to the interest. The decision was upheld in appeal.

It

† In Appendix III. will be found a case (No. 5) decided by the Mahomedan sudder ameen of the zillah court of Ramghur, and subsequently in appeal by the judge, from whose decision a petition of special appeal was rejected by the sudder court. It is given as illustrative of the following points: 1. The effect of great famines in reducing free persons to a servile condition, and degrading them from a superior to a servile caste. Basanti, the mother and grandmother of the persons claimed as slaves, having belonged to a superior and non-servile class. 2. The servile condition of the Kuhar tribe in that part of the country. 3. The power exercised by the maternal grandmother in the Kuhar tribe of selling her grandchildren.

It remains to notice a few isolated points of civil practice which have been stated by some of the public functionaries in their answers.

The judge of Mymensingh on the practice of his court:—

Partition of Estates.—In the division of estates, or allotting shares under decrees of court, it is also usual (if the claim is a hereditary one to an estate) to declare what proportion of the family slaves are to be transferred to the successful plaintiff; but some difficulty always arises out of this part of the order, and generally leads to another suit.

Costs.—It is the invariable practice when the master gets his decree, to make each party pay his own costs, as the defendant could never pay the whole.

Pauper Suits.—The claim is never so high but the most indigent person could defend the suit. A petition to appeal *in formâ pauperis* is never given.

Limitation.—The judge observes, "Suits used formerly to be instituted for loss of service after the lapse of many years, from the plaintiff's own showing; that is, the slave had absconded, or ceased to do service for perhaps six or seven years, and often a longer period. I put an effectual stop to the institution of these stale cases, by dismissing them (whether in a regular suit or in appeal), whenever the cause of action (*i. e.*, the default of the slave in performing service, or his absconding and leaving his master) occurred more than a year antecedent to the date of the suit being instituted; and which I was warranted in doing under section 7, Regulation II. 1805,† as the suit was always denominated one for kissara, or personal damages, and may be viewed much in the same light as an action for seduction would be in the English courts."

A different principle is acted on in the court of the adjoining district of Sylhet. The judge of that zillah, speaking of slaves, who having multiplied beyond the master's means to provide for them, are allowed by the latter to earn a separate or independent livelihood, by letting them cultivate their own lands, or putting themselves out to service, says, "If the period they have been thus independent has exceeded 12 years, in all such cases the claim of the master has been generally refused, as being barred by the rules of limitation, on the plea that slaves were personal, and not real, property, and could not be claimed after the lapse of 12 years. But a more general reason has been, that it did not comport with equity to allow the master to claim, where he had for so long a period neglected to provide for the slave."

The opinion of the magistrate of the district is perhaps not opposed to the above practice, but it is at variance with that established in the court of Mymensingh. "If," observes that officer, "a slave has by sufferance occupied a separate dwelling for some years, amassed a little property, and become in a manner independent, this person would exercise the same powers both as to his own person and property as any freeman. But if the question were brought before a civil court, there appears to me no doubt that the rights as laid down in the law would be restored to the master."

Public Sale of Slaves in Satisfaction of Decrees of Court.—Slaves had been considered by the civil courts of Mymensingh available personal property to realize sums due on decrees; but the judge, from whose answer we extract the information, does not permit this practice. "They are now," he says, "never recognized as assets; for if the court proceeded to sell them, it would in fact become a slave-market."

"In the execution of decrees," says the judge of Rungpore, "it is extraordinary, that although all other description of property has been sold, even to the disposal of Hindoo idols to competent Hindoos, the sale of slaves has been exempted. It appears still more extraordinary, when we find that the sale of children is allowed, and used to be registered: and instances are not uncommon of Mussulmans and Hindoos selling their wives on account of enmity or for gain. But these latter cases never appear in the civil, and seldom in the criminal, courts."

Appendix II., No. 142.

We learn from a recent communication from the officiating judge of Cuttack, that it has not been the practice of the courts in that zillah to authorize the sale of slaves by public auction in satisfaction of decrees; and we are led to conclude from the evidence of all the witnesses whom we examined on this point, that such a practice does not exist in any part of the country. One witness, indeed, stated, that "slaves have frequently been sold in execution of decrees, by order of the courts in Behar, Patna and Shahabad;" but, on reference to the judges of those districts, we find, that no such sales have ever been made by order of any court in the zillahs of Behar and Shahabad. From the judge of Patna no reply has been received.

No. 2.

Appendix II., Nos. 147, 8, 9.

Public Sale of Slaves to realize Arrears of Revenue or Rent.—As connected with the above subject, we may here state, that none of the witnesses whom we examined on the point ever heard of slaves being exposed to public sale under the summary process of distraint and sale provided by the regulations for the realization of arrears of revenue‡ and rent. And in a correspondence between the government of Bengal and the commissioner in Assam, dated 25th March and 10th April 1829, we find mention made of "orders of the government passed many years ago against the sale of slaves in satisfaction of arrears of revenue;" which orders, on the occasion of this correspondence, the government determined, were to "be held applicable to Assam, in common with other parts of the British dominions."

We now pass to the answers connected with the criminal branch of judicature.

SUBSTANCE

† But see the judgment of the Sudder Dewanny Adawlut on this point, in the case of Loknath Dutt and another *v.* Kubir Bhandari and others, Appendix III., No. 8.

‡ Mr. Robertson, in his evidence before the Committee of the House of Lords in 1830, says on this point, "I do not remember a single instance of an application for a sale of slaves in such a case in Upper India." Question No. 1705.

SUBSTANCE of the ANSWERS to Query First.

	Lower Provinces.	North-Western Provinces.
A master, either Hindoo or Mahomedan, is considered to have a right to his slave's labour.	- - Officiating magistrate of the S. D. of Cuttack, at Pooree.	
Some magistrates admit only the right of a Hindoo master -	- - Acting judge of Chittagong.	
The master's power is not absolute - - - - - -	- - Joint magistrate of Noakhollee.	
No right over person or property of slaves would be admitted in the criminal courts, except such as the Mahomedan law and regulations warranted.	- - Judge of Moorshedabad.	
The customary services of the slaves would be allowed, but no defined legal right over his person or property is recognized by the criminal courts.	- - Judge of Bhaugulpore.	
The right of a master over the person and property of his slave, as over other property, is considered as fully recognized by law. When collisions between master and slave do arise, which is seldom the case, and interference cannot be avoided, the practice is so far to respect the custom as to avoid any order of manumission, or exemption from service, or other legal claim; but claimants to the person or property of any slave under deed of sale, mortgage or otherwise, would be referred to the civil court.	- - -	- - Magistrate of Ghazeepore.
Some magistrates arrest a runaway slave on the complaint of the master.	- - Acting judge of Chittagong.	
This is the case in Tirhoot, and the deserter is restored to his owner.	- - Magistrate of Tirhoot.	
But on such complaints of flight, or recusance of the slave, the magistrates, before apprehending or passing orders, have usually demanded proof of the slave's amenability, either documentary or by the slave's admission.	- - Magistrate of Behar.	
Some magistrates interfere only when the complaint includes a charge of stealing or absconding with property.	- - Acting judge of Chittagong.	
Which appears to have been the practice in the magistracy of Bolundshuhur.	- - -	- - Magistrate of Bolundshuhur.
The master, both Hindoo and Mahomedan, is held bound to furnish good and sufficient food and clothing to his slave.	- - Officiating magistrate S. D. Cuttack.	
The magistrate would not interfere on a complaint of flight or recusance, unless the master had contracted to support his slave.	- - Magistrate of Behar.	
When a female slave has quitted her master's house on account of bad treatment, has never allowed her to be restored to her master against her will.	- - -	- - Officiating joint magistrate of Etawah.
The practical rights of masters, as recognized by the magistrates, have been as those of English masters over their apprentices; their engagements being liable to be annulled on the plea of ill usage, and other good ground shown; the slavery being merely nominal.	- - -	- - Judge of Goruckpore.
In the Banda court petitions were frequent from masters to the magistrate to apprehend slave girls said to have absconded, and the same assistance was given as would have been given to a master complaining of the desertion of his private servant.	- - -	- - ditto.
In respect of services, the slave would be treated by the magistrate as a menial servant.	- - -	- - Officiating magistrate of Allahabad.
Some magistrates refer masters seeking to recover a slave to the civil court.	- - Acting judge of Chittagong. Joint magistrate of Noakhollee. Judge of Mymensingh. Magistrate of Bhaugulpore.	- - Officiating joint magistrate of Kasheepore.

(*continued.*)

	Lower Provinces.	North-Western Provinces.
Acknowledging, *primâ facie*, no right of the master - -	- - -	- - Commissioner of Ghazeepore.
Or regarding the partial recognition, by the British Government, of the rights of masters over their slaves, as affecting their property rather than their persons.	- - -	- - Magistrate of Bareilly.
Many cases have been summarily disposed of by the magistrate in the zillah of Behar, by setting the alleged slave at liberty, and binding over the master to sue, within a given time, to prove his right.	Judge of Patna.	
The magistrates were prohibited taking cognizance of cases involving the question of right to a slave.	- - Commissioner of Patna.	
The magistrates at Allahabad have, for several years past, refused to lend their aid to apprehend or restore fugitive slaves.	- - -	- - Officiating magistrate of Allahabad.
The magistrate of Cawnpore (in which district applications come only from Mahomedan masters) does not authorize a fugitive slave to be delivered over to his master against his will.	- - -	- - Magistrate of Cawnpore.
The magistrates do not attend to the Hindoo and Mahomedan laws of slavery.	- - -	- - Magistrate of Humeerpore.
The magistrates do not recognize any legal rights of masters over the persons or property of slaves.	- - Joint magistrate of Bograh.	
The criminal courts have always treated the slaves as freemen, making no distinction between them.	- - Commissioner of Cuttack. Officiating judge of Behar.	
The magistrates of Bengal never recognize the right of the master over the person of the slave.	- - Officiating magistrate of Cuttack.	
Such a right has never been recognized in the magistrate's court at Cuttack.	- ditto.	
The rights allowed by the Hindoo and Mahomedan laws to the master have not been admitted in the western provinces since the introduction of the British rule.	- - -	- - Magistrate of Muttra.
No right of the master over the person of the slave is recognized in the magistrate's court at Moradabad.	- - -	- - Judge of Moradabad. Magistrate of ditto.
In the court of the magistrate of Furruckabad, neither is the right of the master over the slave nor the claim of a slave on his master acknowledged; nor have such rights or claims been acknowledged in any criminal court with which the magistrate of Furruckabad is acquainted. On application to arrest runaway slaves, the court declares its incompetence to restore slaves to their owners.	- - -	- - Officiating judge of Furruckabad. Magistrate of ditto.
OFFICERS WHO		
Would admit the claims of masters to the person, property and services of slaves born within the British territories.	- - -	- - Magistrate of Bolundshuhur.
Would enforce the mutual rights and obligations of masters and slaves when legally proved, and punish the deviating party.	- - Acting magistrate of Nuddea.	
Regards the right of the master to the slave's person as entire, provided no cruel treatment is proved; so also as respects property, until otherwise adjudged by the civil court, to which he would refer the slave.	- - Officiating magistrate of Beerbhoom.	
Considers that both Hindoo and Mahomedan masters undoubtedly possess legal rights over the persons of their slaves as far as affects their liberty and services, and over their property unconditionally; but the masters are in no way allowed to maltreat their slaves.	- - -	- - Magistrate of Mozuffurnuggur.
Would adjudge the master entitled to the services of the slave, but would sanction no greater coercion than in the case of a freeman. Would enforce the voluntary submission to slavery of one advanced in life, when done by deed of sale.	- - Magistrate of Mymensingh.	
Would treat cases between master and slave by the rules of masters and servants, under Regulation VII. 1819.	- - Commissioner of Bauleah.	

OFFICERS WHO	Lower Provinces.	North-Western Provinces.
Consider that the regulations do not authorize a magistrate to recognize in the master any further power over his slave than he would possess over any other servant; but that proof of any specific contract between the master and a reputed slave would bring the case under clause 4, section 6, Regulation VII. 1819, which he regards as a distinct case.	- - -	- - Magistrate of Azimghur.
In case of dispute respecting a slave's property, would uphold the person in possession, and refer the other party to a civil suit, considering that a magistrate has nothing to do with the right of property, but merely to decide on the fact of possession.	- - -	- - Magistrate of Cawnpore.
Would not aid a master to recover his fugitive slave -	- - Magistrate of Backergunge.	- - Acting magistrate of Juanpore. Magistrate of Azimghur.
Nor restore any clothes or ornaments used by the slave -	- ditto.	
But would prevent a third party taking away a slave against his master's will.	- ditto.	
Would apprehend a slave accused of absconding with his master's property, and after punishing him for the theft, set him at large.	- - -	- - Acting magistrate of Juanpore.
Would not recognize the relation of master and slave -	- - Acting magistrate of Sarun.	- - Magistrate of N. D. of Moradabad (Bijnore).
Unless by the special direction of superior authority - -	- - -	- ditto.
Are aware of no legal rights possessed by masters over the persons or property of slaves that have been or could be recognized by the magistrates.	- - Acting joint magistrate of Midnapore.	
Regards slavery as abolished by law - - - - -	- - Acting magistrate of the 24 Pergunnahs.	

REASONS assigned for some of the foregoing Opinions.

For the recognition of slavery by the magistrates.		
The inference to be drawn from the construction of Regulation X. 1811, contained in the circular order of the Nizamut Adawlut, No. 141, dated 5th October 1814, and the letter of the superintendent of police for the western provinces which accompanied it.	- - Acting magistrate of Shahabad.	- - Magistrate of Ghazeepore. Magistrate of Bolundshuhur.
Particularly as respects the sale of infants and children during scarcity.	- - Judge of Mymensingh. Magistrate of do.	
For not restoring to the master, against her will, a female slave quitting her owner's house on account of bad treatment.		
Because it is agreeable to the spirit of British legislation, though not strictly according to Hindoo or Mahomedan laws, which recognize the state of positive slavery in both sexes.	- - -	- - Officiating joint magistrate of Etawah.
For regarding the relation of master and slave in the light of that of an English master and his apprentice, and dissoluble for ill-usage or other good reason.		
Because the magistrates are guided by humanity, equity and good conscience.	- - -	- - Judge of Goruckpore.
For not regarding the Hindoo and Mahomedan laws of slavery.		
Because they are so directly opposed (especially the Hindoo) to English notions of reason, liberty and right.	- - -	- - Magistrate of Humeerpore.
For not recognizing the rights of masters over their slaves.		
Because, in the opinion of the magistrates, the regulations do not recognize slavery.	- - Joint magistrate of Bograh.	
Because there is no regulation expressly authorizing the magistrate's interference in favour of the master, and few Englishmen would enforce the right, if such a term can be used, of the master over the slave, without some strong motive.	- - -	- - Magistrate of Furruckabad.

BENGAL.

SUBSTANCE of the ANSWERS to Query Second.

OFFICERS WHO	Lower Provinces.	North-Western Provinces.
Consider that the relation of master and slave would justify the moderate correction of the slave by his master for disobedience, insubordination, insolence or desertion.	-- Officiating magistrate, S. D. Cuttack (Pooree). Officiating magistrate, Beerbhoom. Judge of Backergunge. * Magistrate of ditto. * Judge of Tipperah. Magistrate of Sylhet. Officiating magistrate of Gowalpara. * Judge of Dinagepore. Judge of Purneah. Acting magistrate of ditto. * Commissioner of Bhaugulpore. Judge of Bhaugulpore.	- - Additional judge of Ghazeepore. Judge of Mirzapore.
As permitted by the Mahomedan - - - - -	-- Judge of Beerbhoom. Acting additional judge of Nuddea.	- - * Officiating judge of Etawah.
And Hindoo law - - - - - - - - -	-- Judge of Beerbhoom.	
To the extent allowed to a parent over a child; † - -	-- Magistrate of Behar. Judge of Patna.	-- Magistrate of Ghazeepore.
To a master over a servant - - - - - -	Judge of Patna.	
To an English master over his apprentice - - -	-- Judge of Tirhoot.	
To preserve order in the family - - - - -	-- Principal assistant at Lohurdugga.	
Would allow correction as to a father over a son, but more limited for adult slaves. Such, as far as he knows, is the practice, and is in strict accordance with native feeling.	-- Joint magistrate of Noakhollee.	
The slave would get less redress than others for petty assaults by his master.	-- Acting judge of the 24 Pergunnahs.	
But nothing beyond such moderate correction would be allowed, and abuse of that power, undue severity, ill-treatment, hard usage, unjust and tyrannical conduct and cruelty of the master, would be punished.	-- Officiating magistrate S. D. of Cuttack (Pooree.) Judge of Beerbhoom. Officiating magistrate of ditto. Acting additional judge of Nuddea. Judge of Backergunge. Magistrate of Sylhet.	-- Additional judge of Ghazeepore. Magistrate of ditto.

† "A master would not be punished, the Court opine, for inflicting a slight correction on his legal slave, such as a teacher would be justified in inflicting on a scholar, or a father on his child; but no act of hard usage or cruelty would be permitted." Para. 7. Answer of Calcutta Sudder Court. Appendix II., No. 2.

See the answer of the Allahabad Sudder Court, Appendix II., No. 84.

BENGAL.

	Lower Provinces.	North-Western Provinces.
But nothing beyond such moderate correction would be allowed, and abuse of that power, undue severity, ill-treatment, hard usage, unjust and tyrannical conduct and cruelty of the master, would be punished.	Officiating magistrate of Gowalpara. Judge of Dinagepore. Judge of Purneah. Acting magistrate of ditto. Principal assistant Lohurdugga. *Commissioner of Bhaugulpore. Judge of Bhaugulpore. Magistrate of Behar.	
In such cases the slaves would receive from the magistrate the same protection against their masters as would be shown to parties not standing in that relation.	-- Judge of Patna.	
Such cases would be dealt with as between freemen - -	-- Judge of Tirhoot.	-- Judge of Mirzapore.
A master would also be punished for expelling his slave -	-- Magistrate of Behar.	
Nor would the courts allow acts against the law of nature, and a magistrate would interfere if it was attempted by sale or otherwise to separate an infant from its mother.	-- Magistrate of Sylhet.†	
Would allow refusing to serve to be a palliation of maltreatment, like as between master and servant.	-- Magistrate of Backergunge.	
Thinks the magistrates would regard the slaves as servants, but not release them from confinement in the master's house, else slavery would be at an end, and that the magistrate should only interfere in cases of severe mal-treatment.	-- Commissioner of Chittagong.	
The relation of master and slave is not considered by the magistrates a bar to punishment.	- - -	-- Commissioner of Ghazeepore.
It would not protect from punishment for cruelty - -	-- Officiating judge of Hooghly. Judge of Nuddea.	
Ill treatment - - - - - - - - - -	-- Joint magistrate of Fureedpore. Acting judge of Sylhet. Acting judge of Behar.	
Or oppression - - - - - - - - - -	-- Acting magistrate of Shahabad.	
Such ill usage and cruelty would b dealt with as in the case of a freeman.	-- Acting judge of Chittagong. Acting magistrate of Dinagepore. Governor General's agent S. Behar. Principal assistant at Hazareebaugh (South Behar). Commissioner of Patna. Officiating judge of Shahabad.	-- Magistrate of Moradabad. Officiating magistrate of Saharunpore.
No mitigation of punishment would be allowed in consequence of the relation.	-- Judge of Mymensingh.	
The master would be punished as a husband or father for similar ill-treatment of a wife or son.	-- Acting magistrate of Nuddea.	

(*continued.*)

† See his evidence also, Appendix I., No. 5.

BENGAL.

	Lower Provinces.	North-Western Provinces.
As a master for cruelty or ill-treatment of a servant - -	- - -	- - Judge of Benares.
Has always protected slaves as he would free servants -	- - -	- - Judge of Goruckpore.
Thinks the magistrates in petty cases would punish as an offence against a free servant, and that the circuit courts would permit no greater latitude than to the master of a servant.	- - Judge of Moorshedabad.	
Believes mal-treatment is punished by all magistrates as of a free servant; but that the courts of circuit would be guided by Mahomedan law, except in trials in which, under clause 1, section 4, Regulation VI. 1832, no futwah was required.	- - Additional judge of Burdwan.	
Would punish mal-treatment as of a common servant - -	- - -	- - Magistrate of Cawnpore.
Presumes, that, as the penal regulations have nowhere recognized slaves as a separate class, in all trials for crimes specially noticed in them, no distinction would be made in cases in which the parties stood in the relation of master and slave; but in crimes not thus provided for, and where the courts are referred to the Mahomedan law to apportion the punishment for an offence of which a master or his slave may be convicted, conceives that the courts are legally bound by that law in their judgments.	- - -	- - Commissioner of Muttra.
Equal protection is given to all under British rule - -	- - Judge of Rungpore.	
In administering justice, there is no respect of persons, or of the relation of master and slave.	- - -	- - Judge of Meerut.
Our courts do not recognize the relation as ground of justification or mitigation. Complaints of ill-treatment either of Hindoo or Mahomedan slaves against their masters are determined precisely as others, and they receive the same protection under the general regulations.	- - -	- - Commissioner of the N. D. of the Doab.
It has always been the practice of the criminal courts to give equal protection to the slave in every respect as to a freeman.	- - Commissioner of Cuttack. Acting magistrate of Tipperah.	
Allowing no chastisements, nor any justification or mitigation grounded on the relation.	- ditto.	
And that without any reference to the Hindoo or Mahomedan law on the subject.	- - Commissioner of Cuttack.	
Such is the practice in the courts of the magistrates of Benares, Allahabad, Bolundshuhur and Moradabad;	- - -	- - Magistrate of Benares. Judge of Allahabad. Officiating magistrate of ditto. Magistrate of Bolundshuhur. Magistrate of Moradabad.
Also in all the criminal courts in which the officiating magistrate of Midnapore has presided.	- - Officiating magistrate of Midnapore.	
It is the practice of the court of the Dacca magistrate to afford full protection for cruelty or hard usage, and not to recognize the relation as ground of justification or mitigation.	- - Magistrate of Dacca.	
Has never recognized the relation as ground of justification or mitigation.	- - Magistrate of Bhaugulpore.	
Has never seen any distinction made between slave and free in our courts, nor any attention paid by the magistrate to the Hindoo and Mahomedan laws on the subject.	- - -	- - Magistrate of Humeerpore.
Full protection would be given to the slave against cruelty or hard usage; the relation would not be held ground of justification or mitigation for any act otherwise punishable, as under the Hindoo or Mahomedan laws, but the same protection would be given to slaves as to freemen.	- - Joint magistrate of Bograh.	- - Acting magistrate of S. D. Bundelcund (Banda). Officiating judge of Furruckabad. Magistrate of ditto. Judge of Moradabad.
Would punish a master for an assault on his slave with the same severity as for an assault on a freeman.	- - Magistrate of Moorshedabad.	- - Magistrate of Azimghur.
Would sanction no greater coercion on a slave than in the case of a freeman, and punish mal-treatment.	- - Magistrate of Mymensingh.	

	Lower Provinces.	North-Western Provinces.
Would give a slave the same protection as a freeman - -	- - Magistrate of Rungpore.	- - Judge of Allahabad. Officiating commissioner of Allahabad.
And make no distinction in cases of cruelty or any minor amount of bodily ill-usage.	- - -	- ditto.
Would not allow the relation to justify any acts otherwise deserving of punishment; and would in no case afford less protection to a slave against his master than to any other man.	- - -	- - Officiating judge of Cawnpore.
On complaint of ill-usage, would give the fullest protection to a slave as to a freeman, and keep redress equally open to all.	- - -	- - Magistrate of Shahjehanpore.
Thinks that the relation would not justify or mitigate, and that protection would be given both against owners and others.	- - Acting joint magistrate of Midnapore.	
Would give the same protection to a slave against his master, both as to property and person, as to a freeman.	- - Acting magistrate of the 24 Pergunnahs.	
Would punish ill-treatment without reference to the relation; and would investigate complaints, whether of owners or slaves, as between man and man, and not as between master and slave.	- - -	- - Acting magistrate of Juanpore.
Would not consider the relation as absolving the master from punishment in any case of mal-treatment or oppression, although in a case of lenient and summary correction inflicted on the slave for a fault, he might not be induced to view the matter precisely in the same light as he would were a person unconnected with the defendant to be the subject of the chastisement awarded.	- - -	- - Magistrate of Mozuffurnuggur.
EMANCIPATION.		
Some magistrates separate master and slave in cases of mal-treatment; some only take security from the former.	- - Commissioner of Chittagong.	
In one or two cases in the magistrate's court at Bolundshuhur, slaves complaining of the oppression of their masters were declared free.	- - -	- - Magistrate of Bolundshuhur.
The officiating magistrate of Futtehpore did so in two cases of cruelty brought before him.	- - -	- - Officiating magistrate of Futtehpore.
Would emancipate a slave for cruelty. - - - - -	- - Joint magistrate of Baraset.	
For ill treatment - - - - - - - - - -	- - Magistrate of Behar.	
On demand of freedom on account of ill-usage would give the fullest protection to a slave as to a freeman.	- - -	- - Magistrate of Shahjehanpore.
Emancipation could be authorized by nothing short of the most extraordinary mal-treatment.	- - -	- - Magistrate of Ghazeepore.
The practice of the magistrate's court at Cuttack is, and always has been, to punish the master and manumit the slave on complaint of cruelty or hard usage, or if the slave has any other reason for wishing to leave his master; it matters not if the alleged ill-treatment or cause of dissatisfaction is proved or not, the order runs thus always:—"We do not recognize slavery; you may go where you please, and if your master lays violent hands on you, he shall be punished."	- - Officiating magistrate of Cuttack.	
If a person stated himself to be living under restraint, he would be allowed to go free.	- - Joint magistrate of Bograh.	
A petition from a friend or relation of a slave that the latter is retained against his will by his master, would immediately ensure his release.*	- - Acting magistrate of Tipperah.	
The practice of the criminal courts is usually to release the slave from bondage.	- - -	Judge of Meerut.
INDULGENCES.		
The indulgences granted to slaves by the Mahomedan law (according to all the answers but one touching on the point) have not been and would not be allowed by the criminal courts.		
The acting magistrate of Banda, on the supposition that the indulgences alluded to are the same as those mentioned in the Bab-ool Hukkook of imaum Azzum, would adhere as closely as possible to the Mahomedan law in this respect.	- - -	- - Acting magistrate of S. D. Bundelcund (Banda).

* In a list before us of nine criminal cases decided in this zillah in 1837 and 1838, we find it stated in six that the slaves were ordered to be made over to their masters.

REASONS assigned for some of the foregoing Opinions.

	Lower Provinces.	North-Western Provinces.
For punishing mal-treatment of a slave as of a common servant.		
Knows of no criminal regulation giving the master greater power over his slave than over a free servant.	- - -	- - Magistrate of Cawnpore.
For giving equal protection to slaves as to freemen.		
Slavery is not recognized by the regulations - - -	- - Magistrate of Rungpore.	
The British Government professes to extend equal protection to all, and there is nothing in the regulations contrary thereto.	- - -	- - Magistrate of Benares.
The regulations make no distinction for cruelty or any minor amount of bodily ill-usage between bond and free. Refers to the circular order of the Nizamut Adawlut, No. 4, dated 27th April 1796, notifying that the castration of slaves is criminal, and punishable by the Mahomedan law.	- - -	- - Officiating commissioner, Allahabad.
The regulations make no difference between slaves and freemen.	- - -	- - Acting magistrate of Allahabad.
Knows no regulation which compels a magistrate to carry the precepts of the Mahomedan law into effect on the subject of slavery.	- - -	- - Officiating judge of Cawnpore.
The regulations define the jurisdiction of the criminal courts in misdemeanors and smaller offences. The magistrate's powers are defined without respect to persons, caste or religion; and in the session courts, unless a specific provision be made for any particular offence, cognizance is ruled in clause 7, sec. 2, Reg. LIII. 1803, the same for all classes of people who may be amenable to the court.	- - -	- - Officiating judge of Furruckabad.
There is no regulation authorizing a master corporally to chastise his slave.*	- - -	- - Magistrate of Furruckabad.
Thinks that from the spirit of the regulations no distinction of persons could be recognized by the magistrates.	- - -	- - Magistrate of Shahjehanpore.
It is stated by the magistrate of Rajeshahy, that he has every reason to believe that the wealthy Mahomedans of that district do not suppose that the interference of the criminal courts is more circumscribed with regard to their conduct or treatment of their domestic slaves than of any other class of the community.	- - Magistrate of Rajeshahy.	
For emancipating the slave on proof of cruelty, ill-treatment or oppression.		
Would take the case of Nujoom-oon-Nisa as a precedent -	- - Joint magistrate of Baraset.	
Would emancipate in such case without reference to Hindoo or Mahomedan law, on the principle of justice.	- - Magistrate of Behar.	
Has emancipated for cruelty, on the principles of English justice and humanity.	- - -	- - Officiating magistrate of Futtehpore.
The magistrate of Bolundshuhur gives the following as an extract from the last clause of the section on maintenance in the Hidaya, as apparently in some measure justifying the manumission of the slave who is oppressed by his master:—"Masters are enjoined to feed and clothe, as they would themselves, their slaves. Should they neglect to do so, and the slave be capable of earning his livelihood by his own labour, he shall be entitled to do so; but the surplus profits of his labour, after his feeding and clothing, shall be the property of his master; and if he be from infirmity or other cause unable to labour, the ruler of the country may compel the master to sell him to others who will provide for him; and if no purchaser be found, he shall manumit the slave."†	- - -	- - Magistrate of Bolundshuhur.

* The following is the evidence of Mr. T. C. Robertson before the Select Committee of the House of Lords on this subject:—1695. Have their masters any power of punishment?—None recognized by our laws. Whatever may be the provision of the Mohamedan or Hindoo codes to that effect, it is a dead letter, for we would not recognize it. The master, doubtless, may sometimes inflict domestic punishment; but if he does, the slave rarely thinks of complaining of it. Were he to do so, his complaint would be received.—1696. Did you, under the regulations under which you acted, feel justified in punishing the master if he did inflict personal correction?—Most unquestionably.

See the judgment of the Presidency Nizamut Adawlut in the case of Shekh Hazari and others.—Appendix III., No. 9.

† This does not appear to be an exact translation of the original text, which, however, seems to point to the same conclusion.

	Lower Provinces.	North-Western Provinces.
For manumitting the slave on complaint of cruelty, hard usage, or other cause of dissatisfaction, whether proved or not. Because there is no special enactment against such interference, and humanity and justice are in favour of it.	- - Officiating magistrate of Cuttack.	
For allowing any person to go free who states himself to be living under restraint. Because slavery is not recognized by the regulations - - -	- - Joint magistrate of Bograh.	

SUBSTANCE of the ANSWERS to Query Third.

All the officers who have replied to this question agree, that no distinction has been or would be made in such cases between Hindoo and Mahomedan masters; the several reasons stated for which are,—

1. That the Hindoo law itself permits only moderate correction of the slave by his master, and declares abuse of that power punishable.
2. That no part of the Hindoo criminal law is recognized either by regulation or practice.
3. That the criminal courts are guided by the Mahomedan law as modified by the regulations, which last make no distinction between Hindoo and Mahomedan masters.
4. That in the absence of any express law in support of the unlimited authority of the Hindoo master, such authority would not be allowed to operate against the general spirit of the regulations, and the principles of public justice and humanity.

The following is an extract from the reply of the magistrate of Agra, who has entered at some length into this subject:—

"As regards the principle by which the criminal courts should be guided in applying the general provisions of the existing penal law to slaves and masters of whatever religion, the question does not, I confess, seem to me surrounded with any great difficulties, in respect at least to that portion of the British dominions which was included in the Mahomedan empire, virtually during the reign of Aurungzebe, and nominally too during the convulsions to which Hindoostan and Bengal were subject during the 18th century. Whatever part of the territories of the Company were embraced within this dar-ool-islam, were by law and practice subject to the criminal jurisdiction of the imaum and his delegates. During the reign of Acbar * no doubt the Hindoos retained much of the privileges of their shasters, but in the subsequent three reigns there seems no sufficient reason for considering that the Mahomedan criminal law was not effectively and indiscriminately enforced upon all classes of society. All questions connected with public wrongs were determined, or at least were, I conceive, liable to be determined by the law of the imaum; and whatever proprietary rights in slaves were permitted or acknowledged to rest in the persons of infidels, this could be but merely recognized as subsidiary to the paramount rights of the hakim as the successor of Mahomet, the conqueror of the country, and depository of the law as well as the religion of Islam. Such at least, it appears clear, the mooftee would have ruled in his futwah, and the cazee would have enforced in his order during the 17th century; and hence, as the regulations of the British Government, in regard to offences against the state as distinguished from private wrongs, distinctly recognize the Mahomedan law as the criminal code of the country, I feel no scruple in expressing my opinion that Hindoo masters, in respect to responsibility for the ill-treatment of slaves, possess not legally, or rather constitutionally, greater immunity within the limits referred to, than could be claimed by the professors of the Mahomedan religion under the futwahs of our own mooftees."

"Should this view of the subject appear in any degree fanciful or forced, it is to be remarked, that the criminal law as administered under Regulation VI. and Regulation VII. 1803, is undefined and anomalous to a degree, which renders it necessary to the student to fall back upon first principles, and the magistrate, among conflicting analogies, must select that which is most 'consonant to natural justice.'"

Clause 1, section 15, Regulation VII. 1803.

"Clause 1, section 16, Regulation III. 1803, would doubtless bar a claim for damages for personal injury on the part of a slave against a Hindoo or Mahomedan master. He is presumed to possess no civil rights. But the ruler of the country, the hakim-ool-wuqkt, or the father of his subjects, alike under the Mahomedan law, the English law, and the law of nations, is justified in reserving in its own hands the power of depriving any subject of life or limb, and in punishing whoever assumes to himself a prerogative which can be claimed with fairness and administered with justice by the state alone."

We may remark, that on further investigation we do not perceive any material difference between the Hindoo and Mahomedan law in regard to the master's power of summary correction of his slave.

SUBSTANCE

* "The toleration of Acbar towards the Hindoos was notorious; but even he, in his instructions framed for the guidance of the police, directs, 'he must not allow private people to confine the person of any one, nor admit of people being sold as slaves. He shall not allow a woman to be burnt contrary to her inclination.'" Ayeen Acburee, vol. 1. p. 302 (375–6?).

BENGAL.

SUBSTANCE of the ANSWERS to Query Fourth.

All the officers who have adverted to this point agree, that in no case would less protection be shown to slaves than freemen against other wrong-doers than their masters.

CRIMINAL CASES selected from the Returns of the Public Officers.*

Bancoorah.—In 1830 a burkundauz was reprimanded for enticing away a female slave from her mistress, and the slave was restored to her owner.

Mymensingh.—A moonsiff, who was also a cazee of this zillah, and a moollah, were fined by the magistrate, because the former had inveigled a woman and her daughter, who were Syuds, on pretence of marrying the latter to a relation, but married her to one of his slaves. The commissioner of circuit, on revising the case, added imprisonment, and the moonsiff was removed from his situation.

Sylhet.—Three cases tried by the magistrate and officiating magistrate in 1824, 1835 and 1836, in which, as involving disputed rights of property in slaves, the parties were referred to the civil court. The order in the second case was confirmed in appeal by the commissioner of circuit.

A complaint preferred to the magistrate in 1824 to recover possession of several slaves who had absconded 12 or 14 years previously, and had since lived on the defendant's lands, held by the magistrate to be not cognizable in his court.

Case tried by the Mahomedan law officer in 1835, and confirmed in appeal by the magistrate. A. charged B. with having taken away C., his (A.'s) wife, who was the slave of B. B. answered that both A. and C. were his hereditary slaves; that a year before A. had run away to a third party, and now wanted to get possession of his wife. C. said that she was B.'s slave, and consented to remain with him. The defendant was discharged, and C. allowed to go where she pleased.

Case tried by the same officer in 1835. A. charged B. with confining her daughter in consequence of her (A.'s) refusing to give him a written agreement of servitude: she subsequently stated that she had received back her daughter through a friend of B. B. replied that both A. and her daughter were his slaves, that A. had left him, but her daughter remained with him, and that the daughter, whom he had sent to the court with his friend to appear as summoned, had been taken away on the road. The sole object of A. being to recover her daughter, the defendant was discharged, and the daughter ordered to be made over to her mother, if she desired it.

Case tried by the same officer in 1835. A. stating herself to be the slave of another party, charged B. with seizing her and attempting to marry her to his slave against her will. B. answered that A. was the wife of his slave. But it appearing by the evidence that the marriage had not been legally consummated, and as the seizure for the purpose asserted was proved, both B. and his slave were ordered to enter into recognizances of 50 rupees each not to molest the prosecutrix.

Case tried by the acting magistrate in 1836. Two female slaves of the defendant (who was the principal sudder ameen of the zillah court) prosecuted him for beating them. The defendant admitted that he had done so slightly, and pleaded the custom of the country to beat slaves for disobedience or neglect. The defendant was warned not to beat his slaves with severity.

The parties in the four preceding cases were Mahomedans.

Behar.—Statement of criminal cases in the Behar court from 1825 to 1835 inclusive.

SUBSTANCE OF COMPLAINT.	No. of cases.	Ordered to be delivered to their masters.	Referred to the civil court.	Parties discharged without any specific order.	Amicably adjusted.	Punished.	Acquitted.	Struck off the file.
Master *v.* Slave.								
For running away and carrying off property -	4	2	2					
For absconding, to run away - - - - -	4	- -	-	3	1			
Master *v.* Master.								
For possession of a slave; with assault - -	62	7	27	4	4	4	12	4
For enticing away slaves - - - - - -	2	1	-	- -	-	1		
TOTAL - - -	72	10	29	7	5	5	12	4

Patna.

The officiating magistrate of Hooghly has animadverted on a futwah delivered in a case found in his records, in which two females, who had quitted the house of a Mahomedan nawaub of the Sheea caste, were, in consequence of it, restored to him; but, on examining the futwah, we find that the question referred to the law officer related to usufructuary or temporary marriage, which is reprobated by the orthodox, but apparently permitted to Sheeas, and that no point of slavery was involved in it.

Patna.—1828. Charge of cruelty to a female slave by burning her body. The slave was directed to go where she pleased, and the defendant, her mistress, not to oppose her so doing, but to sue in the civil court if she had any claim on her.

1830. Two slave girls charged with eloping from the house of the master. Directed to go where they pleased.

1830. Charge of putting fetters on a female slave. The defendants were released, and the slave directed to remain where she pleased.

1835. Two slave girls charged with eloping from their master's house with property. The slaves were imprisoned for 14 days, without labour, and then made over to their master.

1835. Charge of beating and cruelty to two female slaves by burning their bodies. The slaves were directed to go where they pleased, and a recognizance required from one of the defendants (females) not to oppress the slaves.

1835. A female slave charged with theft of jewels, and elopement. The case was struck off the file in consequence of the non-attendance of the prosecutrix, and the slave directed to go where she pleased.

All the above cases were disposed of by the officiating magistrate, or assistant to the magistrate, except the last, which was referred to the principal sudder ameen (a Hindoo).

Ghazeepore.—In 1827, A. charged B. with forcibly and illegally detaining from him his wife and child. It appeared in evidence that the woman had been purchased by B. when an infant, and had acted as his female slave (Kuneez) ever since; she had married A. with her master's consent, without prejudice to B.'s right of property over her. The magistrate said that he had no jurisdiction, and referred A. to the civil court. The commissioner of circuit confirmed the decision after taking the mooftee's opinion.

The officiating commissioner of Allahabad states, from recollection, a case in which a slave was charged by his master with theft, and which was tried under the general regulations as applicable to cases where freemen are concerned.

The officiating judge of Futtehpore mentions three cases of cruelty on the part of masters and mistresses towards some of the Bundelcund children sold by their parents, during the famine of 1833–4, which were brought to his notice in 1834. In two of the cases he released the children, on the ground that their owners were not fit or deserving to take care of them, and in one case punished the owners to the extent of his power; in the others the owners were committed, and punished by the sessions judge.

Bareilly.—Statement of two cases in this court in the last 10 years. One, a case of severe beating of a slave by his master, a Mussulman nawaub, in which, though the right of the master to beat his slave at pleasure was not formally recognized, yet the situation of the slave seems to have operated with the magistrate as a bar to punishment, as nothing was done, though the beating inflicted was such as would certainly have been visited with a severe penalty in a case where both parties were freemen. The other, of recent occurrence, was a complaint of ill-treatment, in which two slave girls absconded and refused to return to their homes. The master was a Mahomedan of rank. The magistrate refused to coerce the slaves, as they complained of ill-treatment, and merely provided for their future safety.

Moradabad.—Case reported by the acting magistrate of the southern division of Bundelcund (Banda), as having recently occurred at Moradabad. A., a Mahomedan, had two slaves, male and female, whom he married; the woman went astray, and her husband died shortly after, leaving two daughters and considerable effects. She came and claimed the offspring and effects as legal heir. The master objected, and the case came into court. Two futwahs were obtained, both in favour of the master, on the ground that as he had a right of property in the persons of the parents, all they possessed, with their children, must also necessarily be his, and that more especially in a case where the mother had committed adultery. The master was therefore admitted as the legal heir of his slave.

Northern Division of Moradabad, Bijnore.—One of two cases on the records of this court. A slave girl complained that her master had beaten her, but could not prove it. The master was bound over to keep the peace towards her. "This," remarks the magistrate, "argues that had she been able to prove her charge, the defendant would have been punished, and also that he was not at liberty for the future to assault her more than any body else."

Sale of Female Children to Prostitutes.—A few only of the public officers have adverted to the practice of the courts in cases connected with this part of the subject. The information they have furnished tends to show that the proceedings of the magistrates on this point are pretty uniform.

In Jessore, when prostitutes, who have purchased young female children, complain of their having absconded with their clothes, &c. the magistrate always declares the girls free, and refers the plaintiff to a civil suit to recover the clothes.

In Mymensingh, if a female sold for prostitution complains to the magistrate, either because really ill used, or at the suggestion of a paramour, on proof of ill-treatment, and prayer not to be compelled to return to her mistress, the magistrate declines to restore her, and refers the mistress for redress to the civil court, "in which," observes the judge of the district, "she is not likely to get much, as such a claim of slavery, or a slave purchased for such purposes, is neither tolerated in the Mahomedan or Hindoo law, and would never be listened to in a British court of justice." This officer states, that he found on his arrival in the district (in March 1828), that sales of this description at the sudder station used to be registered at the police thannah, but that he put a stop to this practice as countenancing such purchases.

Appendix I., No. 5.

In Sylhet, whenever cases of intended sale of free female children for the purpose of prostitution have been brought before the magistrate. he has interfered to prevent the completion of the sale.

The magistrate of Rungpore, after observing that the personal control exercised by bawds over children they have bought from their parents, and trained up for prostitution, is not recognized by the courts, adds, " many cases have been brought to my notice of this nature, where the prostitutes have applied to this court to get back the children who, after purchase, may have absconded. In such cases I have made over the children to their parents, and punished all parties that I considered deserving of it, though I am not aware of any regulations sanctioning such proceedings."

In the statement of civil suits of the Behar district, already noticed, are two for the possession of slave girls purchased for prostitution, both of which were dismissed.

The officiating judge of Futtehpore mentions a case he had before him when officiating magistrate of Patna, in which he refused to restore to her mistress a young girl purchased by a procuress of the city from her parents, and brought up by her, he concludes, for prostitution, but who had run away in consequence of ill-treatment, and permitted her to go where she pleased. " I might," he remarks, " have punished the procuress under the regulations, had any one brought a complaint of her buying the child for so vile a purpose."

Ditto, II. No. 110.

On a complaint to the magistrate of Juanpore, 10 years ago, by a dancing woman, that two girls had been sold by their father to her, the claim was disallowed, because the girls at the time of sale were of a marriageable age, and sold against their consent.

Ditto, II., No. 86.

At Banda (southern division Bundelcund), if a girl proved before the magistrate that she was forcibly detained for the purpose of prostitution, she was summarily declared free, and the persons claiming her referred for redress to the civil court.

The officiating magistrate of Suheswan mentions a case of the above description, which was tried in that court, in which a summary order was passed, allowing the freedom of the complainant.

" The only cases," says the magistrate of Moradabad, " which come before this court, are those of slave girls bought and reared for prostitution. Whenever these seek for manumission and protection from the court, the owners of them are warned that, unless the girls return of their own free will, they have no power to make them, and should force be used they will be liable to punishment. The slave girls are also directed to leave all property of jewels, &c. for that must be considered the right of the master, howsoever acquired, up to the date of emancipation." " In these orders," he adds, " this court has been guided by the futwah of the law officers of the Nizamut Adawlut, communicated to the Bareilly court of circuit, on the 26th June 1816, relative to the orders issued by the magistrate of Furruckabad in the case of a female slave, named Goonna." We shall presently have occasion to notice the case here alluded to more particularly.

*Delhi Territory.**

We have reserved this territory for separate mention, on account of the peculiarity of its judicial practice as respects cases of slavery.

It appears from the reports of the public officers, that the right of a master over a slave or his property has not been acknowledged either in the civil or criminal courts in this territory for a number of years.

" Since the promulgation in this territory," says the commissioner, " of the law prohibiting slavery, we have not even recognized possession as a claim; and though I do not at this present moment recollect any instance of a male slave petitioning for emancipation, I have known very many applications from the unfortunate class of females purchased for the purpose of prostitution, and in every case the applicants were absolved from any further compulsory servitude, the mistress being referred to the civil court to obtain compensation for any expense incurred for food, clothing, jewels, &c."

The judge writes, " In the courts over which I have authority, it does not appear that, during the last 25 years, any case has been decided in which a slave was a party concerned. About the year 1811 some orders on the subject of slavery were issued by the then chief civil authority at Delhi; the precise nature of these orders I am now unable to state, a copy of them not being procurable, but I have reason to believe, that they went far to remove all invidious distinctions between master and slave, and that the courts in the Delhi territory, which have probably been guided in their decisions by the orders in question, have not for many years, so far as I am aware, recognized any right or immunity, beyond that of service, to attach to the one, which did not in an equal degree belong to the other."

The prohibitory regulation alluded to in the two preceding extracts will be noticed hereafter. As a necessary consequence of the non-recognition of the rights of the master, it is the practice of the criminal courts to make no distinction between complaints by an alleged slave against his master or other person for cruelty, oppression, or ill-treatment, and those of a free servant or any other person, deeming the supposed relation no ground either of justification or mitigation of punishment.

Centre

* This territory is superintended by a commissioner, and the civil judge's court is held at Delhi. It is divided into five police districts, over four of which are placed magistrates, and over the fifth a joint magistrate; viz. central division, southern or Goorgong ditto, Rohtuk ditto, northern or Paniput ditto, and western or Hurrianah ditto.

Centre Division.—It is stated by the magistrate of the centre division, that 63 cases had been instituted in his office since 1820, by male and female slaves, particularly the latter, against their masters for ill-treatment; and that, in accordance with the prayer of their petitions, they had all been emancipated.

The officiating magistrate of Paniput mentions two cases which he tried whilst assistant at Delhi. In one, a case of "brutal ill-treatment," in which the master pleaded ownership, he bound the master down to keep the peace, though the injured man declined to prosecute. In the other, he adjudged arrears of wages to a khidmutgar against a nawaub, though the defendant proved the complainant was his slave, born in his house; setting aside the defence on the ground that he could not, under any regulation, recognize the relation of master and slave.

We find it stated in the report of the judge of Bundelcund, that formerly cases of slave girls escaping from the palace at Delhi were always referred to the criminal court, and on the establishment of the claim the fugitive used, the writer believes, to be restored; "but," he adds, "for some time past this has been discontinued, and no claim of this description is recognized, nor any right of restraint over the person of any individual, on the plea of ownership, male or female, admitted. The latter, consequently, in criminal matters, enjoy all the privileges of other members of the community." This account of the present practice is confirmed by the officiating magistrate of Paniput, who mentions that, whilst holding the office of assistant at Delhi, he had frequently seen cases of women who had escaped out of the palace, coming to the court for protection, which was invariably afforded them; and that he believes there was an order to this effect consequent on a reference to government. The reference here alluded to respected the case of two slave girls belonging to one of the princes, who escaped from the palace in 1828, and were eventually emancipated by order of government, notwithstanding the remonstrances of the king of Delhi. It is mentioned by the commissioner, and will be found fully detailed in the volume of papers relating to slavery in India, printed in 1838.

Appendix II., No. 100.

Pages 1, 2, 37-43.

Southern Division.—The magistrate of the southern or Gorgong division, after stating that it has been the practice of his court to recognize no right of one man over another, except in the relation of master and servant, proceeds, "I have myself invariably considered that the object and intent of the different regulations enacted regarding the importation and selling of slaves, were the gradual abolition of slavery throughout the Company's territories, allowing, at the same time, all persons who had slaves in their possession at the time of the annexation of territory to keep them unmolested; and I should consider myself bound to declare any young person free who should complain in the magistrates' court, on the grounds, that whoever would prove his right of possession, must necessarily render himself either liable to be punished for importing or buying the slave, premising that no person can be a slave by birth."

In case of complaint of ill-treatment, unless the usage complained of were decidedly beyond a moderate correction, this officer would dismiss it, "on the ground that as long as the man or woman chose to remain as a slave in the house of its master, it had thereby voluntarily subjected itself to correction at its master's direction."

"Slaves escaping from foreign territories," he says, "have invariably been declared free, and no claim on them has been considered valid, whether it be a Hindoo over a Hindoo, a Mussulman over a Mussulman, or Hindoo over a Mussulman, or *vice versâ*; and several cases of this nature have been thus decided."

He furnishes a statement of seven cases disposed of by the magistrate, in the years 1828 to 1835, both inclusive, as being all that came under cognizance within that period. Four were complaints of ill-treatment, and two applications to be made free, one of them in consequence of ill-treatment. In all six, both parties were females, and the order passed in each was, that "the plaintiff was made free;" but in one only is the reason of the order mentioned; viz., "the plaintiff not being purchased by the defendant." The remaining case was a charge of escaping with jewels; the substance of the order is stated to be, "the plaintiff having denied that she (the defendant) was not a slave, therefore she was made free."

Rohtuk Division.—No cases relating to slavery appear to have been brought before the court of the joint magistrate of this division.

Northern Division.—The officiating magistrate of Paniput, after stating his opinion, that a master possesses no legal right over a slave or his property, and that he considers a slave to possess equal rights, and to be perfectly on the same footing, as a menial servant, proceeds, "I am not aware of any law or regulation specifically affording redress to a slave as distinguished from a free man, nor do I deem any necessary. It would be sufficient for me that no regulation recognizes the right of a master over a slave, and that such a claim is contrary to every principle of our regulations. It would, therefore, in my opinion, require no specific regulation to give a slave redress; but I should require the master to point out a specific law, before I would consider any one his slave." "Regulation X. 1811, declares the importation of slaves illegal. Its preamble says, that 'the importation and traffic in slaves is inconsistent with humanity, and the principles by which the administration of the country is conducted.' If importation—if traffic—is illegal and punishable, I do not think it a very forced construction to conclude, that the possessing one is equally unlawful by this regulation, independent of common principles of equity. The slave, therefore, is entitled to, and would receive from me, redress for any injury, no matter from whom received." "Regulation III. 1832, in declaring free all slaves imported into the British territory subsequent to the year 1811, being a period of no less than 25 years, would certainly be

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decisive against the claims of masters in the greater number of cases." "Few cases of slavery," he observes, "ever occur in these districts."

Western Division.—There are no cases on record in the office of the magistrate of this division.

The officiating magistrate says, "The people are conscious that this relation (of master and slave) is not admitted by our courts; where, therefore, slavery does exist, it is in so limited a sense, that the slave would be more properly termed a household servant, who receives from his master food and clothing instead of wages. The relation of master and slave has, indeed, never been acknowledged by this court; and this principle has been carried so far, that the claims of subjects of the adjoining Sikh states, who have occasionally applied for the restoration of slaves escaped from them into the British territory, have been similarly rejected, it being held, that, though in servitude before, these became enfranchised by a residence in the British territory." "I must state my opinion, that no distinction of freeman or slave has ever been or would now be allowed by the practice of this court, nor have any special rights arising from either relation ever been upheld or acknowledged. In coming to this opinion, I have been guided by my own experience in the division, by the common understanding of the people at large on the subject, as well as by the judgment and experience of the native sudder ameen (a Mussulman), long a resident in this zillah."

Appendix II., No. 105.

We shall conclude this subject with an extract from the answer of the officiating judge of Cawnpore. "My experience since 1833 has been wholly confined to the Delhi territory, where for a long time the name of slavery only has existed. Its reality has been long extinct. This is a most important fact, as proving that the abolition of slavery may be easily accomplished if desirable. Having been, before my appointment to Delhi, for eight years in South Behar, where I have myself, as register and civil judge, daily decided cases of purchase of whole families of predial slaves or Kahars, I was astonished to find that slavery was not recognized at Delhi. I was informed on inquiry, that since Mr. Seton's time, no claim to a slave, or to compel slaves to work, has been allowed; and I found the established practice of the court, that whenever a person petitioned that another person had claimed him or her as a slave, an azadnamah, or certificate of freedom, was given him or her, to the effect that they were free. I gladly hailed this custom; but I pursued another course which I deemed more effectual. It struck me, that the issuing these azadnamahs, or certificates, was, to a certain extent, allowing the existence of slavery in some sort or other. When similar applications were made to me, I used merely to pass an order, that slavery did not exist, and informed the petitioner, that if any person molested him or her, he should be punished."

From the foregoing analysis of the returns of the judicial officers it will be seen how great a variety of practice and opinion exists in regard to the adjudication of cases, whether in the civil or criminal courts of the interior, in which the question of slavery is involved, and the laws and principles by which the decisions in such cases should be regulated; and this variety is observable, not only as respects different and distant parts of the country, but neighbouring districts, and sometimes different divisions of the same district, and even at different times in the same court. Whilst some officers admit the legality of the status of slavery, and the rights and obligations arising out of it, others altogether reject it.* Of those who recognize it, some would confine its existence within the bounds prescribed by the Mahomedan and Hindoo laws, others would extend it over the wider field of custom and usage; as magistrates, some would render assistance to the master to recover his fugitive slave, others would abstain from any interference; some would permit to the master the right of moderate correction, others would not countenance the exercise of such authority. There are also gradations of opinion between these extreme points. It is not surprising that, in the more ambiguous cases of claims to the person and service of slaves, wherein both parties are not Hindoos or Mussulmans, the same diversity and contrariety of sentiments should be found to prevail.

The defective state of the law, and the want of clear rules to guide the courts and magistrates, on the subject of slavery, have been noticed in several of the returns. We select the following passages:—

Appendix II., No. 75.

The judge of Patna, speaking of the proceedings of the courts in the district of Behar, says, "Nothing could have been more loose or uncertain than the practice in regard to rights claimed or exercised over slaves. I have never been able to trace the rules that were recognized and acted upon to any principles of law, whether Mahomedan or Hindoo. Local prescriptive usage, modified and limited by occasional edicts issued by the civil authorities to guard against particular abuses, seems to have been the only law to which either party, whether master or slave, looked up."

Ditto, No. 86.

The judge of Goruckpore states, whilst commissioner of the Sarun division, "I perused several cases sent to me by the judge of Sarun, chiefly investigated by the sudder ameens and moonsiffs, and the decisions appeared to me all to depend upon the presiding authorities' ideas of equity, without reference to law."

Ditto, No. 101.

The acting magistrate of Banda.—"There is a general want of legal information and established course of proceeding in almost every office, entailing a proportionate degree of uncertainty in the decisions of the magisterial authorities on cases of the above nature coming before

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* *See* also Mr. Rickett's evidence, Appendix I., No. 8.

before them for adjudication; and it would, therefore, be impossible to lay down any clear and determined rules of guidance as those practically recognized by the Company's courts, every magistrate being, I believe, in the habit of using his own discretion, subject to the dictates of reason, justice, and humanity. These decisions are doubtless in many instances repugnant to Mahomedan law."

The magistrate of Bareilly.—"In the present state of the law, so much doubt exists in regard to the whole subject, that each magistrate must, in fact, act according to his own views and judgment; and in this way, doubtless, much difference of proceeding will be found to exist in the different courts." Appendix II., No. 120.

Mr. Robertson, then one of the judges of the Presidency Sudder court, in a separate minute, observes on this subject: "With regard to the internal system of domestic servitude which obtains in India, as in every other part of Asia, no specific rules having ever been laid down, it has been hitherto left to the discretion of every judicial functionary to dispose of such cases as might be brought before him according to his own judgment, taking the Mahomedan and Hindoo laws, on some occasions, but more generally the habits and feelings of the people, with his own sense of right, for his guides." This observation is quoted by the Calcutta Sudder court in their letter to the commission. Ditto, No. 3. Ditto, No. 2.

Decisions of the Courts of Sudder Dewanny and Nizamut Adawlut.

We shall now state what we can discover to have been determined by the courts of Sudder Dewanny and Nizamut Adawlut, in respect of the laws, principles and rules by which the courts and magistrates should regulate their proceedings in cases relating to slavery, and in respect of what does or does not constitute the legal *status* known by that name. And first, with regard to the civil branch of judicature.

No mention is made in the regulations of claims to the person and service of individuals as slaves, but on an application from the judge of zillah Chittagong, dated the 15th March 1798, to be furnished with information by what rules, if slavery was allowed, he was to be guided "in determining the circumstances, periods, and authentications of cabalas* and engagements, which are to be considered as constitutive of slavery in that portion of the British dominions in India; and further, whether the child of a slave is the property of the owner of the slave," the court of Sudder Dewanny Adawlut (proceedings 29th March 1798) observed, that they had "no doubt that the spirit of section 15, Regulation IV. 1793 (which directs that 'in suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered as the general rules by which the judges are to form their decisions,') should be applied to the cases of slavery noticed in the above (judge's) letter; but as these cases are not expressly within the descriptions of suits specified in the above section," they resolved to refer the question for the orders of government. On the 6th April, the government communicated their entire concurrence in the opinion of the court, and requested them to furnish the judge of Chittagong with the necessary explanation for his guidance. This resolution, however, was not circulated to the other mofussil courts for their information. Slavery in India, 1828, p. 74–5.

By section 8, Regulation VII. 1832, the rule contained in the above-quoted section 15, Regulation IV. 1793, and the corresponding enactment contained in clause 1, section 16, Regulation III. 1803, were made "the rule of guidance in all suits regarding succession, inheritance, marriage, and caste; and all religious usages and institutions that may arise between persons professing the Hindoo and Mahomedan persuasions respectively." But by the 9th section of the same regulation it is declared, that the above rules are to apply "to such persons only as shall be *bonâ fide* professors of those religions at the time of the application of the law to the case, and that they were designed for the protection of the rights of such persons, not for the deprivation of the rights of others. Whenever, therefore, (the section proceeds) in any civil suit, the parties to such suit may be of different persuasions, when one party shall be of the Hindoo, and the other of the Mahomedan persuasion, or where one or more of the parties to the suit shall not be either of the Hindoo or Mahomedan persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled. In all such cases, the decision shall be governed by the principles of justice, equity and good conscience; it being clearly understood, however, that this provision shall not be considered as justifying the introduction of the English, or any foreign law, or the application to such cases of any rules not sanctioning those principles."

In the case of Mussummaut Chutroo, appellant, *versus* Mussummaut Jussa, respondent, both of the Mahomedan persuasion, in which the respondent, a prostitute, had, in the city court of Benares, sued the appellant, whom she had brought up from childhood and educated to the same profession, for the recovery of a sum of money on account of a monthly allowance due under a written engagement, it was, on a special appeal, decided by the Sudder Dewanny Adawlut, on the 25th March 1822, in conformity with two futwahs of the law officers of the court, "that unless Chutroo was the lawful slave of Jussa, she (Jussa) had no right to exercise any control over her, or to cause her to do any act contrary to her wishes or inclination; that in this case there was no proof that Chutroo was the legal slave of Jussa; and that it is incumbent on the judicial authorities to abstain, without the fullest proof of free will, from countenancing the servitude of any individual entitled to freedom; and Appendix III., No. 1.

* Deeds of sale.

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and that even if the execution of the deed were proved" (which it was not) "to have been by the consent of the girl (the appellant), it was nevertheless a nude pact, and a contract which did not promise her any equivalent; in other words, an undertaking to pay a sum of money in consideration of being exempted from a control to which the contracting party was not legally subject."

Appendix III., No. 2.

In the case of Shekh Khawaj and others, appellants, *versus* Muhammad Sabir, respondent, in which the respondent had instituted a suit in the zillah court of Dacca Jelalpore, to establish its property in, and recover the services of, seven persons, male and female, of the Moslim creed, as his hereditary slaves, and in which the defendants admitted that they and their ancestors had rendered services of slaves in the family of the respondent, and of one of the appellants, but pleaded that the exaction of such services was illegal under the Moslim law, it was determined by the court on a special appeal, on the 28th August 1830, that with reference to the doctrines contained in the futwah of the mooftis of the court, delivered in 1809 * to the effect, that "Freedom is the natural state of man, and legal servitude only arises from infidelity, and captivity in open war with a Moslim conqueror, or from descent from such infidel captive; consequently, the sale, in a state of destitution, of a child, or of the vendor's own person, establishes no right of property in, or dominion over, the object of the sale; the essentials, constituting legal servitude, and giving the respondent a legal dominion over the persons claimed as slaves, were wanting." The claim was therefore disallowed.

Sudder Dewanny Reports, vol. 1, p. 50.

The following is an extract from a futwah of the Mahomedan law officers of the Sudder court, in the case of Gholam Husun Ali, appellant, *versus* Zeinub Beebee (on the part of her son, Himmut Ali, a minor), respondent, decided on the 20th July 1801. "The marriage of a Mahomedan with his slave girl is ineffectual and not binding; for lawful enjoyment, such as is obtained in marriage, accrues equally from the embrace of a slave girl. Modern lawyers have, on prudential grounds, held marriage with slave girls to be advisable; because a slave girl, in the legal acceptation, should be one taken from foreign infidels, or the offspring of such a one. With respect to ostensible slave girls bought in times of scarcity, at a low price, from Mahomedans or infidel subjects, and kept for concubinage, there is a doubt as to the legality of their embrace; wherefore marriage with them, to ensure the lawfulness of it, has been held preferable. Though there should be proof to the marriage of Jafur Ali with his four slave girls, his marriage with them, if they be really slave girls, is not binding or valid. Therefore his marriage afterwards with a free woman would in fact, not be a fifth marriage: and this marriage, notwithstanding the other four women be alive, will be valid and legal. Supposing, however, that the four girls were not legally slave girls, but only commonly so reputed, then the marriage with them would be valid; and the marriage with the free woman, being a fifth marriage, not valid."

Ditto, vol. 5, p. 18.

In the case of Khairat Ali and Musst. Aminah, appellants, *versus* Zahuran Nissa, respondent, decided by the Sudder court on the 15th March 1830, is recorded a futwah of the kazi of the provincial court at Patna, in which it is declared that a formal deed assigning the person, labour and future offspring of Zahuran for a term of 55 lunar years, "did not legally operate as a sale, being, in fact, a limited assignment in the way of hire, creating no proprietory dominion. It is true," the futwah proceeds, "that conveyances of slaves are ordinarily made in this form; but in law the contracts of sale and hire are nominally and essentially distinct, and custom cannot prevail over law."

Appendix III., No. 3.

In September 1826, Golak Narayan Ray sued Kewal Ram Deo and 16 others, in the civil court of Dacca, to recover his dominion over them as his hereditary slaves, alleging that they and their ancestors had served him and his ancestors for generations, being supported by lands assigned. The defendants, denying their servitude, asserted that the lands stated by the plaintiff to have been assigned for their support were their own ancestral talook, acquired by the father of certain of them; that the profession of the family being service, the person so acquiring the lands had entered the plaintiff's employment as a writer, and that since his death they had continued to pay the fixed rent of the talook to the plaintiff, in whose estate it was situated. The plaintiff produced a written agreement, dated in 1790, purporting to have been executed by three ancestors of the defendants, and authenticated by the collector at the time, and likewise a perwanah of the collector dated the same year. The defendants also produced documents.

The acting judge, on the 23d May 1828, decided in favour of the plaintiff on the following grounds:—1st, that the facts alleged by the plaintiff were borne out by the evidence, especially by the written agreement, from which it appeared that the talook had been purchased by the plaintiff's grandfather in the names of the three ancestors of defendants, as his slaves, and that the annual rent had been fixed at 370 rupees 2 annas, after deducting nine rupees from the assets as their subsistence, and the talook made over to their charge; the deed containing a clause that they and their descendants would continue to render the service of slaves, in default of which plaintiff might resume the lands; and further, that they should be subject to the local usage in regard to sale. 2d. That the cognomen of Sakdar, which the defendants say was an official title obtained by their ancestors, was proved by their own witnesses to be an appellation common to slaves in the pergunnah, and was therefore presumptive of the servile condition of the defendants, and that their relationship and connexion by marriage with slaves were proved.

On appeal to the provincial court, one judge proposed to reverse the decree, deeming the plaint

* On occasion of a reference from Mr. J. Richardson, judge and magistrate of Bundelcund. *See* Slavery in India, 1828, p. 304–6.

plaint fraudulent and malicious, because, 1st, the plaintiff had filed no deed signed by the defendants or their ancestors stating themselves to be hereditary slaves of his family; and without such a deed and full proof it would be inequitable to condemn a mass of persons and their descendants to perpetual bondage. 2d. The deed of acknowledgment was suspicious, it not appearing why it was authenticated by the collector, and the plaintiff and attesting witnesses not having been summoned to prove it; if genuine it would have been mentioned in the plaint, and produced in a previous investigation which had taken place before the magistrate. 3d. The plaintiff's witnesses, though they speak generally to the defendants being his hereditary slaves and serving him as such, entered into no details, showing when and what services were rendered to his family and by whom. 4th. From the papers filed by the defendants, it appeared they were talookdars on the plaintiff's estate, paying an annual rent of 358 rupees and 9 annas; that they followed the profession of writers, and were persons of respectability.

Another judge proposed to confirm the decree, deeming the oral and documentary evidence on the part of the plaintiff, especially the written agreement, given at a time when many other talookdars sought separation from the estate of the plaintiff, to be conclusive of the slavery of the defendants, and that the talook was really the property of the plaintiff. He observed that, from the evidence for the defence, it appeared that Sakdar was an appellation common to slaves in the pergunnah; that the slavery of a family may be inferred from continuous service; that it seldom happened that after the lapse of many years the original title, showing the acquisition of the slave forefather, was forthcoming; and that in that part of the country many slaves were apparently persons of respectability and educated, and managed the zemindaree affairs of their masters. A judge of the Moorshedabad court of appeal, to whom the case was referred, concurring in the latter opinion, judgment was given accordingly, on the 20th April 1830.

A special appeal was admitted by the Sudder Dewanny Adawlut, on the ground that "the lower court had passed judgment against appellants (defendants) without considering whether their ancestors had legally as slaves come under the dominion of respondent's (plaintiff's) father." On the 26th March 1832, one of the judges concurred in the judgment proposed by the judge of the Dacca provincial court, who first heard the appeal, and in the grounds of it. The case being brought before another judge, he observed, "In my opinion, the claim of the plaintiff is not established by his witnesses or documents. The witnesses say that they had seen defendants render service like the service of slaves in the house of plaintiff; but this does not prove that they are really slaves. Moreover, if the genuineness of the engagement be conceded, still it is apparent from it that the defendants are dependent talookdars, holding on condition of paying a fixed rent and rendering service. If, then, the appellants should not render service, respondent may resume; from this it seems that, during the tenure of the talook, service is obligatory, not after abandoning the tenure, and thereby discharging themselves: and it is to be observed, that he who has power to emancipate himself cannot be considered a slave." A final judgment was therefore given for the appellants on 5th May 1832.

The judge of Mymensingh gives the following account of a class of cases common in his district. "Another practice prevailed in the zillah of claiming a right of slavery over the descendants of persons who had in the first instance, on receiving a small portion of land, bound themselves down as bondsmen or slaves to the proprietor of the soil in a menial capacity, or probably as mere cultivators of the land lying waste, the land then given in perpetuity being equivalent to such service. In these cases, the original agreement between the parties (if drawn out in writing) was never produced, and it appeared to me so unjust to allow or recognize such a demand or claim of slavery against the descendants (and who in many instances did not reside on the ground thus allotted, or if they did, could never subsist on the mere pittance of land granted to their ancestor), that I dismissed all these claims; and one having been affirmed in appeal by the Sudder Dewanny Adawlut,* this is now adopted as a precedent, and no suits of this description are now instituted, though before they formed at least one-third of the slavery causes on the file." Appendix II., No. 47.

The above case was shortly this: A. claimed, as his hereditary slaves, B. and others, alleging that their forefather, C., had been a slave of his family, and that C. and his descendants, including B. and other defendants, had continually rendered service, and received support, lodging, and a small assignment of land on his estate. B. denied the plaintiff's claim *in toto*. A. could produce no deed to prove the hereditary servitude of the defendants, and the judge held, that it would be "inequitable, even though such had been the usage, that the descendants, to the lowest generation for ever, should be subject to slavery to plaintiff, because his ancestor may have given two or three beegahs to their remote forefather." Appendix III, No. 4.

The judgment of the Sudder court, which was substantially the same as that of the zillah judge, was as follows. "Appellant has produced no deed showing that respondents were his hereditary slaves. What avails his mere assertion that his ancestor assigned the nankar land to the ancestor of defendant in consideration of service and attendance? But let it be assumed that he did so. For two or three beegahs, as nankar or chakran to the ancestor of respondents, it would be most inequitable that the descendants of the receiver should for ever be slaves to the descendants of the granter. Could appellant supply the deficient deed, it would not avail."

A case is also mentioned by the judge of Mymensingh, which arose in the Dacca jurisdiction,

* Kishen Chunder Dutt Chowdry, appellant, *versus* Birbul Bhundari and others, respondents, decided Nov. 24th 1832.

Appendix III., No 6.

jurisdiction, and, being brought by special appeal before the Sudder Dewanny Adawlut, was decided on the 7th December 1835; viz. Kirti Narayan Deo and others, appellants, *versus* Gauri Sankar Roy, respondent. This case was first decided in favour of the plaintiff (respondent) by the principal sudder ameen, and the decision was confirmed, with a slight modification, by the zillah judge, in these terms: "Neither from the deed of partition, nor any other document, do I find that the ancestor of appellant rendered service to respondent as a slave. Nevertheless appellant, in his answer before the magistrate, and his brother Sri Narayan, in his deposition before the moonsiff, admitted that they were the bhandaris or slaves of respondent and his brother. His denial, now, therefore, can avail nothing against his own admission." "With reference to the premises, I infer, that appellant and his ancestor, on receiving lands for support, rendered service to respondent and his ancestor. If respondent should not allow nankar lands for support of appellant and family free of rent and charge, then they will become exempt from their servitude, and may seek their support where they can get it."

The judgment of the Sudder court, reversing the decisions of the lower courts, was passed on the following grounds: "Plaintiff has produced no deed to prove the assertion that appellants are his hereditary slaves. Plaintiff alleges that the appellants rendered service in consideration of house and lands for support allowed them. The defendants strongly deny this. No proof of their holding such house and lands is found in the papers of the case. Moreover, were it so, still when appellants have quitted, they cease to be liable to any claim of servitude; for the statement of respondent himself proves that appellant rendered service on receiving subsistence or nankar. It thus would seem that appellants are bhakta dasa, or slaves for their food, who render service for food. On reference to Mr. Macnaghten's compilation on Hindoo law, and the second volume of the Digest, p. 247, the condition of slaves is stated thus, that when the slave for his food abandons the service, he becomes free. Therefore, the appellants, having given up subsistence, they are to be considered free. Several witnesses have deposed according to the purpose of respondent; but they are his servants, kinsmen and dependents. Their testimony, therefore, is not to be believed; but if credited, their evidence does not avail the case of plaintiff; because appellants are to be considered as having become free by relinquishment of support. The copy of Kirti Narayan's examination before the magistrate is of no advantage to respondent; for a statement before the magistrate cannot be a proof in a civil case."

Ditto, No. 7.

The following case was also decided by the court of Sudder Dewanny Adawlut, in special appeal, on the 24th February 1836. Nair, alias Narayan Singh, pauper, appellant, *versus* Ramnath Sarma and others, respondents. The respondents sued in the zillah court of Sylhet, to recover the services of the appellant, his stepmother, and his wife and children, as slaves, alleging that the persons from whom they derived their title had purchased A., the grandmother, and B., her son, the father of appellant, from their former master, on which occasion he had executed a deed of release as respected their service to him, and A. had executed to the purchasers a deed of hire, binding herself and her son, B., then a minor, to, serve the purchasers for 60 and 70 years. The defendant denied the servitude of his father, himself and family.

The zillah judge dismissed the claim, on the grounds that the action had been brought after the expiration of the longest term specified in the deed executed by A.; that the deed, making no mention of the wife and issue of B., did not support the plaintiff's claim; and that there was no averment of the origin of the alleged slavery of the appellant's wife.

On appeal to the officiating commissioner of Assam, that officer reversed the decision of the zillah court; for the reasons, that he considered the limitation of time as being merely in conformity with custom, and to ensure the exemption from labour in old age, not freedom; that the defendant was born within the period of the term; and that the omitted mention of the issue of hired slaves in relation to the hirer is no argument of the freedom of their issue.

On special appeal to the Sudder court, the judgment of the officiating commissioner was reversed, and that of the zillah judge confirmed. The grounds of this decision were as follows: The proofs adduced by the plaintiff are not sufficiently satisfactory to induce the court to adjudge the claimed slaves, with their issue, to perpetual slavery. "The witnesses depose generally to this, that they presumed the defendants to be slaves from services performed. But services are of various sorts; nor is every servant a slave. The deed of hire wants authentication. Moreover, a term is limited therein, and the object of such limitation is, that the performance of the condition be limited to the duration of the term. The witnesses assert usage to be this, that the person who is the object of the contract of hire does not become free at the expiration of the period. But such loose and vague assertion is entitled to no weight. Respondents allege the rent-free occupancy by defendants of land and dwelling as proof of slavery; but the witnesses depose to the contrary."

Ditto, No. 8.

The last case we shall give is that of Loknath Datt and Jainath Datt, heirs of Lakhinarayan Datt, *versus* Kubir Bhandari and his two sons and daughter, decided by the court of Sudder Dewanny Adawlut on the 17th May 1836. This suit was instituted by Lakhinarayan in the zillah court of Mymensingh on the 23d March 1830, to recover his dominion over the defendants, as being the descendants of a hereditary slave of his family, and having rendered to him the services of slaves, holding of him land and a house for their support. Kubir denied his slavery, and alleged, that whilst he resided in the plaintiff's village, the latter allowed him the use of some land in lieu of wages, for which he occasionally served him, but not as a slave; and that for the 12 or 13 years preceding the suit, he had lived in another village as a free ryot. In reply, the plaintiff averred, that the father of Kubir had, with another hereditary slave, fallen to the share of the plaintiff's father on a partition of the family property;

perty; that Kubir, owing to deficient accommodation in his original house, resided at another village, but continued to hold the land and house assigned him by the plaintiff, and to render him service until he proved recusant; that he had married his sister and daughter, and other females of his family, on discharge obtained from the plaintiff, to whom he made the established present; and that his own (Kubir's) marriage, and that of his son's, were effected at plaintiff's cost; also, that some of the descendants of the same slave stock, who fell to the share of the plaintiff's two uncles, likewise fled, but had since been recovered by judgment of court, and one by voluntary surrender.

On the 27th August 1833, the principal sudder ameen, to whom the case had been referred, passed judgment in favour of the plaintiff, observing, that the defendant had not supported his defence by any proof, whilst the plaintiff had established his pleas, both by oral and documentary proof, Kubir having, in an examination before the magistrate, on a charge preferred by himself against certain persons, stated, that the plaintiff's cousins were his masters.

In appeal, the zillah judge reversed the principal sudder ameen's decision, for the following reasons: "Plaintiff's action is estimated in the amount of loss for services withheld. It is not admissible, because not brought within one year from the absence of the defendant. Plaintiff files no deed proving the servile state of the defendant. His witnesses, who allege that defendant rendered service to plaintiff, and held of him lands for support, depose on hearsay. Moreover, it is not equitable that a family in perpetual descent should be slaves in consideration of the nankar lands for support."

Application being made to the court of Sudder Dewanny Adawlut for the admission of a special appeal, the petition, accompanied with the decrees of the lower courts, was referred to the pundit of the court, with directions "to state whether proofs, such as those recited in the decree of the principal sudder ameen, if adduced by plaintiff, would be sufficient legal evidence, under the Hindoo law, to establish the slavery of the defendant." The pundit's reply was to this effect: "The proof adduced by the plaintiff, to establish the fact of slavery, as set forth in the decision of the principal sudder ameen, is sufficient. For it seems that the defendants are inherited slaves; and this is one of the 15 legal classes of slaves." In support of this opinion, the pundit cited the text of Narada, cited in various books, in which the "slave inherited" is enumerated. On a consideration of this reply, the accuracy of the judgment of the zillah judge seeming doubtful, a special appeal was admitted on the 4th March 1834.

The case was finally disposed of on the 17th May 1836, by one of the judges, who gave judgment in the following terms: "I find, that the testimony of appellant's witnesses, examined to prove respondent's slavery, rests on hearsay, which therefore is insufficient. Plaintiff's claim is this, that defendants are slaves in consideration of lodging and lands for support. Now, if they received the same, it is clear they have abandoned such lodging and support. In the case No. 120 of 1833,* on the 7th December 1835, I passed a decree, in concurrence with the opinion of Mr. R. H. Rattray. In conformity to that precedent, respondents are slaves of the class of slaves for their food. On surrender of the lands held, they are entitled to emancipation. The zillah judge has ruled that the claim is not cognizable, because not brought within a year. In this I do not concur. I suppose he rests his doctrine on section 7, Regulation II. 1805, which is irrelevant."

It will be observed, that, in the five cases last stated, both parties were Hindoos; and it appears from a report of the sheristahdar of the Presidency Sudder Court, filed in the case of Loknath Datt *v.* Kubir Bhandari, that "there has not been any appeal in which the claim of a plaintiff to establish his dominion over a slave has been sustained in this court."

Though we cannot discover that the point has ever been settled by a judgment of the Sudder court, it appears to be clear, by Hindoo law, that the species of slave called Atmabikrya, or one self-sold, "signifying him who for a pecuniary consideration barters his own freedom," must be considered to be in a state of permanent slavery, which will likewise be the condition of his offspring; but whether the most prolific source of slavery now in operation, viz., the sale of children by their parents, generates legal slavery; in other words, whether parents have, by the Hindoo law, the right, under any circumstances, of selling their offspring as slaves, and whether, if not specifically authorized by that law, such right would nevertheless be held legalized by usage, so far as Hindoos are concerned, are questions which, we believe, have never been brought judicially before the Sudder courts, nor clearly expounded in any book of Hindoo law. We thought it right to procure the opinion of the Hindoo law officer of the Calcutta court of Sudder Dewanny Adawlut on this subject. The questions proposed to him and his replies will be found in Appendix VIII. From these it would appear, No. 3.
that by the written law a father has no right to sell a son or daughter as a slave even in time of calamity, without the consent of such son or daughter, but that such consent being obtained, he may so dispose of them, both in time of calamity and at other times; and that by usage he is competent so to sell a son or daughter, incapable by reason of non-age of giving consent, with a view to obviate calamity. That such power of sale in no case extends to persons of the Brahmin caste. That a mother, either during the life or after the death of the father, may, in pursuance of an order from him, or, if he is living, in the absence of any opposition on his part, from which his assent is inferrible, sell a son or daughter into slavery to obviate calamity, the consent of such son or daughter being first obtained, but not otherwise. That in default of father or mother, no near kinsman or guardian possesses the power of sale.

Our secretary gives the result of his investigation into the Hindoo law on this subject in Appendix VIII., the following words: "On the whole it appears to me that it would be difficult on direct No. 1.
scriptural

* Kiti Narayan *versus* Gauri Sankar, *vide supra.*

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scriptural authority to establish the legal right of the parents to sell their children into slavery under any circumstances. That power, exercised as it always has been by particular classes, seems to me to rest rather on popular recognition and usage, and is subject to those limits and restraints which varying local institutions may impose."

The following points of civil practice have been determined by the Sudder courts:—

Construction, No. 1,022, July 29, 1836.

Slaves must be regarded as personal property, and suits respecting them are cognizable by the native judges; but the court consider it highly inexpedient that such cases should go before a native, should the reference of them to a European judge be practicable.

Ditto, No. 1,009, June 24, 1836.

A person adjudged to be the slave of another is entitled to appeal against the decision *in formâ pauperis*.

Ditto, No. 550, May 7, 1830.

A decree having been passed against certain persons under which they have been declared, with their families, the slaves, and as such the property, of the decree-holder, was affirmed in the provincial court; but a special appeal was admitted by the Sudder Dewanny Adawlut on the grounds of the appellants (the slaves under the judgments already given) not appearing to be so under what, by the Mahomedan law, is required to constitute slavery. The appellants did not give security to stay the execution of the decree, for which the decree-holder had made application. Under these circumstances it became a question whether execution should be ordered, or, if stayed, upon what terms. The court were of opinion, that as the special appeal was admitted on the presumption that the appellants had been wrongfully declared to be slaves, and as they would be unable to prosecute their appeal if delivered over to the custody of the decree-holder as slaves, the execution of the decree should, in this special instance, be stayed without demanding security from the appellants. Case of Shekh Khawaj and others, appellants, *versus* Muhammad Sabir, respondent.

Appendix III., No. 2.

Ditto, No. 3.

Following the above precedent, a like order was passed on the admission of the special appeal in the case of Kewal Ram Deo, appellant, *versus* Golak Narayan Ray, respondent.

Construction, No. 812, Aug. 16, 1833.

We may here also notice a reference to the court of Sudder Dewanny Adawlut, on the subject of registering contracts of slavery in the office of the register of deeds, in zillah Tirhoot, which was made by the officiating commissioner of circuit for the division on the 24th July 1833 in the following terms: "I deem it incumbent on me at the same time to notice a practice that prevails in Tirhoot, which I conceive to be infinitely more objectionable, and of the legality of which I am doubtful, viz., that of registering deeds called, or rather miscalled, ijaranamahs, in a separate book kept for the purpose. The nature of the deeds I cannot better explain than by the following quotation of the purport of the last deed registered. 'Meer Muttooah, aged about 26, binds himself over for the period of 85 years, and his descendants for ever, for the sum of 18 rupees, to Omrao Sing, vakeel of the civil court at Tirhoot.' In another, a person disposes of the services of his slave girl and of her children for a term of 81 years, for the sum of 200 rupees; and the rest were generally of a similar purport. My object in now noticing these deeds is to obtain the opinion of the court of Sudder Dewanny Adawlut as to the legality of such transactions being registered under Regulation XX. of 1812, or any other law enacted for the guidance of the register of deeds." The court determined, that, as deeds of this description are not specified in Regulation XXXVI. of 1793, or Regulation XX. of 1812, the registry of them is illegal under the prohibition contained in section 7 of the regulation last quoted.

The only specific enactments for the guidance of the criminal courts in cases connected with slavery, besides Regulations X. 1811 and III. 1832, relating to the importation and removal of slaves for purposes of traffic, are contained in section 2, Regulation IV. 1797, and sections 2 and 4, Regulation VIII. 1799, and the corresponding provisions in clause 2, section 15, Regulation VII. 1803, and sections 15 and 17, Regulation VIII. 1803, which annul the exemption from kissas or retaliation sanctioned by the Mahomedan law in certain cases of wilful murder of a slave.*

Slavery in India, 1828, p. 371.

In 1820 a Brahmin was tried by the court of circuit of the Bareilly division for killing his female slave, by cutting her down with his sword, because she was in the habit of quitting his house without his permission, and being convicted of the crime was condemned and executed.

Nizamut Adawlut Reports, vol. 3, p. 140, 1828.

In the case of Barong and Thokol, the prisoners, a Garrow chief and his bondsman, being convicted of putting to death another of his bondsmen, were sentenced to two years' imprisonment, with reference to all the circumstances of the transaction, to the barbarous state of the country, the provocation given by the deceased, the authority theretofore exercised by the family of Thokol, and the subjection to him as his bondsman of Barong.

Circular orders of the Nizamut Adawlut, No. 4, vol. 1.

On the 27th April 1796, the following instructions were circulated by order of the Nizamut Adawlut to the magistrates:—

"It having been represented to the court of Nizamut Adawlut, that a practice has prevailed of purchasing young slaves for the purpose of making eunuchs of them, to be afterwards again disposed of by sale, the court have thought it proper to ascertain, from their law officers, whether this inhuman practice were duly punishable by the Mahomedan law; and also whether, in any case, it would entitle the party injured to emancipation from slavery."

2. "By the answers of the law officers to the reference made to them on these heads, it appears,

* On a reference from the magistrate of zillah Behar, as to the admissibility of claims to the persons of individuals as slaves, on the ground of purchase in infancy from the father of the person claimed, the government, on the 21st October 1791, "ordered the magistrate to be informed that he is to try all causes respecting slaves by the established laws of the country."—Supplement to Colebrooke's Digest of the Regulations, p. 473.

appears, that the right of mastership over his slave is not forfeited by making such slave an eunuch, either under the Mussulman or Hindoo law; but that the castration of any person, whether a slave or otherwise, is held criminal and punishable by the Mahomedan law, particularly if the offender be proved to have made it his professional or frequent practice; nor will the consent of the party be allowed to obviate the punishment, which, in all cases, is left to the discretion of the governor of the country, or his representative, and to be proportioned to the magnitude of the offence."

3. "With a view to discourage and prevent as much as possible the cruel and detestable practice above adverted to, the court desire you will make public the foregoing provision of the Mahomedan law against it, by a circular notification to the police officers under your jurisdiction; and that you will enjoin them to apprehend all persons charged with the crime in question, in like manner as they are directed to apprehend persons charged with other crimes of a heinous nature, that, if there appear sufficient grounds for the same, they may be brought to trial before the court of circuit, and to exemplary punishment, as the law directs."

Circular orders of the Nizamut Adawlut, No. 192.

On the 1st December 1817, a circular order was addressed to the magistrates of the ceded and conquered provinces, including Cuttack, directing them to cause a notification of the same tenor as that enjoined in the third paragraph of the above circular order to be published throughout the districts under their charge, in the event of such notification not having been already published in those provinces.

Nizamut Adawlut Reports, vol. 1, p. 55–6.

In the case of Nujoom Oon Nisa, convicted by the Nizamut Adawlut, in 1805, of maltreating her female slave, Zuhoorun, the court sentenced the prisoner to imprisonment for the term of 12 months; and further ordered that the slave, "in consideration of the injurious treatment she had experienced from her mistress, should be declared free."

The Presidency court of Nizamut Adawlut, in their reply to the queries of the law commission, remark, respecting the above trial, that no note being annexed to the proceedings, and the Persian record having been destroyed, it cannot now be ascertained what was the exact nature of the bondage of Zuhoorun. That "if the girl was a slave, as legally defined by the Mahomedan law, then the order of the court, directing her emancipation, would appear to have been illegal. If, however, on the contrary, the girl was not proved on the trial to have been a slave taken in battle, or the descendant of such a slave, then the ruling power would certainly be competent, under the peculiar circumstances of the case as set forth in evidence, to direct her immediate emancipation."

Slavery in India, 1828, p. 225.

Another and similar case of cruelty by a Mahomedan female towards her slave girl was tried by the Calcutta court of circuit in 1814, in which punishment was awarded to the offender, and the slave girl was likewise emancipated. In this case, however, the emancipation is stated to have been directed "by the law officers' futwah."

The following is an extract from the answer of the Allahabad court of Nizamut Adawlut to the queries of the commission: "A case in point, as regards the liability of a Mahomedan master to punishment, under the existing regulations, for maltreating his slave, came before the court in the course of last year, in which the prisoner, a Mussulman, holding a responsible situation in the family of a native of rank, at Cawnpore, was indicted, on the prosecution of government, for being an accomplice in subjecting certain children, whom he had purchased during the famine in Bundelcund, to personal injury, cruelty and torture; and being found guilty of privity to the acts charged against him, was sentenced by the court to imprisonment in the zillah gaol." "The prisoner," they add, "would have been liable to and would doubtless have undergone precisely the same punishment, had he been a Hindoo, or the professor of any other faith." The reason assigned is, that the sentences of the criminal courts are regulated by the Mahomedan law, as modified by the regulations. The Calcutta Sudder court take the same view of this question.

Nizamut Adawlut Reports, vol. 1, p. 233–4.

By the Mahomedan law, hudd, or the prescribed punishment for larceny, is not incurred by a slave stealing, or assisting to steal, the property of his owner; but he is liable to discretionary punishment for breach of trust. Case of Chumelee and Nuseem Hubshee.

Slavery in India, 1828, p. 244.

The inveigling away slaves as well as free persons, although not specifically provided for, is an offence punishable by the criminal courts, under the Mahomedan law, and general regulations in force. Letter of Nizamut Adawlut to Government, 1st May 1816.

On the 3d February 1826, the acting magistrate of Sylhet referred the following question for the orders of the Nizamut Adawlut: "It having been invariably the custom of this district for persons to complain in the criminal court to compel their slaves to work who may be refractory or abscond, and two different opinions having been given by the court of circuit (copies of whose proceedings I herewith send), I request to be informed, for my future guidance, whether such complaints are cognizable in the criminal courts, or whether a master whose slave has absconded is only at liberty to complain in the civil court for his recovery. It may be as well to remark that, at the lowest computation, three-fourths of the inhabitants of this district are slaves."

The court replied to this reference on the 17th February, by instructing the court of circuit at Dacca "to communicate to the acting magistrate the opinion of the court, that in no case of that description (viz. of complaints preferred by masters against their slaves for refractory conduct, &c.) is he authorized to issue orders from the Foujdary court, whether the right of property be unquestionable or not." At the same time those proceedings of the court of circuit adverted to by the acting magistrate, which were "contrary to the notion entertained by the court as to the legal course of proceeding," were called for, and the order therein passed was subsequently annulled on the 28th of April, the court

 ruling

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Appendix II., No. 69.

ruling that "persons should not be made over to slavery by a summary order passed in a Foujdary court." *

The civil and session judge of Bhaugulpore says in his return: "During the time I held the office of commissioner of circuit for the Monghyr division, a case came before me in appeal from the joint magistrate's order, directing persons who had been previously slaves to be released, not on any proof of the master's maltreatment, or after any inquiry made into that matter; but the order was, that the individuals in question, after the expiration of the period of imprisonment (in consequence of running away from their master), should be at liberty to go where they pleased, in other words, made free." And he transmits a copy of the proceedings of the Nizamut Adawlut on his own orders and of his reply thereto.

The proceedings of the Sudder court, dated 25th May 1830, are in these terms: "The court observe, that Jhaul and others, five men and five women, were ordered to be released on the 10th Jan. 1828, by the magistrate, and that Mr. Lee Warner, on an appeal to him by Runjeet, adjudged the individuals in question to be his slaves. As the order of the commissioner is deemed to be improper, and unauthorized by any regulation, the court annul the same, and direct that the commissioner instruct the magistrate to call before him Runjeet, and the individuals who may have been made over to him as slaves by the commissioner's orders, and set at liberty the latter, taking from Runjeet a mochulka (recognizance) in a reasonable amount to abstain from illegally harassing the said persons, or any others affected by the order annulled, leaving the said Runjeet to seek his remedy in a court of civil jurisdiction."

"The court regret that Mr. Lee Warner should have considered himself at liberty to interfere in a case, which even from the position of the petitioners, that in India, slaves are assets the same as lands, and that large sums are expended 'in the acquisition of that species of property,' was clearly not within his jurisdiction; and that he should have issued an order disposing of disputed property in human beings, which he must be aware that he was not competent to do with regard to any article of property, animate or inanimate."

The commissioner replied to these proceedings on the 12th July 1830, and after referring, in explanation of his own proceedings, to the resolution of the Nizamut Adawlut, passed on a reference from the magistrate of zillah Furruckabad, dated 17th July 1817, sanctioning a summary inquiry by the magistrate in claims and disputes respecting slavery, subsidiary to a regular suit in the civil courts, and the grounds of that opinion, as given by Mr. Harington in a note at page 70 of the 1st vol. of his Analysis, proceeds: "I had viewed the case as an act of dispossession by the court, and in opposition to the decree of the civil court, and to that course of life they (the alleged slaves) had been pursuing (by living as slaves in Runjeet's house) until the time of the theft; and I feared that an impression might go forth, that a slave, to emancipate himself and relations, had only to steal his master's property and be sentenced to a limited imprisonment in gaol for the offence, when, on his being released from gaol, he became at the same time, by official interference, without any inquiry into the facts, released from servitude."

"The joint magistrate punished the individuals in question, not because the crime of theft was proved, but for having fled (mufroor) from the house; and without any assigned reason, orders (in the conclusion of his rubakaree) that after being released from gaol, they may go where they please. The decree of the court states that the male and female slaves are the right of Duleep Sing, the father of Runjeet, and also uses the term (ukrobai anha) their kindred. Now, it is without doubt that they are (the persons mentioned in my order) the descendants of one of the persons, who is still alive, named in the decree."

On the concluding part of the last paragraph of the court's proceedings, he remarks, "If taken in its literal sense, how is it to be decided whether the property which may be brought before the court in a case of theft belongs to the thief (as he says probably) or to the prosecutor? And it frequently occurs that an inquiry is necessary to determine whose the property may be in the first instance." And he notices, as a case in point, the orders of the court in the case of Munneenath Baboo, at page 264, vol. 3, of the Nizamut Adawlut reports.

Construction, No. 887, 27th June and 18th July 1834.

In June 1834 A. (a Mahomedan) presented a petition to the joint magistrate of Shahjehanpore, stating that, in consequence of the famine to the southward,† the British authorities permitted the purchase of slaves; that he had in consequence purchased a girl there, and had intrusted her to B. (also a Mahomedan), from whom she had run away; and claiming the magistrate's interference to restore her to him. Some time previously the girl had made her appearance at one of the thanahs of the district in a starving condition, and the thanahdar, having offered to take charge of her, was permitted to do so, until her natural guardian could be

* In paragraph 6, of their reply to the queries of the law commission, the Calcutta court observe: "In the criminal courts, should a slave, admitted to be one, quit his master's service, or neglect to perform his ordinary work, he would be liable, on conviction, to summary punishment for the same."—Appendix II., No. 2.

On a late reference from the government of Bombay to the government of India, as to the course to be pursued regarding an application preferred by his highness the Guicowar, through the resident at Baroda, for the surrender of two female slaves, who had left the service of his daughter on a journey through the Bombay territories, and taken refuge at Nassick, on the plea of ill-treatment, the above court having been called upon "to state what is the practice of the courts under their control in regard to cases of a similar description," in their reply, dated 9th Nov. 1838, say, "In ordinary cases, the jurisdiction in matters regarding the property in slaves rests with the civil courts, and a magistrate would not be justified in interfering in order to compel their return to persons claiming them. In the case under consideration, the court are of opinion, that a magistrate should have acted precisely as the magistrate of Nassick has done, that is, refuse to deliver up the slaves, and refer the question for the decision of government."—Appendix XVI.

† The Saugur and Nerbudda territories, probably.

be found. The question was referred, through the magistrate and commissioner of circuit, to the Nizamut Adawlut, whether a magistrate is authorized to interfere in such a case. The court ruled that the magistrate had no authority to interfere with a view to restore the child to the petitioner, A.

The following case* was brought in appeal before the Nizamut Adawlut at Calcutta, and disposed of on the 2d March 1837:—Several Mahomedans petitioned the magistrate of Tipperah in May 1836, for protection for themselves and families against A., likewise a Mahomedan, and zemindar of a portion of a pergunnah, alleging that they were free tenants, and that A. restrained and coerced them, though desirous of emigrating. The magistrate issued orders to the police darogah to the effect, that, if the petitioners were restrained, they were to be released, and if they wished to quit the place where they were, they should be allowed to go. The darogah was also directed to inquire and report as to certain houses and effects which the petitioners claimed. A. on his part likewise petitioned the magistrate, stating that the complainants were his house-born slaves; that they had combined against him at the instigation of the agent of the zemindar of the other portion of the pergunnah; and that in consequence of the magistrate's orders, 250 male and female slaves belonging to him had tumultuously broken out to his disgrace.

A. then appealed to the commissioner of circuit, who passed the following order: "The persons affected by the magistrate's orders are stated to exceed 80. It was wrong in the magistrate, without inquiry, to pass his successive orders for the release of the petitioners and their families; they appear to be the hereditary slaves of Musnad Ali, for in the petitions they are designated 'khana-zads' and 'khana-bands' of Musnad Ali. It appears that a numerous band tumultuously broke out from the house and adjoining premises of Musnad Ali; this is not less than a riot. Now, a riot tends to great mischief, which is subversive of good order; for in this part of the country good order in respectable families depends on such inherited persons born and brought up in the family. In particular, in the families of Hindoos and Moslims the abiding of such inherited persons is not illegal; on the contrary, there are indications of the legality thereof. It is usual for respectable people to have this class of people in their houses; it is not a new custom that a sweeping order for emancipation should be passed without great mischief, or that the magistrate should interfere summarily on their petition. If any extreme oppression, contrary to custom, were inflicted on this class of persons, and that should lead to disturbance and be subversive of good order, the magistrate (if in such case competent by regulation to interfere) may do so. Under every view the orders are illegal, and should be amended. I reverse his orders, directing the release of the parties and their families."

On this the original complainants appealed to the Nizamut Adawlut to the following effect: "The order of the magistrate directed release of us and families; we are ruined by the reversal thereof. Musnad Ali contemplates perpetual imprisonment of us and our families. We are not his bought slaves, yet he always seizes and beats us; he does not allow us to go any where, nor to attend the festivals of our class-fellows. By the law and practice of this court, a rich person is not allowed to restrain an unwilling poor man as his slave or servant; Regulation III. of 1832 was passed merely to prevent the sale of slaves. According to the 9th chapter of the Hidaya, a Moslim living in a Mahomedan country, not a 'Harbi captive', is not the slave of another; the claim of the zemindar is, therefore, contrary to Mahomedan law. We refer to case of Khawaj and others, appellants, and to the case of Kewal Ram Deo, appellant, *versus* Golak Narayan Ray;† these invalidate any claim on another as a slave."

The decision of the Nizamut Adawlut (2d March 1837) was as follows: "The orders of the magistrate and commissioner have been passed without any previous inquiry. When Hazari and others charged Musnad Ali with assault, and alleged their freedom, the magistrate took his affidavit and directed their release; as the agent of Musnad Ali alleged that the petitioners were his slaves, the magistrate should have instituted a summary inquiry as to the issue of fact. If he found petitioners were free, he should have directed their release; if he found them to be ajir,‡ and house-born, he should then have passed such order as might appear fit under the law and local usage, adverting to the islam of the petitioners. Moreover, the magistrate at all events should have investigated the assault and seizing of which petitioners complain, whether they be free or slaves. Let the orders of the magistrate and commissioner be reversed, and the former proceed as above directed."

In June 1825 a person complained to the officiating magistrate of Sylhet, that A., having obtained a decree against him, his brothers and mother, as slaves, sold them against their will to B., whose intention it was to separate them, by sending them to different parts of the country.§ The officiating magistrate submitted the following question to the Nizamut Adawlut: "A person possesses a slave and sells him to another person for a sum of money; the slave admits that he is the slave of the seller, but presents a petition to the magistrate saying that he is unwilling to remain as the property of the purchaser; he prays that the magistrate will allow him to buy his liberty from the seller at the same sum that the

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* Shekh Hazari and others, appellants, *versus* Dewan Masnad Ali, respondent. Appendix, III., No. 9. This case is mentioned by the witness, No. 1, Raj Govind Sen.

† See *ante*, p. 77–8.

‡ Literally, 'hirelings.'

§ In this case the complainant, defendant and purchaser were Hindoos.

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the purchaser was to give, and thereby be absolved from slavery; is the magistrate at liberty to act accordingly? The purchaser objects to the slave being able to effect this, and insists on his purchase being valid, and on his right of retaining the slave."

Appendix III., No. 7.

The following questions were in consequence referred, by order of the court, to their pundits: "A., an inhabitant of Sylhet, wishes to sell to B. his female slave, with her four sons and daughters, having fixed the price." The slaves have petitioned the court to this effect: "We are willing to serve our master, but he, out of enmity, has made this arrangement with the intending purchaser, that he should remove us to another country, and re-sell us at different places."

Question 1. According to the Hindoo law, current in Sylhet, is such an objection of the slaves, in respect to a sale under the circumstances, valid or not?

2. If valid, can the slaves designate another purchaser selected by themselves?

3. Or can they obtain their emancipation, if able by any means to tender their fixed prices?

To which the pundits replied thus:—"Fifteen slaves are propounded in Hindoo law. We infer, from the terms of the case, that the slaves referred to are of the class denominated 'Griha-jata,' or house-born. Amongst the 15, there are the house-born, the bought, the obtained (by gift), the inherited, the self-sold. The emancipation of these five does not arise without the will of their owner. If the owner (inclined to sell his slaves) desire the discharge from him of slaves (of those five classes) by means of price fixed by himself, then, on account of his dominion and power, he may sell his slaves, though desirous of serving their master. But if, by the sale to the purchaser selected by the master, grievance of the slaves should exist, their release from him ought to be held established by legal reasoning, the owner having received the price settled by himself, either from a buyer designated by the slaves, or any other buyer; for thus the owner suffers no loss. But slaves are never emancipated from slavery by paying the price fixed by their master from their own wealth; for the owner has dominion in the property also of his slaves."

In forwarding a copy of this bebusteh to the acting magistrate, the court (5th August 1825) stated their opinion, as grounded on it, "that the slaves whom it is proposed to sell to one whose intentions they suspect and dread, may be allowed to select a purchaser with whom they are satisfied; and that in this their proprietor must acquiesce." They observed, however, that the answer of the pundits "does not go the length of stating that slaves are competent to purchase their freedom from their masters against the consent of the latter."

The magistrate of the district states, that the prosecution was subsequently withdrawn, and no further proceedings held.

Ditto I., No. 85.

Prostitution.—The court of Sudder Dewanny and Nizamut Adawlut, at Allahabad, transmitted, with their answer to the queries of the commission, copy of the correspondence on the following case, which originated in the year 1816, in the district of Furruckabad. We state the case as described in note (a) p. 142, vol. 3, of the Sudder Dewanny Reports, to the case of Mussummaut Chutroo *versus* Mussummaut Jussa, already mentioned.

A girl (named Gunna) had been purchased when an infant from her parents by a prostitute (of the Mahomedan persuasion), and having been educated in the courses, and for a long time followed the disreputable practices of her mistress, she at length attracted the special notice of Hadee Yar Khan, a most respectable person, who agreed to marry her in the event of her relinquishing her unlawful occupation. This she consented to do, and having left the house of her mistress, proceeded to that of the individual above named. The prostitute who had purchased her, and who of course dreaded considerable loss of profit from her departure, petitioned the magistrate of Furruckabad to compel her return, with which request that officer, from a mistaken notion of duty, complied. An appeal having been preferred from the above order, the opinions of the best authorities in that quarter were taken as to the validity or otherwise of the prostitute's claim, and the same question having been propounded to the (Mahomedan) law officers of the Sudder Dewanny Adawlut, they all unanimously declared that it rested on no legal foundation whatever, that a child purchased in its infancy was at full liberty when of mature age to act as best suited its inclination, and that it was even a duty incumbent on the magistrate to punish any attempt at compelling adherence to an immoral course of life.

The following is an extract from the instructions of the Nizamut Adawlut, dated 16th June 1816, to the Bareilly court of circuit in this case:—

"It appears by the concurring opinion of the law officers of the Nizamut Adawlut, that the futwah, delivered to the acting magistrate of Furruckabad, which declared the purchase of Gunna, as a slave, by Mussummaut Jumayut insufficient to establish a right of property with reference to her not having been made captive in Jehad, or a war against infidels, and even if it were legally valid, that the purchaser has no right to compel her to an act of immorality, is strictly conformable to the Mussulman law."

"This is also confirmed by an exposition* of the Mahomedan law of slavery, received from the law officers of the Nizamut Adawlut, in answer to a reference made to them on the 28th April 1808."

"Under these circumstances, the court most deeply regret that Mr. Wright, without any judicial inquiry to ascertain the legal powers and rights of Mussummaut Jumayut, should have thought himself justifiable in seizing the person of Mussummaut Gunna, when on her way

* Already referred to at p. 77 of these details.

way to Bareilly, for the purpose of being emancipated from prostitution, and marrying the Nawaub Hadee Yar Khan, adopting measures which had an immediate tendency to prevent such marriage, and formally delivering over Gunna to a woman who had avowedly hired her out for the purpose of prostitution, and professed her intention of doing so in future for her own support."

"Although the court are unwilling to ascribe to the acting magistrate any other motive than a mistaken sense of duty, under the supposed legality of Jumayut's claim, and her consequent right to prevent the marriage of Gunna, yet they cannot acquit Mr. Wright of a very incautious and unjustifiable misapplication of the authority vested in him as a public magistrate for the promotion of justice and good morals; especially after he was advised of the Mahomedan law as applicable to the case."

On the 17th March 1830, the commissioner of the Dacca division submitted for the consideration of the Nizamut Adawlut a circular order which had been issued by the magistrate of zillah Dacca Jelalpore to his police darogahs, with a view to check the indiscriminate sale of female children to women of bad character for the purpose of making prostitutes of them. This reference he accompanied with these remarks:

"The magistrate states that in his district it is a common practice for these women to entice young females from their parents or other protectors, and, under pretence of a transfer by sale, to compel them to become prostitutes; and further, that child-stealing for the same purpose is prevalent, the women above alluded to being purchasers. In order to check these evils, the magistrate has directed his police darogahs to prepare a list of all the prostitutes, with their young females, residing within their respective jurisdictions, which list is to be preserved at the tannah. When any of these women purpose purchasing a female, the darogah is to sift the matter, in order to ascertain whether the transaction be fair and proper, and to report the result to the magistrate."

"Although the evil complained of by the magistrate is one of a very serious nature, yet I am of opinion it will be better to leave it to be dealt with in the ordinary course of the administration of criminal justice. The practice of buying and selling young females for no other purpose than to make prostitutes of them, is not only abhorrent to the feelings of humanity, but, I believe, illegal. The interference of the officers of government, and the consequent tacit confirmation by the magistrate of such sales as the darogah may report to be fair, will naturally cause it to be supposed that the practice is recognized and countenanced by government, provided no improper means be resorted to in procuring the young women, and the effect will probably be to increase the evil it is intended to check. Further, I do not see how the course prescribed by the magistrate is to be enforced. It is not probable the purchasers will themselves give notice at the tannah except in cases of *bonâ fide* sales; and if they do not, they cannot be punished for the omission. On the whole, I am of opinion, that the order is rather calculated to invest the darogahs with a dangerous power of annoying the inhabitants than to remedy the evil complained of, and should be therefore withdrawn."

The court of Nizamut Adawlut (2d April 1830) entirely concurred with the commissioner's opinion as to the impolicy of the notification, and directed it to be immediately withdrawn.

Practice of the Courts in cases of Bondage.

Local usage is the general principle by which the courts in South Behar regulate their decisions in cases relating to the bondsmen, who have been described as constituting so large a portion of the agricultural labourers in that part of the country.

The master has no right over the property of his bondsman.

When the servitude is conditional,* the bondsman is released from it on the repayment of the principal sum for which he had mortgaged his labour; but it has sometimes been the practice of the courts to award interest to the master for any days the bondsman may have been absent from his work.

The contract has been generally regarded as one imposing a personal obligation only, and not affecting the children of the bondsman;† but the principal assistant in the Hazareebaugh division, after stating that the individual executing the bond stipulating to serve until the amount was repaid, in some cases engaged only for himself, in others for the whole of his family and descendants in perpetuity, proceeds thus: "Formerly it appears to have been the custom to acknowledge the right of a proprietor to the bondsman and his descendants in perpetuity, and they were made over in the same manner as any other property. But since I have assumed charge of this division, I have introduced a modification, founded (in the absence of any law on the subject) on principles of justice and equity." Appendix II., No. 66.

"In my court I admit the claim of a proprietor to a Kummeea, if it be the individual who has executed the saunknama; provided he was at the time of executing it of sufficient age to judge for himself. But I do not recognize his right to the possession of minors or females."

"Where

* It appears to have been considered by some public officers that, even in the case of a contract to serve for life, the bondsman has the right of redemption by repayment of the sum advanced. *See* the evidence of Messrs. Fleming and Robertson before the Select Committee of the House of Lords, 1830, Questions, Nos. 1243 and 1694.

† Mr. Robertson's evidence before the Committee of the House of Lords, 1830 (Q. No. 1711), is to the same effect.

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"Where minors have succeeded to any property from their father (a Kummeea), I hold them answerable for the sum advanced on the saunknama, subject to be tried for in the same manner as any other claim."

"In aggravated cases (of maltreatment) I should consider the Kummeea absolved from continuing his services to his proprietor, but answerable still for the debt, to be sued for as any other debt."

Few claims are preferred to recover runaway bondsmen, and few or no complaints by bondsmen against their masters. In cases of cruelty, hard usage, or maltreatment, they have received and would receive the same protection as freemen.*

Appendix II., No. 99.

The Hurwas in the district of Allahabad appear to be of the conditional class, but, according to the acting magistrate, on the death of the original debtor, his sons become answerable for the debt in equal proportion, and are bound to serve until their share be liquidated.

Till a few years ago it was the practice of the magistrate's court of this district to seize runaway Hurwas and make them over to their masters, but this is not now done; the masters are referred to the civil court for the recovery of advances, and the Hurwa is treated in every respect as a freeman.

We shall now treat of Slavery and Bondage in the remaining parts of the Bengal presidency.

Saugur and Nerbudda Territories.

The judicial administration of these territories is intrusted to a commissioner, having under him principal and junior assistants. The administration of civil justice is conducted by these officers under instructions issued for their guidance by the government. In criminal matters they are subject to the Nizamut Adawlut for the western provinces.

Our information on the system of slavery prevailing in this part of India, and the practice of the courts relative to it, is derived solely from the replies to the queries of the law commission furnished by the officiating commissioner, the principal assistants stationed at Saugur and Jubbulpore, and the junior assistants at Seonee and Baitool. The result of the inquiries of the officiating commissioner, which appear to have been directed to ascertaining the state of slavery as it existed prior to the British rule, is thus given by that officer.

Ditto IV., No. 1.

1st. "In these territories, the practice of slavery seems to have had scarcely any reference to either Hindoo or Mahomedan law on the subject; moreover, the customs seem to have been very uncertain and arbitrary in different places and at different times."

2d. "Slaves were procured almost entirely by purchase of children from parents or relations in times of scarcity. The numbers do not appear ever to have been great, and are now very small indeed."

3d. "The power of the masters over the slaves is, by some, particularly the petty rajahs, asserted to have been unlimited, even extending to death; by others this is denied. I imagine that, in reality, it very much depended on the good understanding between the individual and the local governor."

4th. "The masters were considered bound to afford protection to their slaves; to pay the expenses of their marriages. The progeny of slaves is by some asserted to have been free, by others not."

5th. "The services on which slaves were employed appear to have been precisely the same as those of servants, either in domestic attendance, agriculture, or as military retainers."

We collect from the other reports that slavery does not now prevail to any extent in these territories, and that such as does exist has its origin solely in the sale of children by their parents, or other natural guardians, in times of scarcity and famine, occurring in the territories themselves, or in the neighbouring countries of Bundelcund and Berar. These visitations are noticed as having been frequent in this part of India. The junior assistant at Baitool states, that in those parts of his jurisdiction which were under the Mahratta rule, slavery is hardly known, and that an indigenous slave is scarcely to be found throughout its whole extent; such persons as are now in that condition having been sold to their owners in the famine of 1818-19, or more recently in the dearth which occurred in his district, and in Berar in 1832.

The individuals thus reduced to servitude are, in Baitool, in the possession only of the more wealthy portion of the community, and there, as well as in Jubbulpore, they are employed as domestic servants. Their servitude appears to be of a very mild description, their condition comfortable and easy, and their treatment good. Being regarded rather as members of the family than hired servants or labourers, the mutual attachment between the master and his slave generally resembles that between parent and child; and their slavery is described as constituting a family tie rather than a condition of restraint.

In

* The following is extracted from the evidence of Mr. Fleming before the Committee of the House of Lords, in 1830, respecting the bondsmen of South Behar.

1244. What duties did their masters undertake towards them?—I believe it was quite nominal. Those bondsmen did exactly as they pleased; they came and cultivated for their masters when they liked it, or it was convenient to themselves; but I do not know any instance in which they were forced to work contrary to their will.

1246. What was the mode of enforcing the services of the bondsman?—I believe there was no mode of enforcing it, except by withholding the wages.

1247. Were they subjected to any corporal punishment?—No, not at all; if they had, they would have immediately complained to the courts, and obtained instant redress; but I never knew such a complaint made.

In Baitool, the sale or other transfer of a slave by his master rarely or never occurs, except in extraordinary circumstances, as famine or family distress.

Very few cases connected with slavery are brought before the courts, either civil or criminal, in these territories. None appear to be on record in the court of Seonee, and none are mentioned as having been instituted in that of Jubbulpore.

The principal assistant at Saugur states, that during six years' experience he has met with only the following descriptions of cases:—1st, of parents or other natural guardians reclaiming children sold by themselves or others during scarcity or distress; 2dly, female slaves complaining of ill-treatment by, or claiming their freedom from bawds, who, having purchased them in their infancy, have brought them up to a life of prostitution.

After premising that, in the absence of any distinct rule, the practice of one court has doubtless varied from that of another, he proceeds:—"In the first of the two cases, while the custom of the country recognizes such a species of slavery, both with respect to Hindoos and Mussulmans, still, as it may be departed from without any ill effects, the practice of the ministerial officers does, I believe, vary. I myself have always restored the children on repayment to their protector of the charges incurred for their subsistence; and in cases, which are the most frequent, of the utter inability of the claimants to meet this charge, I have directed service to be levied from them by the purchaser for a fixed term, according to an equitable computation; or, if the child is old enough to be of service in his household, I have allowed the employer, on default of reimbursement for his expenses, and on condition of continuing to feed and clothe the child, to retain him or her for the same period in the relation of an apprentice; rather than incur the additional expense of which, without any ulterior object, the purchaser has generally foregone all claim, and given up the child to its natural guardian, taking credit for having supported it meanwhile in charity." Appendix IV., No. 2.

"In the case of slave prostitutes forming particular attachments, and claiming their freedom, I have known the right of the master or mistress to their persons to be admitted, on proof of purchase from a parent or natural guardian; and this, indifferently, whether the girl and her purchaser were Hindoo or Mussulman. But my own rule, even if the purchase could not be invalidated, which is rarely the case when closely inquired into, has been to consider the female as entitled to her freedom after the age of 15, on paying what shall be considered by arbitrators an equitable remuneration for her food and clothing during her minority, and making due allowance for the wages of her prostitution, which have been enjoyed by her mistress, and which in most cases of this kind may well be considered to have discharged the debt."

The principal assistant at Jubbulpore, speaking of the sales within his district of children by their parents, inhabitants of Bundelcund, during the famine which prevailed in that country in the years 1833 and 1834, says: "Most of these sales were made privately, but whenever the parties came to my kutcherrie to have the bargain publicly sanctioned and registered, I have always informed them, that, in the event of the parent appearing at any future period to claim the child, it would be required to be given up, on the parent paying a reasonable sum for its subsistence and education, should the latter have been bestowed upon it; the amount of such remuneration to be determined by arbitration, should the children be so claimed." Appendix IV., No. 3.

One of the sales made at this station, and authenticated in the manner above described, became shortly afterwards the subject of investigation before the joint magistrate of Shahjehanpore. Two female children, aged five and eight years, were sold by their parents in February or March 1834 to a jemadar and sowar of a regiment of irregular horse, for 14 rupees; the parents for that consideration "giving up their children to the purchaser" (for the contract was in the name of the jemadar only) "to be disposed of in such way as he pleases until they attain the age of 60 years, on condition that they are to be supported by the purchaser." In June following, the father prosecuted the sowar before the joint magistrate of Shahjehanpore (the regiment being then stationed at Bareilly) to recover his children, alleging that they had been stolen by the defendant from the bazar of Jubbulpore. On the production of the written contract, it appeared that the prosecutor had misrepresented his name in the deed, and at the authentication of it. The joint magistrate restored the children to their parents on the ground that slavery is prohibited by the government; but he applied to the magistrate for instructions "as to the mode of proceeding to be adopted with regard to the defendants." The question was referred, through the commissioner of circuit, to the Nizamut Adawlut, at Allal.abad, who determined, "that as it appears that the children in question were not purchased for importation and sale as slaves, the defendants cannot be considered liable to the penalty laid down in clause 2, section 2, Regulation III. 1832;" but they made no remarks on the legality or otherwise of the sale, and the joint magistrate's order restoring the children to their parents. In this case the purchasers, and apparently the seller also, were Mahomedans. Case of Madaree v. Yacoob Allee Khan. Constructions, vol. 2, p. 172–5.

By the practice of the court at Baitool, the master is considered to have a legal right to the slave's service, to his property, and, in the event of his emancipation, to remuneration for the expense of feeding and clothing him. The officiating first junior assistant states, that of the children sold by their parents in this district in the famine of 1818–19, and more recently in the dearth of 1832, above adverted to, the greater number have been freed by the masters themselves, and a large proportion liberated on the parents reimbursing the owners for the money expended in their food and maintenance. From the above we infer that the right of redemption is allowed by the courts in this jurisdiction, though this is not specifically stated.

Slaves strictly legal according to the Mahomedan law are stated by the officers at Saugur and Seonee to be few or scarcely to exist in this part of the country.

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On points connected with the civil branch of judicature we have the following opinions, as distinguished from practice:—

Appendix IV., No. 2.

The principal assistant at Saugur says, "Should any suit for emancipation occur, although I should necessarily be guided generally by the Hindoo and Mahomedan laws respectively, as far as they are understood here, yet after the conflicting principles and precedents which may be adduced, and the latitude which seems to be allowed by section 9, Regulation VII. 1832, as well as by the practice of our courts in this territory, I confess I should be at a loss how to decide on any other principles than those of common sense, justice and good conscience."

Ditto, No. 4.

"The view of the matter," observes the first junior assistant at Seonee, with reference to the first query of the law commission, "by which I should myself be guided, as that which appears to me most in conformity with the views of respectable natives themselves, is, that the property of a *bonâ fide* slave is the property of his master, saving what the latter may have himself bestowed; and that the slave's person in like manner is claimable by the master for the performance of all lawful services, such as may be obtained from others for hire; including, as regards female Mussulman slaves, concubinage, though not prostitution. And I would here observe, that I should consider the slave as having a reciprocal claim on the master for food, clothing and lodging; which principle has been observed in cases decided at Jubbulpore."

In the cases proposed in the fifth query of the law commission, viz., the claim of a Mahomedan to a Hindoo slave when the slavery was legal by Hindoo but illegal by Mahomedan law, and *vice versâ*, the principal assistant at Saugur would give the slave the benefit of the law most favourable to his emancipation, as he would likewise do were the defendant any other than a Hindoo or Mahomedan; and the officiating first junior assistant at Baitool would be guided by the law, religion or usage of the defendant.

With respect to the sixth query, the first of the above two officers would not support or enforce any claim to property in a slave by any other than a Mahomedan or Hindoo claimant, and not then if illegal by their own laws; and the latter would not enforce a claim on behalf of or against any other than Mahomedans or Hindoos, on the ground that slavery is not recognized except between Mahomedans and Hindoos.

On points of criminal law, the principal assistant at Saugur would not recognize the relation of master and slave in justification or mitigation for acts otherwise punishable; and though he cannot say how far the courts would be justified in the eye of the law by following the dictates of reason and humanity, and emancipating a slave, Hindoo or Mahomedan, from a tyrannical master, on proof of gross and incorrigible ill-treatment, he thinks such would be the practice of his court.

The first junior assistant at Seonee considers that the courts would permit to the master such acts of coercion as they would allow a parent in respect of a child, but would punish cruelty or acts of vindictiveness, but not emancipate on that ground. He mentions a recent application of a Mussulman of Seonee for permission to place an iron on the leg of his slave, who, he stated, would not obey his orders; this permission was refused, and the master was informed, that kind and judicious treatment would be his only effectual means of obtaining work from his slave. "I believe," he adds, "that other Mussulmans in court at the time viewed this as the only just order that could have been passed." Smaller offences by slaves against their masters he regards as more fit for the cognizance of the master than of the courts, like as between parent and child, but he would punish slaves for more serious offences without reference to their *status*. Both from the expositions of the Hindoo law, and the views of the Hindoos themselves, he thinks there is no sufficient ground for hesitating as to the prevention of cruelty or violence of a Hindoo master towards his Hindoo slave; and he would make no distinction between a Hindoo or Mahomedan slave-owner, except in respect of concubinage, which the Mahomedans view more in the light of marriage, the Hindoos as prostitution and contamination; and considering the relation as conferring reciprocal rights, without giving to the master the power of exercising cruelty or violence, any more than is possessed at all times by a parent, he would not be disposed to make any distinction in regard to persons of any other race.

According to the officiating first junior assistant at Baitool, cruelty and maltreatment are not considered to justify emancipation. The master may inflict on his slave such moderate chastisement as he may consider requisite, but a slave has as great a right to protection against severe and cruel treatment as any other British subject. "I have reason to believe," he says, "that this rule existed in force under the Mahratta as under the British Government." He is aware of no indulgences granted either to master or slave in any case.

Both at Seonee and Baitool full protection would be given to the slaves against other wrong-doers than their masters; and the officer at the former station adds, that he would hold the master responsible in such cases if he did not use his endeavour to protect his slave.

We have the same representations from the officers in these territories as in other parts of the presidency, of the want of clear rules for their guidance in cases relating to slavery.

"The practice," says the officiating commissioner, "of the different magistrates and courts seems to have varied much, to the great vexation and annoyance of the people. It would be highly desirable that a definitive law should be passed, either totally abolishing slavery or allowing it; and, if the latter, declaring under what rules and regulations it should be tolerated."

The

The principal assistant at Saugur observes: "The regulations not having hitherto been in force here, and no specific rule having been ever, so far as I am aware, laid down for our guidance respecting slavery, I have never had, in the courts with which I have been connected, any other guide than precedent, and the custom of the country, modified by the discretionary power vested in the assistant, whose decisions are supposed to be governed by equity and reason. Such being the undefined nature of the law of slavery in these parts, the tendency of our practice, so far as my observation and experience extend, has been to condemn the principle altogether, and wherever it could be done with safety, and without interfering too much with popular prejudices, to disallow its operation. But the promulgation of some certain and well-defined law on the subject appears highly desirable."

The first junior assistant at Seonee, after stating his own view on some of the points contained in the queries of the law commission, says: "I need scarcely add, that in the above view I have been guided more by the dictates of my own judgment, and what I have been able to gather of the views of respectable natives themselves, than by any reference to the codes of law."

In the Baitool district, measures were adopted in 1831 to ensure a greater consistency of judicial decisions, and conformity to the practice of the courts in the western provinces. Captain Crawford, then principal assistant at Baitool, applied on the 25th April 1831 to the commissioner, Mr. F. C. Smith, for instructions on the subject of slavery, which were furnished on the 29th of the same month; and Captain Crawford was likewise supplied at his request with a variety of cases disposed of in several courts of the western provinces; "and these," says the present officiating first junior assistant, "together with the instructions, form the guides for the assistant in any cases that may arise."

We are not informed of the nature of the decisions referred to, but Mr. Smith's instructions will be found in the Appendix. In them the commissioner adduces the construction of the Sudder Dewanny Adawlut in 1798, confirmed by government, which has been given in a former part of these details, and the construction of the Nizamut Adawlut of Regulation X. 1811, circulated on the 5th October 1814, as permissive of slavery. He describes the two classes of persons who only can be slaves according to the Mahomedan law, viz., infidels made captive in war and their descendants; and refers to the case of Mussummaut Chutroo *versus* Mussummaut Jussa, before noticed. Respecting slavery under the Hindoo law, he says (quoting from Mr. Colebrooke): "The Hindoo law fully recognizes slavery, which may occur from several causes, viz., capture in war, voluntary submission to slavery for divers causes (as a pecuniary consideration, maintenance during a famine, &c.); involuntary, for the discharge of a debt, or by way of punishment of specific offences; birth (as offspring of a female slave); gift, sale or other transfer by a former owner; and sale or gift of offspring by their parents;" and adds, "from which it may be perceived that there are five descriptions of permanent thraldom." He concludes with the direction, that "in cases wherein both parties, or the defendant alone, are Mussulmans, you should decide according to the Mahomedan law; and when both parties or the defendant are Hindoos, by the Hindoo law." With reference to this direction it may be remarked, that the instructions were framed prior to the enactment of sections 8 and 9, Regulation VII. 1832.

Appendix IV., No. 6.

On the 29th July 1836 the officiating commissioner referred the following case, which arose in the Saugur district, for the consideration of the lieutenant-governor of the north-western provinces, "urgently requesting some expression of the opinion of government as to the general principle to be adopted in such cases."

Slavery in India, 1838, p. 363–6.

"A man, caste Coolie, in consequence of distress, sold his daughter, aged 12 or 13 years, in 1833, for 16 rupees, to Mirza Roheem Beg Resaldar; plaintiff now wishes to recover his daughter, to which defendant objects, on the plea that his family have taken great pains in teaching her duties as a household servant, and especially as the girl prefers remaining where she is, which she herself stated to Lieutenant Smith (officiating principal assistant at Saugur). The girl has become a Mussulmanee; and although the plaintiff declares he will hold a punchayet, and restore her to caste, I doubt whether he can do so."

The officiating commissioner had previously, on the 11th June, made the same reference to the Nizamut Adawlut, at Allahabad, on the grounds that the direction contained in section 17, Regulation II. 1803, to act according to justice, equity and good conscience in cases for which no specific rule exists, furnished no guide to the judicial authorities in cases like that under reference; and that very opposite decisions had been given by different officers on the subject of slavery. The court's reply, dated 1st July 1836, communicated their opinion, "that under the circumstances detailed, the principal assistant has no authority to interfere with a view to restore the girl in question to the complainant, who should be referred to the civil court for redress." The officiating commissioner, not being satisfied with this reply to his inquiry, referred the question, as above stated, to the local government, submitting at the same time copies of his letter to the Nizamut Adawlut, and of his answer to the queries of the law commission.

The resolution of the lieutenant-governor of the north-west provinces on the case was conveyed to the officiating commissioner on the 23d August 1836 in the following terms:— "If the girl be old enough to choose for herself, it is optional with her either to return to her father or remain where she is. The father has lost all right to her by disposing of her for money; and the purchaser has acquired no right, the purchase of any one as a slave being illegal."

As the limited amount of slavery which exists in these territories is stated to have originated both before and since the British rule in the sale of children in times of scarcity and famine, the above resolution of the local government may be said to have negatived its

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legal existence in respect of all persons whose slavery, or the slavery of whose parents originated subsequently to the acquisition.

Kumaon.

Of the territories ceded to the British Government by the rajah of Nepaul, under the treaty of peace concluded on the 2d December 1815, many portions were subsequently restored to the native chiefs to whose authority they were formerly subject, or transferred to the independent authority of other native chieftains or powers. The portions which were retained under the authority and dominion of the British Government are as follows:— 1. Jounsar, Bawur, Poondur and Sundokh, and other small tracts situated between the rivers Jumna and Sutlege. 2. The tract of country called Deyra Doon, theretofore forming part of Gurhwal. 3. The province of Kumaon, which, as now constituted, comprises the whole of the raj of that name, together with a large portion of the principality of Gurhwal.

The administration of civil and criminal justice in all the above territories is conducted by British officers under instructions issued for their guidance by the government; the Sudder court at Allahabad having superintendence and control in civil cases, we believe, over all the territories, and over the province of Kumaon in criminal matters likewise.

Asiatic Researches, vol. 16, p. 159–60. Hamilton's Hindoostan, vol. 2, p. 607–8.

In the statistical sketch of Kumaon by the late commissioner, Mr. W. Traill, we find the following account of the manner in which that province was brought under subjection by the ancestors of the chieftains who possessed it before the Goorkha invasion in 1803, and from other information it appears equally applicable to the tracts between the Jumna and the Sutlege:—

"The original occupants of the country, whenever they may have come, would appear to have been completely uncivilized, and wholly ignorant of agriculture and the common arts of life. At a period, comparatively speaking not very remote, the celebrity of the Himalaya in the Hindoo mythology, by inducing a constant resort of pilgrims, led to the gradual colonization of the country by natives of various parts of Hindoostan, who introduced their religion and knowledge; and the country having by these means been rendered an object of competition, its invasion and conquest soon followed. Such are the ancient traditions, and their simplicity entitles them to consideration."

"In the interior, the inhabitants are comprised under three classes only, Brahmins, Rajpoots, and Domes; in the towns other castes and branches are to be found. The institution of caste exists among the upper ranks in its utmost rigour; among the lower ranks of Brahmins great latitude is taken in regard to labour, food, &c., and their claim to the distinction of that caste is, in consequence, little recognized. The mass of the labouring population, from similar causes, have still less pretensions to the designation of Rajpoots, which they assume. To the Domes or out-castes are left the whole of the inferior trades, those of carpenters, masons, blacksmiths, coppersmiths, quarriers, miners, tailors, musicians, &c.; and by them also are performed the most menial offices."

We have no information on the subject of slavery as respects the tracts between the Jumna and Sutlege, and the Deyra Doon. In the province of Kumaon, slavery has existed from time immemorial. No census has been taken of the slave population since the introduction of the British rule, but the system must prevail to a great extent, as all persons above the lowest class possess both domestic and agrestic slaves, according to their means; the more wealthy having from 20 to 25, others from 2 to 10 domestic, besides agricultural slaves; the Brahmins being the principal slave-owners. The only restriction imposed by usage on the possession of this description of property is, that no person should hold a slave of superior caste to himself; and whenever this does take place, the master cannot employ him as a domestic servant, but only as a peon or messenger, or for other like purpose.

This system of slavery, except that of the Domes which we shall mention presently, has originated in several ways.

1. The sale of children by their parents or other relations in time of distress, and sometimes by strangers.
2. Self-sale.
3. The sale of wives* by their husbands; sometimes in consequence of intrigue, when the offending wife was usually disposed of to her paramour.
4. The sale of widows by the heirs or relations of their deceased husbands, when unable or unwilling to support them.
5. Penal slaves, consisting of convicts condemned to labour on the private lands of the rajah, and to whom they became from that period hereditary slaves.
6. Male and female slaves imported from the countries bordering on Bhadrinath. The imposts levied on this traffic formed part of the revenues of the state, when Gurhwal including Kumaon, existed as an independent principality.

The domestic slaves, called "Kumara" or "Chokra," are of all classes who can be considered pure, except Brahmins; generally they are Kuhars, Kotas, Kurmis, Malis, Lodhas, Moras, Kachhis and Sandis.

The

* "At the same time marriages here are all mere bargains of sale and purchase, the bridegroom paying for his bride according to his situation in life. So interwoven are ideas of servitude with the habits of the people, that when the means of the suitor are insufficient to satisfy the parents' demands, an equivalent is sometimes accepted in the personal services of the former for a given period of years."—Slavery in India, 1838, p. 361.

The agrestic slaves, called "Halee,"* are Sudras, Modies and Domes.

It does not appear that there are any Mahomedan slaves.

Of the Domes we find the following account in the statistical sketch already quoted. "Of the aborigines a small remnant, pertinaciously adhering to the customs of their ancestors, are to be found in the Rawats or Rajis. They are now reduced to about 20 families, who wander in the wide freedom of savage life, along the line of forests situated under the eastern part of the Himalaya in this province.† In all probability the out-castes or Domes are in part descendants from them; a conjecture that is founded chiefly on two circumstances; first, the great difference in the personal appearance of the Domes from the other inhabitants, many of the former having curly hair, inclining to wool, and being all extremely black; and, secondly, the almost universal state of hereditary slavery in which the Domes are found here. With the origin of this slavery even the proprietors are unacquainted; it may, however, easily be explained by supposing a part of the aborigines to have been seized and reduced to that condition by the first colonists above mentioned." "From its extent it can scarcely be ascribed wholly to the mere process of purchase."

Some idea may be formed of the degraded state of these unfortunate out-castes from one of the penal laws of the province, by which any infringement of the distinction of caste by a Dome, such as knowingly making use of a hookah or other utensil belonging to a Rajpoot or Brahmin, was made a capital offence. Mr. Traill states, that the Domes "are commonly of loose and dissipated habits, confirmed," he adds, "if not acquired, by continued intercourse with the plains." Those carrying on trades were found in a free state on our acquisition of the country.

The slaves were hereditary and transferable property, and could not be emancipated without the owner's consent. Strictly they could possess no property as against their masters, but they were generally left in the enjoyment of whatever personal effects, money, ornaments, &c. they possessed, and on their death their effects descended to their children. An illegitimate child had no claim to the property left by his natural father. On default of heirs, the effects either went to the master or were taken by the rajah. If a slave becomes recusant in work, his master seizes every thing he is possessed of.

The female domestic slaves prepare the rice, flour and other dry food, fetch water, wood and other supplies for the house, and perform other menial offices for the household, except cooking. The males assist in agriculture and other out-door work, bear messages, and on occasion of marriages or journeys carry their master's palankeen.

The agrestic slaves are chiefly employed in ploughing and other field labour, but when not so occupied cut wood or grass, carry burthens and perform other out-door work.

There are a number of female slaves belonging to the temple of Bhadrinath.

Formerly the masters used to correct their refractory slaves, but this is not now permitted.

The domestic slaves lodge in their master's house, or in huts adjoining it; they are fed from the family meal, and are usually supplied with clothes like members of the family. Some are detached and have lands assigned them, rent-free, for their support, and periodical supplies of clothing; and this is generally the case when the family of a slave has become numerous. They are supported when unequal to work, and taken care of in sickness.

The Halees either lodge in huts near their master's house, and have two meals a day, or they have lands assigned them, rent-free, on their master's estate, on which their huts are erected. These last receive rations also on the days they plough or do other work for their owners, and three or four sheaves at the spring and autumn harvests. On holidays and festivals they likewise have rations, or a present in money.

The allowance of clothes for the slaves and Halees is two suits in the year, and a blanket and pair of shoes in the winter, or money in lieu of the same. The officiating commissioner in his report of February 1836, states the allowance of clothes both for household and field slaves to be "a than (piece) of cloth for a dress every six months, and a blanket every third year." Slavery in India, 1838, p. 361.

The condition of both classes of slaves is said to be good, and their food sufficient. The domestic slaves are regarded as part of the family. The females work harder than the males.

Free labour is stated not to be procurable.

According to one account, hereditary or house-born slaves are not transferable by sale, but they are generally allowed to be so, under the limitation that a master shall not sell his slave to a Mahomedan, or to a person of inferior caste to the slave. They are, however, disposed of only when the master is reduced to distress. In respectable families, on the occasion of a daughter's marriage, male and female slaves sometimes form part of the nuptial present.

They are occasionally mortgaged by their owners as security for payment of a debt.

In the officiating commissioner's report above quoted, the Halees are described as "serfs or adscripti glebæ," and as "belonging with their children and effects to the lord of the soil, like the beasts or other stock on it." But we do not find any mention of this in the other reports; and it is clear that some are bought and sold independently of the land; though it is probable also that many who have been long located on the same property are transferred with it on any change of ownership or occupancy by sale or mortgage.

During the rajah's government, the exportation of slaves was prohibited, but on the successive conquests of Kumaon and Gurhwal by the Goorkha power, and the heavy assessments imposed

* "The 'Halee' was distinct from the 'Kynee,' or vassal, a sort of under-tenant who paid a share of the produce, and performed certain personal services to the proprietor of the land."—Slavery in India, 1838, p. 360.

† "Their language," it is subsequently stated, "is totally dissimilar from that of the present Kumaya."

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imposed on the country, the families and effects of the revenue defaulters were seized and sold to liquidate the balances which ensued, and a ready market for the former was found in the neighbouring towns of Rohilcund. A similar fate attended the pergunnahs of Jounsar and Bawur, which, when conquered by the Goorkhas, were made over to different sirdars for the payment of their troops, at a greater value than the country could afford; and to make good the deficiency, the Goorkha soldiers were allowed to seize and sell the inhabitants for ready money.

These calamities were further increased in Kumaon by a scarcity which prevailed during the years 1809, 10 and 11, and besides the children whom the misery of their parents compelled them to sell, many of those imported into the neighbouring districts of the British provinces had been inveigled away, secretly stolen, or forcibly carried off. The traffic in slaves which was carried on at this time between the Goorkha dominions in Gurhwal and Kumaon, and the districts of Bareilly, Moradabad, Saharunpore and Meerut, by professional slave-dealers, has already been noticed in a former part of these details.

See page 19.

On information being carried to Nepaul of the seizure of children in liquidation of arrears of revenue, the practice was strictly forbidden by that government, and a commission deputed expressly for the purpose of restoring all such children to their parents, and of declaring the sales invalid.

The marriages of slaves are made with the consent of their master, by whom the expenses are defrayed. The offspring are his property, and serve and are maintained by him.* The illegitimate children of a female slave by the slave of another master belong to the mother's owner. The expenses attending the funerals of slaves are likewise borne by the master.

Young females are bought from their parents by prostitutes, for the purpose of their profession, under deeds of sale conveying to the purchaser entire property in the person of the party sold. They are called "Dhurum putris," or adopted daughters. The prohibition under the former government against exportation did not extend to these purchases of girls by prostitutes of the country, who emigrated in their vocation.

The Domes and other out-castes sometimes bind themselves to work for others either for life, or for a specific term, in consideration of a sum advanced to them for a marriage or other occasion, or until the debt is satisfied by their labour. These labourers receive nothing from their masters except one meal for every day they work for them; and the contract does not affect their children.

Various and important have been the measures adopted for the gradual extinction of slavery in these parts, since the commencement of the British rule.

Slavery in India, 1828, p. 266.

Immediately on the assumption of the government of Kumaon by the British authorities, the transit duties which the Goorkha rulers had continued to levy on the slave traffic in male and female children were abolished, and the traffic itself, which was understood to be of great extent, was prohibited.

Hamilton's Hindoostan, vol. 2, p. 638.

Also previously to the re-establishment of the rajah of Gurhwal, on the conclusion of the Nepaul war, a sunnud was delivered to him specifying the conditions of the grant, one of which was that he should abolish the traffic in slaves.

Slavery in India, 1828, p. 416–17.

On the 5th June 1823, at the recommendation of the commissioner of Kumaon, the government sanctioned a proclamation prepared by him, prohibiting the sale of wives by their husbands, and that of widows by the heirs or relations of the deceased husbands; but the proclamation was not published until the beginning of the following year. During the year 1823, 168 complaints regarding the sale of females had been brought before the criminal courts of the province, of which 19 were proved, 67 dismissed, 78 withdrawn or non-suited, and four were pending at the close of the year. It appears from the commissioner's report, that the whole of these were cases of sale of wives and widows by their husbands and their heirs, and that the cases dismissed were almost wholly claims founded on purchases of this nature made since the introduction of the British Government.

The sale of children for the purpose of being taken out of the hills of Kumaon into some other district was also prohibited, but we do not find by what order: perhaps Regulation III, 1832 was considered to apply to such cases. This description of sale, though at first, from the destitution and misery to which the people were reduced, dreadfully common, has decreased in proportion to the improvement of their condition, and the prosperity of the country. No doubt, however, it still occurs; and there is reason to fear that the traffic between the hills and the plains in female children, for the purpose of prostitution, is still carried on to a considerable extent.

Ditto, p. 54, 55.

In May 1832, a prostitute of Subathoo applied to the principal assistant at that place for leave to purchase a female from the rajah of Mandee, beyond the Sutlege, who, she stated, had several for sale, according to a practice common in those parts. On this occasion the assistant reported that a number of female children were annually carried to the plains for prostitution. The application was rejected, and the government determined that purchases for such a purpose were illicit, and that any compulsory attempt to enforce them was punishable.

In

* In the note at page 39, we noticed the statement of the judge of Mymensingh, that the fact of the master defraying the expense of the slave's marriage is, among Hindoos, the foundation of his right over the offspring. We find the same view of the origin of this right in the report of Kishn Nand, acting peshkar of Hazur collections, countersigned by the chowdris and kanoongoes of the pergunnah. Speaking of the bought Hali, he says, "He is married at the cost of owners. For this reason his children are his master's property."—Appendix V., No. 5.

In August of the following year, the rana of Baghul (one of the protected states between the Jumna and Sutlege) detained a female child, who had been sold into slavery by the same rajah of Mandee, and two men, inhabitants of the protected Sikh state of Khur, who were conveying her through his territories; and directions were given by the British authorities for her being restored to her parents. Slavery in India, 1838, p. 7.

The practice of the courts of Kumaon on the subject of slavery, and the extent of their recognition of the system previously to 1836, may be thus briefly summed up:

No sale except the self-sale of adults, and the sale of children by their parents, was allowed to be sufficient to create a right of property in any individual, male or female.

The sale of children for removal out of the hills was deemed illegal.

Children seized in liquidation of arrears of revenue during the Goorkha government, and sold by the military officers, were always manumitted by the courts.

Wives proved to have been sold by their husbands were decreed their liberty, and the purchase-money confiscated to government.

The sales of widows by the heirs or relations of the deceased husband were also held illegal.

Transfers of slaves from one master to another, though they took place, were not recognized; nor could they be effected contrary to the inclination of the party transferred, as, on application to the courts, he would obtain relief. But petitions praying for liberty, or complaining of ill-treatment, were not frequent.

Slaves running away from their owners were not apprehended by the courts; but claims for service, or, on the other hand, for freedom, were entertained and investigated like other suits.

In the year 1836 an important change took place, which was brought about in the following manner:—

In April or May 1835, a subject of the rajah of Gurhwal applied to the political agent in the Deyra Doon to have five slaves, Domes, who had fled from him into the British territory, restored to him; and he presented a letter addressed by the rajah to the agent, requesting that the petitioner's application might be complied with. Ditto, p. 8, 9, 70–72, 74–77, 360–3.

The facts seem to be these:—The five slaves were a father and mother and their three children. The father of the male had, during the Goorkha dominion, sold both him and his wife for 17 rupees to the person, likewise a subject of the rajah, from whom the complainant derived his title. For 33 years they continued to cultivate the land of their master, but five months prior to the complaint he sold them, together with their children, for 180 rupees, to the complainant; with him they remained one month, and then absconded to the Doon, in consequence of his ill-treatment of them.

The complainant pleaded the usages of his country, which appear to have been the same in regard to this description of slave as those of Kumaon; but the agent decided that the slaves were at liberty to reside where they chose, and that no person should be permitted to seize them without his orders.

The agent likewise addressed the rajah of Gurhwal on the subject, which drew forth a reply from that chief, enforcing the reasons previously urged by the complainant, and appealing to the usages of Kumaon as recognized by the British authorities in that province; and these statements having been confirmed by the commissioner of Kumaon on reference to him, the whole proceedings were submitted for the consideration and orders of the local government.

The resolution of the local government, dated the 2d January 1836, was to the effect, "that the government cannot countenance slavery," and that the political agent "had acted properly in refusing to restore the persons who had fled from the territory of the rajah of Gurhwal." The officiating commissioner of Kumaon was also "called upon to report regarding the custom of trafficking in slaves in that province, and the practice of cultivating the soil by the labour of Domes purchased for that use, which was said to exist there, and generally in the hill districts."

Subsequently, in the May following, and after a further representation on his part, the rajah of Gurhwal was written to in a tone of friendly council, pointing out to him the evils of slavery, and the renown which he would acquire by suppressing it in his dominions.

The honourable Court of Directors communicated their approbation of these proceedings in a letter dated 13th February 1838.

On the 5th February 1836, the officiating commissioner of Kumaon submitted his report on the system of slavery prevailing in that province, and the practice of the courts respecting it; and concluded with a request to be furnished with instructions for his future guidance, with reference to the determination of government not to "countenance slavery."

Before coming to a determination, and with a view to enable the government more clearly to understand the nature of the claims for service or for freedom referred to in his report, as also the mode in which decisions in such cases were enforced, the officiating commissioner was directed to submit the records of the trial and execution of two or three of the cases of each class of claims. On these being furnished, and the opinion of the commissioner ascertained on the subject, the lieutenant-governor of the north-western provinces finally resolved, on the 31st May 1836, "that in future no suits either for the restoration of slaves or for the enforcement of slavery shall be received in the courts under the commissioner in Kumaon."

These orders are in full force: from the above date no suits of the nature therein described have been allowed, and many slaves have since been enfranchised under judgments of the courts. Slavery, however, still continues, and one of the public officers mentions a new practice which he learnt had sprung up; that of persons taking deeds of mortgage from others, Appendix V. No. 2.

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others, whereby the latter bind themselves to serve a defined time in consideration of a sum stated; which sum, however, the obligors do not receive, but their fathers or other relatives; yet decrees, he states, are given by the native judges against the obligors, in satisfaction of which they render labour.

Assam.

The province of Assam is at present divided into three portions; viz.

1. Lower Assam or Kamroop, which is the western portion, and of which Gowhatty is the chief station.

2. Central Assam, subdivided into North Central Assam or Durrung, and South Central Assam or Nowgong; the principal stations of which are, respectively, Durrung and Rungogurra.

3. Upper Assam, which is the eastern portion.

Prior to 1832, there were two divisions only, viz. Lower Assam, which comprised the parts now included in the lower and central portions, and Upper Assam.

The judicial functionaries in this province are subject to the control and superintendence of the courts of Sudder Dewanny and Nizamut Adawlut, at Calcutta, to be exercised in conformity with the instructions of the Bengal government issued to those functionaries.

Slavery prevails very extensively throughout the whole province. The chief wealth of all the respectable inhabitants consists in the slaves they possess, inasmuch as they are in a great measure dependent on them for the cultivation of their lands; and in many instances the higher orders have no other property but what is derived to them from the labour of their slaves. A census, taken about the year 1830, of the population of Lower Assam, as then constituted, gave a total of 3,50,000, of which 11,000 or 12,000 were adult slaves. Of these slaves it was calculated one-fourth were married, and, allowing four births to each marriage, the officiating magistrate estimated the whole number of slaves at 27,000, or about eight per cent. of the entire population, though we do not perceive how he obtains this result. The slaves are stated to be less numerous in the district of Durrung than in other parts of the province.

Appendix VI., No. 4.

A principal source of slavery in Assam, as in other parts of India, is the sale of children by their parents in times of individual distress or general scarcity; but the operation of this cause was limited in those portions of the province which now constitute Central and Upper Assam by the peculiar nature of their political system. In them, under the former government, the whole of the free male population, who were called Payiks, owed service to the state, in consideration of which they held their lands tax-free; and sometimes, in individual cases a poll-tax was levied in lieu of these services. Every free male was therefore strictly prohibited from selling himself or his male children into slavery without the sanction of the supreme ruling authority, which, however, was usually given in times of famine.

Slavery in India, 1838, p. 1, 2 37.

The prohibition is still considered in force, though the state of society which gave rise to it no longer exists. In 1825, during a period of partial famine, and much distress occasioned by the rapine of the Burmese and their allies, and the release of several thousand captives from the hands of the Singphos, the British commissioner of the province issued a proclamation permitting freemen to sell themselves as slaves from June to October of that year, as the only means of preserving their lives. The sanction of government was subsequently obtained to this measure, but it was disapproved of by the Court of Directors.*

Female children are constantly sold, and adult females occasionally sell themselves to discharge a debt, or relieve their parents and relations. The self-sale of male adults seems not to be practised in Assam.

Free females voluntarily married to male slaves become the slaves of their husband's owner in the absence of any special agreement to the contrary.

Except a few Naga females presented by the mountain chiefs to the King of Assam as curiosities, the Assamese do not appear to have imported slaves.

Under the former government, prisoners of war, and criminals, who, after being capitally condemned, had their sentences commuted to slavery, were often granted to individuals as slaves; and even individuals of the free population were sometimes granted by the king as slaves to his nobles and spiritual advisers. This last description of slave was called "Bohutteea."

Persons born of slave parents are slaves; and persons born of female slaves are generally slaves also.

But a considerable part of the slavery existing in Assam originated in the abuse of the payik system. It was the practice of the Assamese government to pay its officers by assignments of the labour of the payiks, and these officers frequently contrived, through the imbecility of the government, both to enslave the persons and usurp the lands of the payiks thus assigned to them. After the province came under British rule, a minute inquiry was instituted into this abuse, and 6,136 slaves were liberated under the operation of it; but the investigation proved so vexatious, and was so corruptly conducted by the agents employed, that it was put a stop to by the commissioner before it was completed. Many persons, however,

* Mr. Scott in consequence further explained the grounds of his proceeding in paras. 18–22 of a report on the systems of slavery prevailing in the territories subject to his superintendence. This report, to which we shall have again occasion to refer, is dated 10th October 1830, but was never despatched, and was found amongst Mr. Scott's papers after his death. From the corrections noted upon it, it would appear to have been kept back for revision.—*See* Appendix VI., No. 5.

ever, illegally detained in slavery, as above described, have been since liberated by due course of law.

The abuse of the system of bondage was likewise a source of slavery, as will be more particularly mentioned under that head.

Besides these indigenous causes of slavery, many of the free population had been reduced to that condition during the distracted state of the province for some years previously to the British conquest of it. About 1814, while the civil wars prevailed, the tribe of the Khamptis* took forcible possession of Suddiya, reducing the Assamese inhabitants to slavery, and maintained possession of the district, uniting with the Burmese interest during their invasion and occupation. Another wild tribe, the Singphos, had also recently taken advantage of the weakness of the Assam government, and carried their ravages beyond the capital, Rungpore, laying waste the whole country as far as Jorhaut, and carrying off the inhabitants into slavery. Both banks of the river were swept by their depredations, and the number of captives carried off amounted to many thousands. Of these the greater part were sold to the hill Singphos, Khamptis, Shams, &c. ; but of those retained for domestic and agricultural services in the Assamese low lands, 7,500 were liberated by the advance of the British detachments, and negotiations were set on foot for the liberation of the rest.

Asiatic Researches, vol. 16, p. 337, 339. India Gazetteer.

During the civil wars and the Burmese invasion, a great number of Assamese subjects fled into the Company's territories for protection, and particularly into the neighbouring district of Gowalpara. Numbers of the poorer orders fled with the rich, and, being unable to support themselves, lived under the protection of the rich and worked for them, merely upon the condition of receiving food and clothing. Some embarrassment was afterwards experienced by the magistrate of the Gowalpara district in settling the claims which were frequently brought by some of these refugees for the services of others of them as their slaves; for though many of the poorer class were doubtless considered in their own country as slaves to those with whom they resided, many, it could not be doubted, were free, and in most cases no documentary evidence was producible by the claimants. Many Assamese slaves and bondsmen fled also into Jyntiah on the Burmese invasion.

Slavery in India, 1830, p. 30, 345–6.

Of the castes to which the Hindoo slaves usually belong, the Koch, Kyburt, Kalipla, Kolita and Napit, are considered pure; the impure and inferior castes are the Chundal, Dome, Hira, Kumar, Jogee, Kacharee, Boreiyah and Burryhee.

There are many Mahomedans in Assam, some of whom are slave-owners, and some are slaves. The Mahomedan slaves sometimes belong to Hindoo masters, but are employed only in out-door work. Sometimes also Mahomedan masters have Hindoo slaves, whom they do not convert, but employ in out-door labour.

All the earnings of the slaves belong to their masters; they are transferable property, and cannot obtain their liberty, except by the consent of their owner. Manumission is very rare. Captain White, in his report on slavery in Lower Assam, says: "The slave-owner becomes responsible for any debts that the slave may contract;" but this, perhaps, is only under particular circumstances.

Appendix VI., No. 4.

All the domestics in Assam are slaves, and every man of rank has several in his family. Free servants can very seldom be hired; female servants in particular, owing to the early marriages of the lower orders, are not procurable but at an expense insupportable by nineteen-twentieths of those who, agreeably to existing usages, require such attendants.

Every man also who has a farm must in general work it himself, as labourers can seldom or ever be procured either for a share of the crop or for money. The only assistance available is that of slaves, and a good many are employed by those who can afford to keep them. A very large proportion of the land, and all the land of the best quality, is held by Brahmins, who are also the principal holders of slaves. The late commissioner, Mr. D. Scott, in his undespatched report, says: "The real value of slaves, except for domestic purposes, is very little, as farm business is conducted in Assam. They are usually exceedingly idle, and when they become numerous the master is even put to expense on their account."

Buchanan. Martin, vol. 3, p. 681.

There are many temples in Assam to which slaves are attached. These are never purchased on account of the temple, but are the gifts of pious individuals; persons having no relations occasionally presenting their slaves to a temple, whereby they become the slaves of the god. These slaves are employed for three months in the year in attendance at the temple, and have a right to share in the offerings during that time. During the other nine months they support themselves by their own labour. Their offspring are also slaves of the god. One of the temples of Kamakya possesses 20 or 25 slaves, and is endowed with 12 villages for its support, which are cultivated by free ryots paying rent.

The slaves are fed and clothed by their masters, who also provide for the expenses incidental to their births, marriages, deaths, and all other religious ceremonies, which they perform with the same regularity as the free population. The most usual way of maintaining slaves is by assigning them a portion of the master's estate to cultivate, the produce being divided between the master and the slave, and the share of the latter being sufficient for the maintenance of himself and family. If a person possesses many slaves, he only requires the labour of a few in rotation, and allows the others to engage in the cultivation of lands, for the rent of which he becomes responsible, reserving to himself what profit there may be after

* This tribe had, about 20 or 30 years before, emigrated from the hills, and, with the permission of the rajah of Assam, settled at Laffa-bori on the Theinga river.

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after allowing the slave a fair maintenance. In the poorer and middling families the slaves are fed from the family meal.

It appears to be the general opinion that the slaves in Assam are, on the whole, well treated. Complaints of oppression were not unfrequent immediately after our acquisition of the country; but on proof of the charge punishment was always inflicted on the oppressor, and they now seldom occur. On the other hand, it is not unusual for masters to complain against their slaves for idleness or other cause. The geographical position of Assam operates as a practical check against any undue severity; for, being a narrow valley between two ranges of mountains, a day's journey carries the slave beyond his master's reach. The real motive which now induces the slave to do his work is the fear of losing the advantages of his situation. We extract the following from the report of the late commissioner, Mr. D. Scott:—

"In the poor and middling families, the slaves and bondsmen are treated like the other inmates, the same mess serving for the whole household, and both mistress and maid being entirely clothed in homespun manufactures. Among the rich, they often obtain great influence, and rule the family affairs in the capacity of dewans. Such persons frequently possess, by sufferance, farms and slaves of their own, and they are sometimes to be seen in Assam riding in a sort of palankeen, dressed in English shawls, &c., in the style of the vakeels and officers of our courts of justice."

"The practice of making concubines of their female slaves, and of bringing up the offspring of such connexions along with their other children, is not uncommon amongst the nobles and even the kings of Assam, to whom, in the public estimation, these domestics are often greatly superior in purity of birth; and the servile classes are consequently in general treated by their masters with a degree of consideration, familiarity and kindness, of which few examples are to be found in the intercourse between English masters and their hired servants. They are, in fact, regarded as adopted children, and the universal designation of a female slave in Assam is 'betee,' or daughter."

"That, morally considered, the slaves are in a certain, but small degree, degraded, must be admitted, and also that in Assam they are of more dissolute and depraved habits than the free population." "In physical condition it does not appear that the slaves are worse off than the peasantry of the country. If they cannot accumulate property (which, however, practically speaking, is not the case), neither can they suffer those evils from the total want of it to which the freeman is subject."

The condition of the agrestic slaves is nearly on a par with that of the agricultural labourer. Their field labours do not exceed those of the Payiks, and the latter scarcely consider their condition at all inferior to their own, except that they do not possess their personal liberty. "Although," says the magistrate of Lower Assam, in 1830, "the condition of the slaves, as compared with the mass of the community, is scarcely inferior, yet, with reference to its effects on society, I am convinced the existence of slavery in Assam has had a most demoralizing tendency, as the course of my duty as a magistrate has afforded me ample evidence that, whenever atrocious crimes were instigated by the higher ranks, the perpetrators have invariably been their slaves; and indeed it is very common with masters to employ their slaves in acts of theft and dacoity, reserving to themselves a share of the plunder."

Appendix VI., No. 4.

Notwithstanding the generally favourable description of the condition of the slaves, it is evident that by many of them the state of thraldom in which they are held is felt to be irksome. "Hundreds," says the present commissioner, "have and are yearly escaping into other provinces, or by taking refuge and becoming cultivators in the retired wastes of this province." The magistrate of Lower Assam also, in his report of 1830, stated that there were many complaints of their running away.

Slavery in India, 1838, p. 346.

For a master to sell his slaves is considered highly discreditable, and indicative of his total ruin; such transfers, therefore, are not frequent, but they do occasionally take place when the owner is reduced to poverty and distress; and the masters possess, and in such cases exercise, the right of selling the slave husbands, wives and children, to separate bidders, without reference to the consent of the parties sold.

The prices of slaves vary in different parts of the province, and are regulated by their physical and moral qualities, and in respect of such as are required by Hindoos for domestic purposes, by their caste. The following, according to one officer, are the prices in three of the districts, for slaves of the Kolita, Kayet and Koch castes:—

Ditto, p. 355.

	Men.	*Boys.*	*Women.*	*Girls.*
District of Durrung - -	20 Rs.	10–15 Rs.	15 Rs.	8–12 Rs.
„ Kamroop - -	40	15–20	20	12–20
„ Nowgong - -	20	10–15	15	8–12

The prices of the inferior castes, viz. Jogees, Domes, Kacharees, Boreiyahs and Burryhees, are one-third less. The range of prices is stated by other officers to be from 10 or 15, to 50 or 60 rupees.

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Mention has already been made of the traffic in slaves which used formerly to take place between Assam and the neighbouring districts of Bengal. In the year 1825, on the occupation of the province by the British troops, a great number of Assamese, being in a state of starvation, parted with their children for a trifle, or even gratis, to any one who would undertake to provide for their immediate wants; and many of these children, chiefly

Slavery in India, 1838, p. 381.

boys

boys of good caste, were purchased by the native civil and military officers, sepoys, merchants, and others then in Assam, for the most part as domestic servants, and whom no doubt they brought away with them on quitting the province. Many are still purchased and brought to Bengal in the same manner by native civil and military officers. Formerly also the Garrow mountaineers, in return for salt from Sylhet, and the cotton from their own hills, which they imported into Assam, used to take back slaves. These were chiefly Garrows, who had once been converted to Hindooism, but had lost caste by impure feeding, and who were sent back among their impure countrymen as a punishment for their transgression. The exportation of slaves from the province, for the purpose of traffic, has been prohibited since the British acquisition, but it is stated still to exist.

Buchanan, Martin, vol. 3, p. 686, 693.

The following account of the usages of Assam, relative to the marriages of slaves, was given to the present commissioner by a well-informed native gentleman: "The price of a slave girl, who shall marry the son of a slave living in the same house with his master, shall be paid by the master of the slave to the owner of the girl. If a ryot wishes to marry a slave girl, the owner of the girl shall give such ryot five rupees as a bond that all the offspring of the connexion shall belong to the master of the girl; and, in the event of their separating (from whatever cause), the man is entitled to the five rupees, with all the profits he may, through industry, have accumulated with that sum." "Slaves living on farms, and cultivating lands, may marry their daughters to ryots, and may take in marriage the daughters of ryots; and if no agreement is entered into with the owner, the offspring of the connexion shall be divided into four lots, two and a half (putting a value on the half share) of which belong to the owner, and the remainder to the husband of the girl."

Slavery in India, 1833, p. 353.

"By the Hindoo law," says the late commissioner, Mr. D. Scott, "a free woman marrying a slave becomes herself a slave, and gives birth to a servile progeny; but although this is the law both in Bengal and Assam, masters in the latter country frequently permit their slaves to marry free women upon a special contract with the girl's father that the progeny shall be free. In cases of doubt, the ordinary rule is, that the children follow the condition of the parent with whose relations the family resided,—a female slave giving birth to free children if she marry a freeman and reside in his house, while they would be slaves if the husband went to live with her. A good deal of litigation," he adds, "takes place in Assam on this subject; and as the pergunnah chowdries and corporations are very jealous of the abstraction of any portion of the male population and their detention as slaves, which would exonerate them from the payment of their quota of the pergunnah rate, there is no danger of a man being unjustly debarred of his freedom; and it even sometimes happens, that a person who professes himself to be a slave, is emancipated by a decree of court at the suit of the pergunnah corporation,—a fact which of itself shows how trifling an evil servitude is considered in Assam." The same officer remarks in another place, that "it is a very common practice in Assam for masters to allow their female slaves to take husbands who are not slaves, denominated dhoka, when the connexion is avowedly conditional and temporary."

Appendix IV., No. 5.

Appendix VI., No. 2.

The present commissioner is of opinion that the female slaves are usually married, and that there is very little open or regular prostitution for hire in the province; but the magistrate of Lower and Central Assam, in estimating the total slave population from the number of adult slaves in that portion of the province in 1830, allowed only for a quarter of the latter being married; and the magistrate of Gowalpara states that 99 out of 100 prostitutes, both in Gowalpara and Assam, are slave girls or bondswomen, and the expressions used by him would seem to indicate that many women of those two classes are compelled to prostitution by their owners. Another officer observes, that the condition of the mother is the only criterion as to that of the offspring in Assam, "where to prove the father of a child begotten on a female slave would be difficult indeed."

Ditto.

Ditto.

There are two descriptions of conditional slavery in this province; one, the *status* of the slave called in the Hindoo law, "bhakta dasa," or slave for his food. Of this class there were in 1830 three or four thousand in Lower and Central Assam, who had voluntarily placed themselves under the protection of the great men of those portions of the province, and worked upon their estates, receiving nothing but their maintenance, and being at liberty to depart when they pleased. It was supposed that this arose from the disturbed state of society prior to the British rule, and was expected to diminish under a better-regulated system. The other exists in two forms; viz., when, either for a previous debt which he is unable to pay, or for an advance of money to meet some emergency, a freeman mortgages his services for a specific number of years, as 7, 14 or 20 years; or, as in South Behar, until the debt be repaid, in which event he regains his liberty. This system prevails to a great extent in Assam, though less, it is stated, in the district of Durrung than elsewhere. In 1830, there were 4,000 persons in Lower and Central Assam who had mortgaged their labour for specific periods. Several European settlers here had recourse to this method of obtaining labourers; but their bondsmen have generally deserted, and they have found it impossible to trace the fugitives, from the backwardness of the natives to aid them in their search.

The following were the usages relating to bondsmen under the former government, according to the native gentleman's report above noticed. No bondsman could leave his master but in the months of Magh and Phalgoon (February and March), consequently could not be engaged but in those two months. A man bound down with 20 rupees was entitled to the produce of one doon (or one quarter of a poorah of land) of rice from his master. A man bound for more than 20 rupees was entitled to three poorahs of dhan a month, and three pieces of cloth yearly. If any loss accrued to a master from a bondsman,

Slavery in India, 1838, p. 353–4.

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man, unless owing to ill-health, the bondsman was bound to pay an interest of one anna for every rupee; and in the event of his death, his heir was bound to serve in his stead, until he paid the money. The late Mr. Scott, in a letter to government, dated 24th March 1830, said, that the bondsman being considered as a freeman, the poll-tax leviable in lieu of service was demandable from him or his master, as from other individuals; but in the report just quoted it is stated, that "no tax was levied on bondsmen by the rajah."

According to the magistrate of Durrung, all bondsmen receive their food and clothes from the mortgagee, and when they have a family they also get a portion of grain for their support; they can at any time, on discharging their debt, obtain their release, and on their death the bond becomes void. But it is clear that on the last mentioned point the usage was as previously stated, viz. that the heir of a deceased bondsman was held answerable for the debt; and this circumstance occasioned the *status* of bondage in most cases to degenerate practically into that of slavery, for we find it stated, that though the greater number of bondsmen in Assam had become so for sums under 30 rupees, the obligation had, from the poverty of the debtor party, descended from parent to child for several generations.

Appendix VI., No. 13.

Captain Bogle, the magistrate of Kamroop, mentions, that "the illegal proceedings of parties employing bondsmen have frequently been of such a character that they have not even attempted to defend them when once brought under investigation, but have resigned all claims to further servitude."

Ditto.

"I have known instances," he says on a former occasion, "in which not only men and women were retained in a state of slavery for their life-time for a very small sum, but their children also, unless a fortunate chance placed it within their power to pay off the original loan with interest, which, considering the high rate of interest in Assam (48 per cent.), can but rarely happen." And again, in his evidence, he says:

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"In consequence of the ignorance of the bondsmen, and the power and injustice of those to whom they were bound, it frequently happened, that, though a man had bound himself for not more than eight rupees, yet his son and grandson remained in bondage. In fact, if a bondsman died without having discharged his debt, the master seized upon his nearest relation, and compelled him to serve so long as the debt remained unpaid."

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In Gowalpara, the portion of Rungpore contiguous to Lower Assam, the system of bondage had the same pernicious results, as has been before shown.

We shall now mention the rules which have been made by the British Government and by the commissioners of Assam on the subject of slavery and bondage since the acquisition of the province.

On the 10th April 1829, the government resolved, on a reference from the commissioner, that the orders of government passed many years ago, "prohibiting the sale of slaves for arrears of revenue, are to be held applicable to Assam in common with other parts of the British dominions."

On the 26th of February 1830, in reply to another communicatiou from the commissioner, that officer was informed, that the above orders were not intended to apply to the sale of slaves in satisfaction of decrees of court, and that it was considered inexpedient that government should interfere in that matter. Such sales therefore continued to take place, according to former usage, until 1834, when, on the occasion of considering certain rules of practice proposed by the then commissioner for the guidance of the courts, including some relating to the system of bondage, and for gradually emancipating the slaves pointed out for sale in execution of decrees, the government informed him, by a letter dated 25th August 1834, that "the subject of the state of slavery and bondsmen would be taken into consideration hereafter," and directed that "in the meantime the courts should abstain from selling slaves in satisfaction of decrees, or for any other object."

Slavery in India, 1838, p. 6.

The honourable Court of Directors, in their despatch dated 3d January 1834, remarking on the previous determination of government on this subject, observe: "We are hardly prepared to sanction the rule you have adopted of allowing slaves to be sold by public auction for the benefit of private creditors."

The prohibitory orders of government regarding the public sale of slaves, either for arrears of revenue or decrees of court, were circulated to the local officers in September

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1834, and were "followed," says Captain Bogle in his evidence, "by a great decrease in the value of slaves."

Appendix VI., No. 2.

In a letter dated the 4th February 1830, we find the commissioner instructing the political agent in Upper Assam to open a register for the period of six months for the purpose of recording the names of all the slaves within his jurisdiction, and to issue a proclamation notifying that all persons remaining unregistered on the expiration of that period would be held free. This regulation, he states, had received the sanction of

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government; and it appears from the evidence of one of the witnesses, that all sales of slaves, as well sales of free children by their parents, as sales of slaves by one master to another, are registered at the office of the head station of each district.

Appendix VI., No. 13.

In July 1833, the commissioner authorized a proclamation "prohibiting the sale or mortgage of any individual, a native of Assam, to a foreigner, under pain of being punished by a fine not exceeding 100 rupees; or in the event of the person so sold or mortgaged having been removed from his or her residence in progress to another country, by imprisonment for a period not exceeding six months."

Regulations X. 1811, and III. 1832, are in full force in Assam.

Ditto, No. 16.

Of the principles by which the courts in Assam are guided in the determination of suits relating to slavery, the commissioner says, "In the absence of any defined regulations regarding

regarding the rights of masters and slaves, the courts under me would require on disputed points the opinions of respectable inhabitants of the province. There are, I conceive, cases in these districts in which slaves can acquire and inherit property, but, under other circumstances, any property they may acquire would be considered to belong to their owners. The relative rights of masters and slaves are, however, I believe, in this province more dependent upon local customs than on Mahomedan or Hindoo law; for neither system of law has had more than a partial prevalence in Assam, nor been introduced in a large portion of the province but of late years, and a considerable part of the inhabitants are neither Mahomedans nor Hindoos."

"In regard to criminal cases, I consider the courts would take the same notice of maltreatment of slaves by their owners as of servants by their masters, and in certain cases of gross ill-treatment would release the slave, under the precedent of the decision of the Nizamut Adawlut in the trial, No. 67, 1805, quoted by the law commissioners, though I am not aware of any case in question."

The officer in charge of Lower and Central Assam, in a report dated the 9th August 1830, says, "the masters are understood to possess the power of inflicting corporal punishment;" but it does not appear that this power has been generally acknowledged by the courts. Capt. Bogle states in his evidence, that since the acquisition of the province by the British Government, the masters have never been permitted "to punish their slaves more severely than a father may punish his child;" and the practice which prevailed among the principal people previously to our rule of keeping stocks in their houses, into which they put their slaves, or any poor person who offended them, has been since disallowed. "I do not consider," he says, "that by law the master has any power of punishing his slave by beating; but no doubt if a slave complained, and it turned out that his master had only given him a slap, the court would scarcely think the case worth noticing. I think that an act abolishing the master's power of punishment altogether would make no change in the law of Assam."

Appendix VI., No. 4.

No. 35.

Formerly it appears to have been the practice of the criminal courts in Assam to restore fugitive slaves to their masters, but the commissioner says, on this subject, "When slaves leave their masters, their recovery by their owners is very difficult, the slaves in such instances mostly appealing to the magistrate, and affirming that they have been detained unjustly in slavery, or denying that they ever have been slaves, on which the magistrate frequently refers the owner to a civil suit to establish his right to the person he claims as a slave."

Slavery in India, 1838. p. 80, 81. Appendix VI., No. 16.

On the 20th January 1835, this officer applied to the Presidency Sudder court for instructions how "to proceed in the case of individuals asserting that they are detained in slavery although neither born slaves nor purchased," adding, that many such cases are brought forward in Assam and North-East Rungpore, and that the persons are probably often illegally detained in bondage, but are unable to prosecute suits for their liberation. In reply, he was informed by the court (the Sudder court at Allahabad concurring) that "if the party alleged to be a slave complain that he is detained by violence, the inquiry should in the first instance be entered into in the criminal department, and if violence be proved, redress should be afforded to him, and the opposite party referred to a civil action to prove his claim."*

Construction, No. 939, March 20, 1835.

In June 1836, the political agent in Upper Assam having issued an order, founded on an application made by one of the Kampti chiefs, for the surrender of a fugitive slave belonging to him, he was called on by the government of India to explain his reasons for having done so. He stated in answer, that, 10 years previously, the British commissioners, Mr. D. Scott and Colonel Richards, had issued a proclamation notifying that the right of the Assamese to a property in their slaves would be respected; that it was the practice of the courts both in Lower and Upper Assam to restore fugitive slaves to their owners, and that the same course had been followed with regard to the Kampti chiefs.† He was informed in reply (September 12, 1836), "that it is the wish of the Governor-general in Council, that all functionaries should consider it as a general rule to refrain from any summary interference for compelling the return to a state of slavery of individuals who may have effected their escape from it. Every individual must be presumed to be in a state of freedom until the contrary is proved; and where rights are claimed affecting his freedom, there seems to be no reason why claimants should have greater facilities afforded them than in ordinary cases. As the law stands, it may not be proper to reject a regular suit instituted to prove the right of one individual over the labour or person of another, but the plaintiff should at least be required to fulfil completely all the conditions which the law requires in the establishment of his claim." A copy of these instructions was at the same time forwarded to the agent of the Governor-general, on the north-east frontier, for his information and guidance.

Slavery in India, 1838, p. 9, 10, 80, 81.

We have recently received from the government, for our information, a reference, dated 20th May 1840, from the last-mentioned functionary, as to the course to be pursued regarding some fugitive slaves claimed by certain Singpho chiefs, who had removed from the Burmese

Appendix VI., No. 19.

* It may be remarked, that this determination of the court, though in answer to a particular reference, forms a precedent for the guidance of all magistrates subject to the control of the two Sudder courts.

† It appears from this answer, that the British Government allows the Kampti chiefs to manage the internal affairs of their tribes, but reserves to the political agent, or the officer commanding at Suddiya, the cognizance of heinous offences, and the investigation of complaints preferred against the chiefs themselves.

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mese territory into Eastern or Upper Assam. These slaves, it appears, are either captives formerly taken away from Assam by the Singphos or Burmese, or their descendants, either by Assamese parents on both sides, or by Assamese mothers and Singpho fathers. Some of them had been obtained by an after capture, having been intercepted on the Burmese frontier whilst endeavouring to escape back to Assam. Others, after effecting their escape from the Burmese territory, had taken up their abode at the first Singpho village on this side the frontier that could feed and protect them, and had become the servants of those who had received and sheltered them. The remainder had continued with their masters from the time the latter had removed into the British territory, without having before made any attempt to obtain their freedom.

The abuse of the system of bondage, which has already been described, having been brought to the notice of the commissioner, Mr. T. C. Robertson, by Capt. Bogle, the following rules were framed by the former, in February 1834, for the guidance of the courts, on this subject:—

"1. If any individual has become or shall hereafter become bound to serve another in return for a certain sum of money during any clearly specified term of years, such a transaction shall be accounted legal, and be upheld accordingly.

"2. If, however, any individual has become or shall become bound to serve in like manner for an unlimited term of years, under a general condition that his or her bondage is to continue until a certain sum of money be repaid, then, on a suit being instituted, by a person so situated, for his or her release, the court before which it may be tried shall, after fixing the price of the plaintiff's labour, and deducting therefrom what may be esteemed a fair equivalent for maintenance, carry the balance to the credit of the plaintiff. Whenever the sum total thus credited shall suffice to extinguish the original debt, with legal interest, or whenever a plaintiff shall pay up whatever may be wanting in the amount thus carried to his or her credit to effect such extinction of the said debt, in either case the court shall award to such plaintiff an entire discharge and liberation from his or her bondage.

"3. To prevent protracted investigations, as well as to protect masters from vindictive prosecutions, it is further enacted, that no master shall be required to account for any sum that may be carried to the credit of a plaintiff under the provisions of this rule, in excess of the amount of the original debt, with legal interest, and that no suit shall be entertained that may be instituted by a liberated bondsman for an amount alleged to be due to him on account of labour performed during the time of his bondage."

On the receipt of these instructions the officiating magistrate of Durrung (Lieutenant A. Matthie) introduced fixed rates and rules for the guidance of his civil courts in these cases, which are as follows:—

Slavery in India, 1838, p. 356.

"1. That all persons who may have mortgaged or bonded themselves or another to a creditor for any specific sum shall be entitled to their release at any time the mortgagors may pay down the amount they originally borrowed, with the legal interest of 12 per cent. per annum.

"2. That the mortgagors shall be entitled to a remission on the original debt of one rupee per mensem for the services they or the person they have mortgaged have rendered to the mortgagee from the date of entering his service, provided the bondsman has been fed and clothed either by the mortgagor or himself. Should the mortgagee have fed and clothed the bondsman, then, instead of getting a remission of one rupee for his services, he will only be entitled to four annas per mensem."

"These rules," says Lieutenant Matthie, "have operated with great advantage; and, to prevent any dissatisfaction or injustice, I framed them on the opinion of the natives residing in my district, which are now thoroughly understood and taken advantage of by the unfortunate subjects for whose benefit they were made."

Appendix VI., No. 13.

In the district of Kamroop, in April 1837, 211 cases had been decided under the commissioner's second rule, and 355 were nearly ready for decision. A great many bondsmen have obtained their discharge under the operation of it.

Ditto.

In a letter from the magistrate of Durrung, dated 29th April 1837, we find mention made of another "rule of the late commissioner which required a limit (of time) to be specified in the bond (for service) to make it legal;" and he gives the following specimen of a bond put in for registration to show how far it is attempted to carry the system of bonding without infringing the rule. A., B., C. and D., who are relatives, are indebted to E. 19 rupees; therefore A., at the request of B., C. and D., borrows that sum of F., and in lieu of repayment becomes his bondsman for 41 years, on the conditions that F. shall feed and clothe A., and A., according to custom, shall promptly obey all F.'s orders; that on the expiration of the above period A. shall be entitled to his release, the money lent being considered as liquidated by his services; but if A. die before the expiration of the period, either B., C. or D. who may survive him shall become F.'s bondsman, and work out the unexpired portion of the term. In the event of issue by A. and any of F.'s female slaves, A. disclaims all right to them, and they shall be F.'s property.

The annual statements on the administration of criminal justice in Lower and Central Assam show the following cases relating to slavery and bondage brought before the police authorities in those portions of the province during the years 1836, 1837 and 1838:—

Illegal purchase of slaves, in contravention of Regulations X. 1811, and III. 1832	18
Selling free persons into slavery	1
Selling persons	2

Forcibly

Forcibly carrying away 10 (native) British subjects to make slaves of them	1
Detaining persons as slaves	4
Detaining persons in slavery and bondage	60
Illegally and forcibly making individuals bondsmen	2
Forcibly selling a slave	1
Forcibly keeping or detaining slaves	23
Violently keeping in custody and taking away slaves and property	31
Enticing away slaves	4
Decoying slave children and servants	24
Slaves deserting with property	26
Escape of bondsmen	2
Not paying bondage-money	1

Arracan.

The judicial functionaries in this province are subject to the control and superintendence of the courts of Sudder Dewanny and Nizamut Adawlut, at Calcutta, to be exercised in conformity with the instructions of the government of Bengal issued to those functionaries.

From a report of the commissioner of Arracan, dated 18th October 1831, it appears that three classes of slaves were recognized in Arracan under the Burmese government. Slavery in India, 1838, p. 47.

"The first class, or 'Pho-byng Gounthee,' *i. e.*, one subjected to authority and domiciliation by reason of a price paid, comprises those who have become the property of their owner by purchase. The slaves of this description are foreigners, being either hill-men and women or Bengalees, which latter were captured in former times by pirates or kidnappers, who formed expeditions to Hutteeah, Sundeep and the Soonderbuns, in the neighbourhood of Backergunge, for this purpose, and sold their prisoners on their return. It has been said that this practice was first introduced by the Portuguese pirates. The slaves of this denomination can possess no property. Their masters are answerable to the legislature for crimes committed by them; they are the heritable property of their owners, who may punish them in any way not affecting life or limb; they may be transferred to others in perpetuity or for a limited period, the party to whom they are transferred becoming vested with the powers of the former for the time being; they may be manumitted, but cannot otherwise obtain freedom, with exception to girls, who, having been seduced by their master, are considered to become free women on the birth of a male child to him."

"The second class are called, 'Khaing-daug-boh,' or born in the house. These are the descendants of the first class, and are subject to all the restrictions under which their parents existed. If a slave of either of the two first classes be given by his owner to a phoongree or priest, he becomes dedicated to religious purposes; and, as a phoongree cannot accept money, or buy or sell, his state of slavery is perpetual. He is called 'Keeoong Thankeeda,' or sweeper of the temple."

"The third species of slavery is called 'Cheet-peca-lara,' or the escaped from battle taken by the hand. These are entitled to manumission after occupation of a country, or after peace has been concluded; but they are not unfrequently sold, especially when they are too young to know their rights. If they become acquainted with them, and prove in court that they have never belonged to either of the two first classes, they may recover their freedom."

The predatory expeditions which are stated to have been the principal origin of slavery in Arracan were not confined to the lowlands. The hill tribes lived in a state of constant warfare with each other, and their chief object therein was to secure prisoners for the purpose of enslaving them.* This is still the practice of the tribes beyond the British frontier; but there has not been an attack by one tribe within the border upon another so circumstanced for more than two years.

A case of gang robbery occurred in the province, apparently in 1834, in which the dacoits attacked a village in the day-time, murdered four men and nine women, and carried off 20 females as slaves, two of whom were disposed of to two persons residing in the Chittagong district. Slavery in India, 1838, p. 344-5.

When Arracan was taken possession of by the British army, a great number of the natives of Munipore were found there in a state of slavery. These had been carried away from their country on the invasion of it by the Burmese troops, among whom were a large portion of Arracanese, who, according to the Burman custom of enslaving the inhabitants of an invaded country, brought down to their homes such women and children as they could capture. Many also were disposed of by the Burmese to the Arracanese about Ramoo and the southern parts of Chittagong when the Burmese force retreated from thence, and at Akyab and other places on the coast. Some of this race had likewise been sold by their parents in times of want and distress. All had adopted the customs and manners of the Arracanese, and had no inclination to return to their own country, where they would in all probability have been considered and treated as out-castes. Ditto, p. 2, 3, 8, 43-54.

On the organization of the Mugh corps many of these Munipoorees deserted their masters and enlisted in it. Claims were sometimes preferred by their owners for their being given up,

* Notes on a journey up the Koladain river by Lieut. Phayre, assistant commissioner, December 1838. 262.

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up, but these were resisted by the commandant, and a compromise effected between the parties; the persons claimed agreeing to give to the claimants a certain portion of their pay, two, three or four rupees per mensem, according to the circumstances of the individual, until the sum fixed upon should be liquidated. Suits were also frequently instituted in the civil courts for the surrender of these men, but generally discouraged by the local authorities, and referred to the commandant of the corps for adjustment. The number of these people belonging to the corps in October 1831 was 72. Not one of them, however, acknowledged himself to be a slave, and having, so far as could be ascertained, been taken by the Burmese during war, they were entitled to their freedom on peace being made. Those who enlisted did so, it was supposed, in order to secure themselves against claims upon them as slaves; and, although they denied being such, they appeared to consider themselves under some obligations to their former owners or protectors who had supported them in early life, and were willing to discharge the obligation by the payment of small sums from their monthly allowances. At the above date there were no Munipore sepoys in the corps making such payments. According to the information of these men, the number of Munipoorees detained as slaves in the districts of Arracan and Chittagong was about 3,000 or 4,000.

Slavery in India, 1838, p. 47-8.

A system of debtor slavery likewise prevailed in Arracan, which is thus described in the commissioner's report above quoted: "The fourth are slave debtors, and called 'Pongrhany,' or 'Keeoong-bong,' or the pledged, in consideration of money paid. There are regular deeds subscribed by the parties, and attested by witnesses, specifying the period which the slave is to serve, and the amount paid. The slaves are free on liquidation of their debt, or the money paid for them, or on the expiration of the period they had engaged to serve, according to the terms of the agreement.* A man may pledge himself or his children, and, with her consent, his wife also. These slaves may compel their master or mistress to transfer them to other persons who are willing to pay their original price, or the amount of their debt. If a married female debtor is seduced by her master, the sum of 60 rupees must be written off the debt;† if an unmarried female debtor slave cohabits willingly with her pledgee, no deduction is allowed. Slaves of this class may be corrected by the hand of their master or mistress (but not by others at their order), with a cane, with a bunch of rods, or with the open hand, but to such an extent, and in such manner only, as a parent would correct his own children. Wounds or mutilations inflicted by a pledgee, or by his orders, on his slave debtors, cancel the debt wholly, or in part, according to a table of fines for such acts in the Burman code."

Witness, No. 35.

On the acquisition of Arracan by the British, slavery and bondage were not found existing generally to a great extent. All civil rights had been reduced to a state of great uncertainty by the Burmese conquest in 1783, and the number of slaves seems to have much decreased in consequence.

Appendix VII., No. 5.

They appear to have prevailed chiefly in the Akyab district, the officiating magistrate of which stated, in September 1833, that there was hardly an individual, let his condition be what it might, that did not possess one or more of the three classes of slaves called 'Phobyng,' 'Appong' and 'Monhe-tolling.'‡

Ditto, No. 8.

In the Aeng division, at the same period, bondage only was common, and originated principally in the pledging of children by their parents, in consequence of want, or to "secure a retirement free from labour, which the parents thus enjoy at the expense of the freedom of their child," and not unfrequently to provide the parent with the means of gambling: 20 or 30 rupees was the sum usually advanced for the services of one child. If misfortune befalls the family in which a child is pledged, and they are no longer able to keep it, they demand from the parents the sum advanced, who borrow it from another, and the child is removed as the security. In this division also "female children were sold and bought to be maintained in a state of concubinage."

With regard to the treatment of slaves, the officiating magistrate of Akyab, in the letter above quoted, observes: "The Mughs, generally speaking, treat their slaves well, at least as well as their wives, which inclines me to think that few would avail themselves of their liberty; for it is only when a woman is cruelly beaten and ill treated that she flies to the court for protection and release from thraldom."

Ditto, No. 6.

The senior assistant at Ramree says, in 1833, "It is the policy of the owners to keep their slaves as poor as possible, to prevent any chance of their manumitting themselves."

Ditto, No. 5.

Among the Kyengs, slaves were allowed half the profits of their own labour.

Witness, No. 35.

Neither slavery nor bondage have been recognized by the courts since 1834. In 1833 some correspondence took place between the local superintendent and the commissioner on the subject, and the result was that the commissioner directed the superintendent to declare all slaves and bondsmen free, if he thought he could do so with safety, and the latter officer issued a proclamation accordingly.

We

* The officiating magistrate of Akyab, in a letter dated 28th September 1833, thus describes the three classes of slaves in his district: "1st, Phobyng, perpetual and hereditary; 2d, Appong, manumission to be obtained on paying the purchase-money, which is on an average 40 rupees; 3d, Monhe-tolling, a woman sells herself for, say, 20 rupees; she is obliged to serve the person to whom she mancipates herself for 20 years; she also receives at the expiration of each year one rupee, so that at the end of her servitude she will have been paid 40."—Appendix VII., No. 5.

† In a paper written by Mr. Charles Paton, sub-commissioner in Arracan, we find the consequence of this illicit intercourse stated differently: "Should the woman (*i. e.*, the wife) become pregnant whilst in pawn, the debt is rendered null and void, and the husband can redeem his wife, and, if he chooses, take the child also, and a fine of 60 rupees from the father."—Asiatic Researches, vol. 16, p. 374.

‡ *See* note *supra*.

We have been furnished with copies of this correspondence, but not with the final instructions of the commissioner, or of the proclamation issued in consequence. The propositions of the commissioner were, in substance,— Appendix VII.

1. To interdict the recovery in the civil courts of the persons of slaves, or any money or consideration claimed on account of the sale, purchase, transfer or mortgage of slaves.

2. That any persons petitioning the criminal courts for release from restraint imposed upon them on the pretence of their being slaves, should have their remedy by an order being passed to the effect that they are at liberty to go where they please, and that any persons illegally restraining them will render themselves liable to punishment.

The officiating magistrate of Akyab stated, in reply, that he had acted hitherto on these principles.

The senior assistant at Ramree, after mentioning several cases in which he had liberated slaves, adds, " There is a practice amongst the Mughs of pledging their wives or children for the payment of a debt, which they maintain is not slavery. I have, however, most peremptorily prohibited it, allowing only the debtor to pledge his own body."

The senior assistant at Sandowy observed, " There is little or no slavery in this district, most of the slaves having been released on petition, and the few that remain continue in their state voluntarily, they being aware that they may be released on application."

It appears also, that in 1831 a proclamation had been issued by the superintendent of Arracan, to the effect that any person refusing to receive the price of a slave, tendered with a view to his release, should forfeit both the price and the services of the slave. Appendix VII., No. 9.

Regulations X. 1811, and III. 1832, were considered in force in the province prior to the proclamation of abolition.

It is believed that many slaves and bondsmen left their masters in consequence of the proclamation, but that a considerable number still exist *de facto*. The condition of the slave, however, is not distinguishable from that of a free labourer. The proclamation occasioned considerable dissatisfaction, but no disturbance was created, nor was there any public demonstration. The agriculture of the country is carried on by very small proprietors, who hold the plough themselves. There is no want of free labourers; and even the sons of soogrys, who are a kind of tehsildars, and the highest class of people in the country, have been known in some instances to hire themselves as day labourers. At harvest time also a great many free labourers come from Chittagong, and return home after the harvest. Witness, No. 35.

In the annual statements on the administration of criminal justice in this province for the years 1836 and 1837, we find the following entries:—

District of Sandowy, 1837, 1 case of forcibly taking away a woman to sell her into slavery.

District of Akyab, 1836, 6 cases of illegal holding of slaves. 1837, 26 ditto.

District of Aeng, 1837, 9 cases of retaining slaves.

Tenasserim Provinces.

The judicial functionaries in these provinces are subject to the control and superintendence of the courts of Sudder Dewanny and Nizamut Adawlut at Calcutta, to be exercised in conformity with the instructions of the Bengal government issued to those functionaries.

Absolute slavery does not appear to have existed in the Tenasserim provinces under the Burmese rule; but a system of debtor slavery prevailed, of which we have the following description in a paper drawn up by the present commissioner on the subject:—

" Though the system of slavery under the Burmese rule be nominally mere bond service, yet, owing to the but little limited authority of the master, to the impoverished state of the country, and to the small chance of a debtor slave obtaining justice against his creditors in the courts, it may be looked upon as real ' slavery.' The chief alleviation of such a state is derived from the slave having it in his power to transfer his services to another creditor, should he find one willing to pay the amount of his debt." Appendix VII., No. 13.

" The nature of the slave bond is very diversified—for general service, for house service, agricultural service, &c. Many are mere engagements to pay some enormous rate of interest by daily or monthly payments, and those of the former description are often changed into the latter, the slave engaging, on being permitted to follow his own business, to pay so much a day out of his earnings. All these bonds are mere acknowledgments of certain debts, on repayment of which the slave again becomes free. These debts, augmented by the expenses incurred by the master on account of the slave for clothes and other items (not including food, however), descend to the children, whether born in slavery or not, and must be discharged by them either by payment or the substitution of one of them for the deceased parent. Children born in slavery become the slaves of the creditor, and are not released by the payment of the original debt of the parents. If grown up, the amount to be paid for such born slaves is 30 ticals (rupees nearly) for a male, and 25 for a female."

" In satisfaction of a debt, parents can sell their children, husbands their wives, heads of families their dependent relatives. The amount for which they are sold is considered their debt, for which they alone are answerable; and until it be paid to the creditor they and their posterity are his bond servants. On becoming a slave for a certain amount, it is a usual custom to provide security, and such security is answerable, not only in case of the slave absconding, but even on his death. These securities are generally relations of the slave."

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"In Burman law the price of a male is fixed at 30 ticals, and that of a female at 25. These sums are constantly decreed in their courts in numerous cases. For such sums the children born in slavery can redeem themselves. A master having connexion with his female slave against her consent, forfeits 25 ticals from the amount of her debt. These sums are also made use of in appropriating the children of slaves where the parents belong to different creditors."

"In stating, however, what the law may be in the several cases relating to slaves, or indeed to any other subject, we are too much in the habit of attaching our own ideas of legal rights of persons. Slaves may be looked upon in Burmah as the property of their masters as much as the cattle in their fields; and though generally their condition is far from being one of hardship, or looked upon as a disgrace, yet, once slaves, they have but a slender chance of ever manumitting themselves."

The following regulation for the amelioration of the condition of the debtor slaves was issued by the late commissioner in February 1831. The provisions are the same, with some modification, as those passed by the government of Penang in May 1820, respecting debtor servants.

Slavery in India, 1828, p. 453–4.

"1. Notice is hereby given, that from and after this date no contract or agreement binding persons to serve in the capacity of debtor servants, in consideration of a sum advanced for their labour and services, shall be valid, unless such contracts or agreements shall be acknowledged by the contracting parties before the commissioner, his deputy or assistants. These contracts shall be regularly drawn out, and entered in a register to be kept at the youm, and the debtor servant furnished with a copy of his contract, signed by the commissioner, his deputy or assistants.

"2. The contracts so registered shall specify, as far as possible, the nature and degree of the service to be performed by the debtor, and always fix a definite term of servitude, with the sum which shall tend towards the monthly liquidation of the money advanced to him or her, and which sum shall on no occasion be less than two pice per day. No youth of either sex, under the age of 16 years, shall be deemed competent to enter into a contract for future services.

"3. No parent or parents shall be allowed to mortgage the labour or service of his or her or their children; and no children of debtor servants shall be liable for the debts contracted by his, her or their parents for the mortgage of his, her or their labour or services. The children of all debtor servants are free; but if the father and mother be unable to support their offspring, the master or mistress shall be entitled to the gratuitous services of the children so supported, until they attain the age of 16 years, as a recompense for the expense incurred in their maintenance. But no master or mistress shall transfer or mortgage the labour or services of such children.

"4. In case of the death of the master or mistress, the debtor shall have the option of repaying to the estate such sum as the commissioner, his deputy or assistant, may conceive equitable for unexpired services, or serve out the remaining period with the legal representative.

"5. No debtor servant shall on any occasion be transferred to another person by his or her master or mistress, unless the terms of his or her contract included such provisions.

"6. In the case of females mortgaging their labour or services, their debt shall be cancelled by the commissioner, deputy or assistant, in every instance of its being proved that the master has cohabited with her, or that her master or mistress has been in any manner accessory to her prostitution.

"7. Whenever it shall be proved to the satisfaction of the commissioner, his deputy or assistant, that any debtor servant has not been provided with proper food, clothing or habitation by the master or mistress, or has been otherwise treated with inhumanity or cruelty by him or her, the contract or debt of such servant shall be cancelled, in addition to such other punishment as the commissioner, his deputy or assistant, may deem necessary on the master or mistress.

"8. If a debtor servant fail to serve with fidelity, or has been neglectful from improper or vicious habits, the commissioner, his deputy or assistant, on such being proved, shall punish the party in the same manner as in the case of a common servant so offending.

"9. No contract or agreement binding persons to serve in the capacity of a debtor servant, in consideration of a sum of money advanced for their labour or services, shall be valid, unless the amount so advanced be paid in the presence of a magistrate to the persons mortgaging their services."

"This regulation," says the present commissioner, "so far modified the state of debtor slavery, as it existed under the Burmese rule, as to reduce it to mere domestic service paid for in advance;" and he adds, "even the modified system of debtor service introduced by us is now fast disappearing; and though I am in possession of the sanction of government for doing away with it altogether, yet I think it preferable to allow it to die a natural death, as the people are fast evincing a sense of its inapplicability to their improved state under our government."

The following statement exhibits the cases connected with this regulation brought before the criminal courts in the years 1836, 1837 and 1838:—

	1836.	1837.	1838.
District of Amherst.			
Breach of Local Debtor Servant Regulation - - - -	4	4	-
District of Mergui.			
Absconding from service or not working, being debtor servant -	2	2	5

District

District of Tavoy.	1836.	1837.	1838.
Absconding from service, or refusing to work as registered debtor servant - - - - - - - - - - -	–	1	4
Harbouring runaway debtor servants - - - - - - - -	–	–	2

*Prince of Wales' Island.**

Pulo Penang, since called Prince of Wales' Island, was ceded to the East India Company by the king of Queda in the year 1786. By another treaty with him in 1800, the Company became possessed of the tract of coast opposite to the island on the Malayan peninsula, called Province Wellesley. Slavery in India, 1828, p. 419.

When the island was taken possession of, the only inhabitants were a few Malay fishermen; but so early as 1787 slaves had been imported and become the subject of traffic, and the superintendent reported that "a register was kept of all slaves bought and sold here."† Ib. p. 422.

It was one of the original conditions stipulated by the king of Queda, that "all slaves must be returned to their masters, for they are part of their property." And in an agreement concluded with him in 1791, an article was inserted that "all slaves running from Queda to Pulo Penang, or from Pulo Penang, shall be returned to their owners." Upon this article the superintendent remarked that it was "for the mutual benefit of both parties." Ib. p. 420. Ib. p. 424.

But a question soon arose, to whom the term slave should be considered applicable. The superintendent thought it could be applied only "to a person legally sold, or to one condemned to slavery for crimes." The king of Queda extended it "to such people as had taken refuge in his country from war or famine, and to debtors to his merchants." Ib. p. 425.

The Bengal government directed a declaratory article to be annexed to the treaty specifying the persons to be considered as slaves, and desired that the term should be taken in the most confined sense. Ib. p. 426.

About the same time certain Malays of Arabian extraction, of considerable fortune and with large families, came to reside at Penang, but before settling they requested "a license to govern their own families, slaves, and dependents, with an independent power, and in all cases to be judged by the Mahomedan laws." Ib. p. 425.

The superintendent answered that they could not have "an entire independent authority;" but that "a reasonable, and so far as the general welfare would permit, an independent, authority would be allowed them over their families and dependents; that their religion, laws and customs would be undisturbed, and that they might inflict any punishment upon their children and family, except mutilation or death," but that in cases "requiring more than a whipping, the culprit should be committed to prison and tried by the laws of the island; and if the case concerned one of their people, and one of the inhabitants, or if any of their people committed a public breach of the laws, they should be tried publicly." This answer was approved by the government, who observed, "that the exemption required by the Malays, relative to instituting a sort of arbitrary domestic police, was repugnant to reason, and subversive of the rights of society." Ib. p. 426.

The judge and magistrate of the island, in 1802, addressed the government of Bengal on the subject of the slavery existing there. He said that slavery, limited and unlimited, had been tolerated,—the emigrants from the Malay peninsula and the eastern islands, who had become inhabitants of Prince of Wales' Island, having been permitted to retain in slavery those whom they had brought as slaves thither, some in utter slavery, others only in limited servitude, the latter being the condition of those styled slave debtors,—people that voluntarily become slaves to their creditors till their debts are paid; but that the practice had not been expressly authorized by any regulation: that a decree, however, had lately been passed, by which slavery was recognized, and it was necessary therefore that regulations should be made defining the right of the master over the person and fortune of his slave, and that the case of the offspring of slaves should be considered, particularly of those born of one parent who is free, while the other is a slave. ‡ To this representation the government did not give particular attention, and the subject was dropped for a time. Ib. p. 429.

But, in 1805, the Court of Directors, adverting to a report by which it appeared that in 1801–2 there were upon the island above 1,200 slaves, intimated to the government that they "could not authorize any encouragement being given to the introduction of slaves into the island," and expressed their "wish that the clearing of the lands and the cultivation of the pepper and other spices should, as they understood they might, be carried on by free people." In the same year, the Governor-general in Council, observing that the number of male and females slaves at this settlement was understood to be then not inferior to 5,000, and remarking that, although the prejudices of our native subjects might on the continent of India forbid the entire abolition of slavery, the same objection did not appear to be applicable to Prince of Wales' Island, which had been settled within 20 years, expressed his opinion that it was desirable that the system of slavery there should, if possible, be prohibited, and accordingly directed the lieutenant-governor to consult with the best-informed European inhabitants with respect to the means by which this measure could be accomplished, and to report on the subject for the orders of the Governor-general in Council. Ib. p. 43 Ib. p. 433.

A plan

* In 1830 the settlements of Prince of Wales' Island, Malacca and Singapore, which before were incorporated under a separate government, were annexed to the Presidency of Bengal.

† It appears from the President's minute, April 1820, that a duty was collected on the value paid for the slaves registered. Ib. p. 454.

‡ In the case decided, it was proved, in the opinion of the presiding judge (the lieutenant-governor), that both parents of the individual claimed as a slave were slaves resident on the island, and it is to be inferred that the party was born on the island.

Slavery in India, 1838, p. 434-5. Mr. R. T. Farquhar.

A plan for the abolition of slavery was proposed in November 1805, by the late lieutenant-governor; but the consideration of the subject was not prosecuted by the government until their attention was called to it by a letter from the Court of Directors, dated February 1807, in which they observed that as the toleration of slavery could not be necessary at Prince of Wales' Island, where the population was already extensive and daily increasing, they considered it a subject deserving of serious notice, and directed that every means should be resorted to for effecting its immediate abolition, provided the public interests of the settlement were not materially injured; but, even in that case, they conceived, that an early period might be determined upon for the entire emancipation of slavery, after which, it ought by no means to be tolerated.

Slavery in India, p. 435.

Upon these instructions, the local government gave earnest consideration to the subject. It was at first in contemplation to abolish slavery immediately, converting the existing slaves into debtor servants, under an obligation to work for their masters till the debt charged upon them as the price of their freedom should be liquidated. But objections having been made by the native holders of slaves, a committee, composed partly of European gentlemen and partly of natives, was appointed to consider those objections, and to report the measures that appeared to them best calculated to effect the object in view.

Ib. p. 437.

Ib. p. 440.

Ib. p. 440, 444.

The majority of the European gentlemen of the committee concurred in recommending the immediate and positive emancipation of the slaves, and the conversion of the slaves, as before proposed, into debtors * to their masters, for a certain sum respectively, to be fixed at a rate so moderate, that a debtor wishing to leave his master would not be likely to have any difficulty in procuring the loan of the amount from another, on a bond for service to him, or by contracting to perform some work, on account of which he might receive that amount in advance; with a provision, in the case of the debtor remaining in his former master's service, that a certain sum should be credited to him monthly, and written off from the amount of his debt.

The Mussulman members of the committee, however, objected absolutely to the emancipation of slaves.

Their objections, as stated by the European member of the committee who dissented from the recommendation of the majority, were,—

1st. That the abolition of slavery would interfere with their religious customs, particularly regarding their women, and that Mussulmans might as well be ordered to wear hats (their own words) as be obliged to emancipate their slaves.

2d. That it would interfere with the whole of their domestic arrangements, inasmuch as it is not customary amongst Mussulmans in Malay countries to order or exact from a slave debtor, or from a person receiving daily or monthly wages, that kind of domestic labour which they can exact from a slave.

3d. That when they settled on the island, they did so on the faith and implied assurance that their customs and usages would not be interfered with.

Considering the grounds of these objections, and "cautious of interfering in the domestic arrangements and customs of the various native inhabitants who had resorted to and settled on the island, on the faith that such should not be interfered with," and apprehending that "to deny them those domestic privileges which, though not openly allowed, were tacitly admitted elsewhere" in India, "would tend materially to affect the population of the island, by discouraging the general resort to it," it was thought by the government to

Ib. p. 446 to 448.

be inexpedient to proceed at once to emancipate the slaves; and it was resolved instead to make a regulation, prohibiting the future importation and transfer of slaves, and declaring that children born in bondage, after its date, should be free, further providing, that slaves might be transferred as slave debtors, and authorizing the magistrates to liberate slaves kept for prostitution, and slaves treated by their masters with inhumanity or cruelty.

Ib. p. 421.

On the first establishment of the settlement, the government of Bengal had ordered 150 Caffres † to be sent from Bencoolen for the purpose of clearing and cultivating the country. These Caffres, it appears, were slaves. Many of them were liberated immediately, as being

Ib. p. 422.

unfit for work, provision being made for their maintenance by an allotment of land, and by

Ib. p. 450.

continuing to them a small proportion of their former allowances. Those who remained

Ib. p. 427.

were emancipated in 1808, the government providing for the subsistence of the infirm and aged. The children born in the island, it appears, the first superintendent promised should be free.

Ib. p. 449.

In 1813, a further step was taken for the prevention of the importation of slaves, by the publication of the Slave Trade Act, 51 Geo. 3, c. 23. This was done by order of the Governor-general in Council, who directed at the same time that proper measures should be adopted for giving effect to it.

In

* "A custom and usage, it was said, immemorially sanctioned and prevalent in the Malay countries and in this island since the formation of the settlement."

In Crawford's "Indian Archipelago" it is stated that a small class exists every where in the Archipelago called *debtors* in the native languages. "These are people who either voluntarily, or by the laws of the country, mortgage their services for a certain period, or during life, to discharge some obligation which they have no other means of liquidating. Their condition is in fact a mitigated kind of slavery."

See also Marsden's "Sumatra," for an account of this kind of servitude, and p. 205, Slavery in India, 1828.

† In Marsden's "Sumatra" the negro slaves or Caffres belonging to the India Company at Bencoolen are mentioned and described as a class of people "eminently happy above all others on earth." "They are well clothed and fed, and supplied with a proper allowance of liquor; their work is by no means severe." "They have no occasion of care or anxiety for the past or future." "Since they were first carried there, from different parts of Africa and Madagascar, to the present hour, not so much as the rumour of disturbance or discontent has ever been known to proceed from them." It is mentioned in a letter from the acting resident at Fort Marlbro', dated 2 September 1812 (Slavery in India, 1828, page 203), that the slaves of the Company were at liberty to purchase their freedom at fixed sums, viz. 60 dollars for each man or woman, and 40 dollars for each boy or girl.

In 1820, the attention of the local government having been drawn by a petition from certain Mahomedan inhabitants of the settlement, to a consideration of the customs relative to slaves and slave debtors, which had prevailed amongst them since the abolition of the slave trade, the President in Council recorded a minute on the subject, in which he stated that abuses on the part of masters of debtor servants had come to his knowledge, which rendered him desirous of proposing regulations for the purpose of protecting and ameliorating the condition of this class of people, and of preventing a usage sanctioned by government from becoming a means of perpetuating and extending all the evils and horrors of slavery only under a different appellation.

Slavery in India, 1838, pp. 451 to 455.

Those persons, he said, who possessed debtor servants on the island " are often inclined to look upon them as in a state of unconditional servitude," and " consider mere maintenance as an equivalent for the labours of the servant, and seldom look upon the sum originally advanced as affected or reduced in any degree by his services, whatever may have been their fruits or their length." " The practice, as then allowed, was also," he observed, " liable to many other serious abuses. Children and minors may be transferred as debtor servants by people who have perhaps kidnapped them at the other islands. They may be transferred by their parents upon the payment of a trifling sum without any compact as to the nature, degree, and duration of the servitude, and be thus placed in a state little short of absolute slavery. Further, the ends of the parents on such occasions may be directed to their own advantage and not to the benefit of the children." " And young women may be thus delivered over to the absolute disposal and caprice of a private master, and their labours converted into the means of gratifying his lust or avarice."

The following are the regulations he proposed :—

" 1. All contracts or papers binding persons to serve in the capacity of debtor servants, shall be acknowledged by the contracting parties respectively before the magistrate; shall be drawn out in the English and Malayan languages; and, after being regularly numbered and set down in a register to be kept at the police-office, shall be delivered to the master and servant, stamped with the official seal of the office.

" 2. The contracts or papers so registered shall specify, as far as possible, the nature and degree of the service to be performed by the debtor, and always fix a definite term of servitude, with the sum which shall tend towards the monthly liquidation of the money advanced to him or her. These articles to be determined by the contracting parties before the magistrate, who will of course regulate and control them according to reason and justice.

" 3. No youth of either sex under the age of 14 years shall be deemed competent to enter into a compact for future services, unless with the consent of persons who prove that they are authorized by nature or law to contract for him or her; and that they are engaging such youth with a view to his or her benefit, and not to that of their own; and no minor's term of servitude shall be engaged to extend, if a male, beyond the period of his attaining the age of 21 years; or, if a female, beyond the age of her marriage; when such persons will be at liberty to renew their engagement, or otherwise provide for themselves.

" 4. In the case of females so bound or apprenticed, their contract or debt shall be immediately cancelled by the magistrate in every instance of its being subsequently proved before him that the master has cohabited with her, or that he or her mistress has been in any manner accessary to her prostitution; such master or mistress will of course be further punished according to law.

" 5. Whenever it shall be proved to the satisfaction of the magistrate that any debtor servant has not been provided with proper food, clothing or habitation by the master or mistress, or has been otherwise treated with inhumanity or cruelty by him or her, the contract or debt of such servant shall be immediately cancelled, in addition to such other punishment as the magistrate may legally inflict on the master or mistress.

" 6. In the case of the death of the master or mistress, the debtor servant shall have the option of repaying to the estate such sum as the magistrate may conceive equitable for unexpired services, or serve out the remaining period with the executor or legal representative; and no such debtor servant shall, without his or her own consent, be removed from the island, or be transferred to another person by his master or mistress, unless the terms of his contract included such condition.

" 7. The children of all female debtor servants are free; but if the father or mother be unable, and the master or mistress of the female servants undertake formally before the magistrate to support such offspring, they shall be entitled to the gratuitous services of the children so supported, until they attain the age of 16 years, as a recompense for the expense incurred in their maintenance.

" 8. If a debtor servant fails to serve his or her master or mistress with fidelity, or has become neglectful from improper or vicious habits, or if he or she occasions any detriment or injury to his or her mistress, the magistrate, on such being proved to his satisfaction, shall punish him or her in the same manner as the law provides in the case of a common servant so offending.

" 9. The above regulations shall be translated into the different native languages, and shall be always read at the police-office to all persons contracting for services before the papers are signed and sealed."

These rules were formed into a regulation, and we presume that they are still in force with respect to persons belonging to the island. The importation of persons to be engaged

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in service under such contracts would appear to be prohibited * under the proclamation and orders of the government of Prince of Wales' Island, Malacca, and Singapore, which will be noticed below.

With respect to persons already slaves, a question appears to have occurred to the government when considering the state and condition of the debtor servants in 1820, how they should be regarded and dealt with by the executive authorities, "remembering that a British court of justice, which had entire jurisdiction over the island and its dependencies, could never recognize such a being as a slave, and that the government had not the power of framing express regulations concerning slavery." This difficulty, the governor was of opinion, "could only be obviated by suggesting to the magistrate to regard persons brought before him as slaves under the denomination of debtor servants," and to apply the regulations for that class, and the principles on which they are founded, to such persons and their owners as far as circumstances will admit: "of course," he observed, "this arrangement could not have operation on any person who was not actually registered as a slave before the publication of the order prohibiting their importation; and it should be a standing rule with the magistrate to afford to all slaves brought before him the liberty of redeeming themselves by paying to their owners a valuation regulated according to their relative age, condition and length of service."

From 1820, therefore, it would appear that slavery has not been recognized as a legal condition in Prince of Wales' Island.

In Low's account of Penang, published in 1836, it is observed that, in 1820 the Honourable Mr. Phillips, the governor of Penang, by humane and just regulations, paved the way for the speedy extinction of slavery. This was chiefly effected by taking, as a stepping-stone to the final object, the system, then co-existing with slavery, of selling service, or the debtor system, as it is here called. When at length slavery was abolished by Act of Parliament, the system alluded to remained under the wise restrictions which had been established, and it still continues to operate, but with diminished strength.

The author remarks that debtor servants, especially men, are indolent and improvident, and the worst of labourers; still the settlers, from long custom, do not yet seem quite sensible of their inefficiency.

As a system of labour, he observes, it is expensive, dangerous and demoralizing; it fosters idleness, and represses honest ambition. The value of such labour can scarcely be put on a par with that of convicts. The system, he adds, seems already dying a natural death.

Province Wellesley.

Province Wellesley, the tract of territory on the peninsula, dependent on Prince of Wales' Island, we understand, is governed by the same laws and regulations as the island.

Low's Penang, &c.

The superficial extent of this tract of territory is estimated at from 120 to 150 square miles, and the population at upwards of 47,000. It lies within the jurisdiction of the court of judicature for the Straits' settlements. The principal assistant there for the time being, independent of his political and executive duties, exercises the functions of a magistrate, a commissioner of the court of requests, police superintendent, coroner and collector.

Appendix I., No. 37.

We learn from Mr. W. R. Young, who was lately employed as commissioner to inquire into the condition of the settlements in the Straits, that though slavery is equally contrary to the law in this province as in the Island of Penang, yet there is reason to believe, that, owing to the vicinity of the Siamese territory, upon which it borders, there are in fact some persons held in slavery illicitly.

We find that in 1828 the attention of the local authority at Penang was drawn to the importation of about 80 persons from Pulo Nias to be sold as slaves. The law agent was directed to prosecute the Chinese concerned in this slave-dealing at the next sessions of oyer and terminer, but the grand jury ignored the bill, probably from the defect of evidence; and, as observed by the Court of Directors, the interference of the government produced no effect beyond the liberation of the slaves.

The government communicated with the naval commander-in-chief on the subject, and requested his co-operation towards suppressing this traffiic; but he considered the authority placed in his hands much too circumscribed to enable him to afford any aid towards the effectual prevention of slave-dealing in these seas; "for unless a vessel be under the British flag, or the most positive proof be adduced that she actually belongs to a subject or subjects of his Majesty, or to a person or persons residing within the dominions or settlements of his Majesty, or under the government of the East India Company, and is *bonâ fide* engaged in the slave trade at the time, he could not, during a period of peace, sanction her being brought to for examination on the high seas (much less for detention), or within a league of the territory of any power in amity with his Majesty."

Malacca.

Slavery in India, p. 255.

The settlement of Malacca was taken by the British from the Dutch in 1795, and, no cession having taken place during the short peace after the treaty of Amiens, remained in our possession up to August or September 1818; from that time till April 1825 it was subject to the Netherlands government; it was then transferred to the British government, under which it has since remained. The subject of slavery at this settlement was fully investigated by the local government in 1829, and the results of the investigation were thus recorded: "It appears that slavery has existed at this settlement from time immemorial; that

Ib. p. 259.

* It seems, however, from the information we have obtained from Mr. W. Young, that the prohibition is not understood to apply to Chinese.

that the slave trade, that is, the importing and exporting of persons to be dealt with as slaves, ceased in the year 1813; that local slavery has continued up to this time; that disputes between masters and slaves have always been settled, while the place was under Netherlands authority, by the fiscal, while under the British, by the resident or the police officer. Slaves misbehaving have been punished, absconding slaves have been returned, and masters ill-using slaves have been also punished by fine or otherwise, as the case required. It moreover appears, that in consequence of a proclamation of the Governor-general, Baron Vander Capeller, a registry of slaves was opened in 1819, another in October 1822, and a third for the insertion of transferred slaves from other settlements; and these several registers contain as follows:—

1st.	Men	657	
	Women	680	
	Children	165	
			1,402
2d.	Men	39	
	Women	29	
			68
3d.	Men	6	
	Women	6	
			12

"It further appears that an agreement has been signed by certain of the principal inhabitants to declare all children born of slaves after 1819 to be free." * * * * "It follows, from an attentive consideration of all these papers, that the only persons coming in any way under the description of slaves are those surviving whose names are inserted in the above registers to which no addition has or could be made since the date of cession. Under all these circumstances, the Governor in Council has determined that the practice heretofore enforced in respect to all those whose names are found in the registry shall, as far as rests with him, be continued, until a full and regular judicial decision can be obtained on the general question, how far the state of slavery can be tolerated at this settlement under the existing laws of the British Government,—a question which the Governor in Council does not consider himself competent to decide."

It appears that, some time after, a judicial decision was passed on the question by the court of quarter sessions, the Governor being *ex officio* president. The following is the judgment delivered by the president:— Slavery in India, 1838, p. 236.

"Since the question of slavery was last before this court, I have attentively considered the subject, referred to Acts of Parliament and other authorities within my reach, and after the most attentive revision of the whole, I am of opinion there is nothing either in the Act of Parliament by which Malacca was put into the possession of the East India Company, nor in that by which the creation of a new court of judicature was authorized, nor in the letters patent themselves by which the court was constituted, which appears to me sufficient to take away any right of property in a slave which any Dutch inhabitant may have had before the cession, and even the Act of 5 Geo. 4, c. 113, s. 13, recognizes and protects existing rights of property in slaves.

"I am further of opinion, that in all cases relating to slaves standing on the registry at the time of cession, this court is bound to adhere to the laws, customs and usages in force regarding them, until those laws may be changed either by his Majesty in Council, or by an Act of Parliament. While this court, therefore, will protect all slaves from ill-treatment and improper usage on the part of the masters, they must, at the same time, enforce due obedience on the part of the slave, and, in respect to the return of absconding slaves, follow exactly the course established under the Netherlands government, and hitherto observed."

In the meantime a reference had been made by the local government to the Governor-general in Council, who took the opinion of the advocate-general on the question, "whether slaves registered under the preceding Netherlands government are to be considered still in a state of slavery, since the transfer of that place to the British authority, and the establishment of an English court of justice there." To this question the advocate-general answered, that, in his judgment, "those persons who were slaves, and entered as such in the register under the government of the Netherlands, are legally to be considered in a state of slavery since the transfer of that place to the British authority, and the establishment of an English court of justice." The Governor-general in Council considered this opinion to be conclusive and satisfactory on the question referred, and desired that the government and the local authorities should be guided by it until a different construction should be put on the law by a higher authority.

Thus the executive and judicial authorities arrived at the same conclusion, and agreed in recognizing the legitimacy of the slavery existing before the cession according to the registers of the Netherlands government.

But previously, at the instance of the Governor, the inhabitants of Malacca (the principal of whom had agreed in 1819 that all children born of slaves after that period should be free) had held meetings to take into consideration the best mode for abolishing slavery entirely, and it was finally resolved at a meeting assembled on the 28th November 1829, at which deputations of natives were present; viz., five persons on behalf of the Portuguese, five persons on behalf of the Chinese, five persons on behalf of the Malays, and five persons on behalf of the Chooliats, that "slavery shall not be recognized in the town and territory of Malacca after the 31st December 1841," which resolution was formally recorded and signed by the parties. Ibid. p. 236.

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When the subject of slavery was under discussion at Malacca, the attention of government was drawn to the practice of dealing in slave debtors; an inquiry was therefore instituted for the purpose of ascertaining the nature of this traffic, and the terms of the engagements by which the debtors were bound. For this purpose queries were sent to the resident councillors of Malacca and Singapore, and to the superintendent of police at Prince of Wales' Island.

Slavery in India, 1838, p. 304.

Ib. p. 238.

We have had access only to the answers from Malacca, which are contained in the volume of papers on slavery printed in 1838; but the general result of the inquiry is stated in a minute of the Governor, in the same volume, as follows: "The reports now received fully explain the general nature of the system, and establish the following facts: that the practice of importing slave debtors clandestinely still continues; that persons so imported are procured by nakhodas of Prahus and other native vessels from the adjacent islands, mostly from Bali; that they are procured exactly in the same manner as regular slaves, by purchase money, or goods in barter; that they are frequently the captives taken by the pirates; that they are imported to all intents and purposes as articles of trade; instead of the amount payable being stated at once, and openly avowed as their price, it is represented as a debt due by the slave debtor to the importer, and on payment of that sum the debtor is transferred; but it does not appear that (excepting Chinese) the person so transferred has any voice in the transaction, or even knowledge of the terms of tranfer, but considers him or herself as a slave to all intents and purposes."

With respect to Chinese emigrants, the Governor had previously remarked, that in this case the transaction was a mere voluntary contract for labour for a given time; their labour for a year being disposed of on certain conditions, and the amount paid as passage money to the master of the vessel who brings them. The transactions, he observed, were at Penang regularly registered in the police-office; and, considering the character of the Chinese, he thought there was not much danger of abuse. With respect to others, natives of the adjacent islands, the practice conducted, as above explained, he considered to be "actual slave-dealing, subjecting all concerned to the penalties of the law," and he thought it would be the bounden duty of any magistrate to bring every case that came to his knowledge before the criminal sessions, and to commit all concerned for trial.

He conceived that the government was "bound by every obligation, legal as well as moral, to put down a practice which, however conducted in form, is in reality slave-dealing forbidden by law, and the continuance of which must carry with it a continuation of all the horrors induced by it in other places, as exemplified in the case of African slave-dealing, the encouragement to wars for the purpose of making captives for sale, and in these seas even the piracies which it encourages, slaves being often the principal objects in view." It was accordingly ordered by the government that a proclamation should be published, declaring "the practice of importing and employing persons under the denomination of slave debtors," being "in reality only a cover to actual slave-dealing," to be an offence against the Act 5 Geo. 4, c. 113, and notifying "that all persons offending in this respect would subject themselves on discovery to the penalties laid down in the Act."

With regard to persons who had been already imported and disposed of as slave debtors, and were in the service of individuals, the Governor observed that "there could not be a doubt that all so situated are *ipso facto* free, and that no one could from such a transaction establish any legal claim to their service against their consent;" but he thought "any direct interposition of government would be objectionable." "So long as the servant was well treated by the master, and satisfied with his condition, there could be no moral reason or call for interference; on the other hand, when parties were ill-used and dissatisfied, they would find their way to the proper tribunal, the magistrate," who would doubtless "annul a claim founded on no better title than the sale of an imaginary debt, said to be due to a nakhoda, without either the knowledge of or admission by the party transferred." "The release of one so situated would be followed by the application of others who felt the desire to be released, and had the means of deriving subsistence by their own free labour. The admitted claim to release would probably secure to many such treatment from masters as would prevent too numerous applications." For these reasons the government was content with adopting the means within its power for preventing the further importation of slave debtors, without interfering directly to change the condition of those actually in that kind of service.

Appendix I., No. 37.

We are informed by Mr. Young, that he believes that the prohibition above mentioned is enforced with respect to natives of neighbouring countries, but is not understood to apply to Chinese, who are still commonly imported under contracts to work out the cost of their passage.

Singapore.

We have no particular information regarding the settlement of Singapore; but, as it was established in 1820, long after the abolition of the slave trade by Act of Parliament, no slaves could be introduced there legally; and, as the island was previously inhabited only by a few Malay fishermen, it may be presumed that none were found there.

We suppose that the system of slave debtors grew up and prevailed at this settlement, as well as at Malacca and Penang.

But since 1830, under the proclamation of the Straits government already noticed, the importation of slave debtors has been prohibited as well at Singapore as at Malacca and Penang.

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PRESIDENCY OF FORT ST. GEORGE.

In treating of the provinces under the presidency of Fort St. George, it may be convenient to follow the division of the country observed by the Madras board of revenue, in their minute dated 5th January 1818, in which there is a report upon the condition of the labouring classes, and particularly of the slaves employed in agriculture. In this arrangement the districts are classed with reference principally to the language of the people. The first division, called by the board Telingana, comprises the districts in which Telinga is spoken, viz., the five northern circars, Ganjam, Vizagapatam, Rajamundry, Masulipatam and Guntoor; Palnad and Nellore, composing the collectorate of Nellore; and Bellary and Cuddapah, commonly called "the ceded districts." The second is the Tamil country, where Tamil is the prevailing dialect, comprising the districts of Chingleput, North and South Arcot, Salem,* including the Baramahl,* Coimbatoor,* Madura and Dindigul, Tanjore, Trichinopoly, and Tinnevelly. The third comprehends the districts of Malabar and Canara, on the western coast of the peninsula, in which the Malayalum and Toolava are the vernacular dialects.

Selection of India Papers printed by the order of the Court of Directors, vol. 1, p. 886. Slavery in India, 1828, p. 815.

In the above minute the board of revenue stated, that "throughout the Tamil country, as well as in Malabar and Canara, far the greater† part of the labouring classes of the people have, from time immemorial, been in a state of acknowledged bondage, in which they continue to the present time." "In Malabar and Canara, where the land is very generally divided and occupied as separate and distinct properties, the labourer is the personal slave of the proprietor, and is sold and mortgaged by him independently of his lands.‡ In the Tamil country, where land is of less value, and belongs more frequently to a community than to an individual, the labourer is understood to be the slave rather of the soil than of its owner, and is seldom sold or mortgaged except along with the land to which he is attached. But in Telingana, where it is difficult now to trace the remains of private property in the land, this class of people is considered free."§

Telingana.

Entertaining this notion of the general freedom of the actual tillers of the soil in the districts which they designated as Telingana, the board excluded them from an inquiry which they directed to be made by the collectors in Canara and Malabar and the Tamil country, in order to obtain more minute and satisfactory information respecting the relation of master and slave, particularly as to the power of the master over the person of his slave, and the liability of the latter to be sold independently of the land, and other particulars incident to his condition; also as to any rights or privileges the slave might be entitled to in virtue of his condition, which information was called for with a view to affording some relief to the slaves by legislative enactment. From this omission, there is not so much information on record relating to slavery in this part of the territory of the Madras presidency as there is for the other districts, being chiefly contained in the answers of the district judges and magistrates and of the superior courts to the queries of the law commission, circulated in 1835, which were framed with a particular view to the preparation of the penal code; and in the answers of the same authorities to a reference made to them in 1832, on the expediency of introducing into the Madras code a regulation containing provisions similar to those of Regulations X. of 1811, and III. of 1832, of the Bengal code. relating to the importation of slaves, and their removal for the purpose of traffic from place to place within the British territories.

In Appendix IX. of this Report. Slavery in India, 1838.

The board of revenue supposed that "in former times slavery may have been as prevalent in the northern as it is now in the southern and western provinces; and the same circumstances that reduced the landlord of Telingana to the situation of a landholder may have tended gradually to weaken the power he possessed over his slaves, until they finally became altogether emancipated from his authority." We find, however, that slavery is not so entirely extinct, in the northern circars at least, as they understood it to be.

Northern circars.

In a statistical report made by Mr. Russell (late member of council at Madras), while collector of Masulipatam, in 1819, he stated that "the far greater proportion of the more substantial

Revenue Appendix III., Report of Select Committee of

* The board of revenue observe, that in some detached parts of Salem, Baramahl, Coimbatoor and Bellary, the Canarese is spoken. This arises, they remark, from these districts comprehending part of the ancient kingdom of Carnataca; but the small extent of our territory in which that language is spoken renders it unnecessary to class it separately from the rest.

† Note by the board of revenue: "It is only the greater part, not the whole of the labourers in these countries that are slaves; many of them are also free."

‡ Note by the board of revenue: "As it is not the interest of the landlords in Malabar and Canara to sell the slaves who cultivate their lands, they usually dispose of the increasing stock only for which they have no immediate use; but their power to dispose of all their slaves independently of their lands seems to be undisputed."

§ In a note the board remark, that "in Telingana a labourer cannot remove from one village to another pending engagements which he has not fulfilled; but he is free to make his own terms, and after performing the engagements into which he voluntarily enters, becomes again the master of his own labour. It is believed, however, that the labourers in Telingana generally remain in the same village, and attached to the same family of the ryot, from generation to generation."

the House of Commons, Aug. 16, 1832, p. 508.

substantial ryots have slaves, or rather they have men whose families have been in the employment of their ancestors from time immemorial, and whose services they have a right to enforce." He adds, however, "that the general acceptation of the name under which they pass is little applicable to their actual condition. The work of the Indian bondman is not the forced labour of compulsion, but the willing exertion of one who looks up to his master as his hereditary protector, and who toils as cheerfully for his allowance of grain as the temporary labourer whose assistance is hired."

Masulipatam. Slavery in India, 1838, p. 395.

The acting magistrate of Masulipatam, in 1833, gave a more particular account of the slaves in that district, by which it appears, that, besides those in the service of the ryots, called "Paulaloo," being those alluded to by Mr. Russell, there are two other classes; one, of which the males are denominated "Khasaloo," and the females "Dauseeloo," in the service of zemindars, and other considerable persons of the superior Hindoo castes, including Bramins; the other, in the service of Mussulmans, the males called "Ghoolams," and the females "Baundies." Those attached to the ryots are said to be of the Paria caste; "their masters give them a daily subsistence for from five to seven months in the year,* and allow them the enjoyment of different kinds of emolument deducted from the gross produce, under the head of "Kareezooloo." "For the rest of the year they maintain themselves by other employments." "The masters are not bound to feed their wives daily, but they have authority to make these women work for them, whenever they require them for sweeping or weeding their fields, or reaping the crops. The paulaloo and their male children (at whose birth the master pays certain expenses) are not to desert their masters. If they do, and go to a new master, the old one will claim them and receive them back, on payment to the new master of the expenses he may have been at for their maintenance while with him." "When a ryot mortgages his land to another person, his paulaloo go with the land, and the person who takes the land in mortgage will gladly take them, because he thereby gets persons to cultivate the land without the trouble of seeking for them elsewhere. When the owner redeems his land, his paulaloo return to him along with it, but they are not saleable." It is mentioned as a singular custom, showing the authority of the masters over the cattle of the paulaloo, that when a cow or buffalo belonging to the latter produces a bull-calf, the master takes it, paying for the produce of the cow four rupees, and of the buffalo two rupees, whatever may be the real value.

The slaves in the service of the zemindars, &c., "men, women, and children, are fed and clothed by their masters," who also defray the expenses of marriages and births among them. Should a khasa, or man slave, marry, he of course continues to be a slave, but his wife does not become a dausee. The male issue of such marriage are, however, khasaloo, although the female issue are not dauseeloo. The dausee, or woman slave, never marries, but the children she may bear are all slaves. In short, all dauseeloo, and their children, and all khasaloo, whether married or unmarried, and the male offspring of married khasaloo, are slaves, and live under the protection of those in whose service they were born, who must feed and clothe them. "These masters never sell their slaves; yet in time of distress they give them leave to go away and seek their livelihood elsewhere; in which case other persons of the same caste, who are able to afford it, take a pride in protecting these cast-off slaves, and so receive and feed them. But, should the fortunes of their former masters change again for the better, their new masters do not hesitate to send them back again on being demanded by their old masters, nor do the slaves refuse to return when so summoned." "Their condition with their masters," it is said, "is by no means bad; their masters generally treat them with kindness, and feed them from infancy to manhood. If they were to leave their masters, and seek a livelihood elsewhere, they could not better themselves by serving other people on monthly wages, which, for this description of servants, cannot exceed four or five rupees a month, upon which the whole family of a khasa could not be maintained; so that they never desert their masters, who will always continue to maintain them, unless they are reduced to the greatest distress themselves."

With respect to the slaves in the service of Mussulmans, it is observed, that "although their masters probably would not scruple to sell them if they dared, yet they do not sell them, partly from awe of the government, and partly because they know that such sale would not be held valid by the courts."

Slaves of all the classes, it is said, "can leave their masters at any time if they please, and no force can be used to recover them."

In conclusion the magistrate observed generally, that the persons denominated slaves in this district might be more appropriately termed "hereditary servants," and that they "appear to be bound to their masters rather by community of interest than by any other tie or obligation." He added, that in "time of scarcity, children are frequently purchased from parents who are in distress and unable to maintain them, and they are brought up and used as servants, but they are at liberty to leave the service of their purchasers when they please, and this practice may, therefore, be considered beneficial to the community, as such children would otherwise starve."

Appendix IX.

The reports relating to this district, which were furnished by the local officers in 1836, agree with the foregoing account.

Of

* Mr. Russell estimates the subsistence of two slaves for six months, at two seers of paddy each per diem, to cost 18 rupees. He says, in explanation, "As the fees which the ryot receives at the threshing floor are given to his slaves, and constitute their means of support during a part of the year, I have calculated their subsistence for six months only." From a table prepared by him, it appears that the ryot's proportion of the fees alluded to amounts to four per cent. of the gross produce.

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Of the other districts of the northern circars, the information we have found on this subject is very scanty and indistinct.

Rajahmundry. Appendix IX.

In the district of Rajahmundry, which bounds Masulipatam on the N.E., the slaves, it is stated, "form a distinct class. They cannot be admitted by marriage into any caste without dishonouring the family with which they become connected, owing to their degraded state," as the offspring of notorious prostitution among themselves. But though they are usually called slaves, the term is not considered to designate them properly, for they are slaves only in name, their servitude being, it is said, "perfectly voluntary, and cannot be coerced beyond the limitation of regular service with impunity."

Guntoor. Appendix IX.

In Guntoor, which adjoins Masulipatam on the south-west, it is stated by one officer that "there is no slavery, in the strict sense of the word, but there are male and female servants attached to the zemindars who are designated as 'slaves;'" "they have been for the most part attached to their families for several generations, and their children look forward to their continuing in the same employment. Whatever might have been the case formerly, the engagement has been for many years voluntary, and can be said to exist only as long as the zemindar is willing to pay for their subsistence, and they have no wish to change their condition. The fact of their being slaves does not in any way exonerate the master from punishment for any offence committed against them, and no measure would be taken to enforce the right of the masters to their service against their own consent."

Slavery in India, 1838, p. 294.

Another officer observes, that "there is a species of domestic slavery existing in the district," but "the individuals are employed more as private servants than as slaves, and are never bought or sold, but have been taken by the higher classes out of charity, to prevent their dying of want, and who provide them with food and clothing in return for their services, which are exclusively domestic; and in numerous instances they have been promoted to high situations under the zemindars and others for good conduct, and have become cultivators, subadars, &c."

Vizagapatam. Appendix IX. Slavery in India, 1838, p. 397.

In Vizagapatam, slavery, it is said, is not recognized as legal by the authorities. It appears, however, from the report of the magistrate, in 1832, that "a species of domestic servitude exists, improperly called 'slavery.'" "The persons so denominated 'slaves' are born in the family, in which they are clothed and fed, but receive no remuneration for their services." "They are fully aware," the magistrate said, "of the protection to which the laws entitle them; but being kindly treated they have no desire to quit the roof under which they have been born and bred; were any ill-usage shown them, they would not hesitate to avail themselves of such protection."

Ganjam. Appendix IX. Slavery in India, 1838, p. 397.

In Ganjam, the most northern of the circars adjoining Cuttack, slavery is mentioned as existing, but in the "mildest form," "not likely to give cause for complaint," "except with respect to the slaves belonging to zemindars," "who exert over them the most despotic power, not because it is allowed by law, but because they are out of the reach of the law." In one or two instances, it is said, where slaves have succeeded in escaping out of the zemindar's territories, they have been protected, and the right of the rajahs to the person of the slave denied. The magistrate in 1832 stated, that some of the lowest caste of natives who have many children, and no means of maintaining them, give up one or two, perhaps, to a rich neighbour, and receive in return money or clothes. The children are always well-treated, and are not bound to remain with their master if they are not desirous of doing so. There are a few children occasionally purchased in the district of Cuttack, and brought to the small pagoda at Ganjam, or Berhampoor, by the dancing girls of those pagodas, but they are treated with kindness, and are at liberty to return at any time they think proper.

Agrestic slaves.

In the reports upon the other districts of the northern circars, excepting Masulipatam, there is no distinct mention of agrestic slaves as a separate class. But we think that Mr. Russell's observation above cited, with other remarks of a general tenor in the report from which it is quoted, was not meant to be restricted to the district of Masulipatam. At any rate, when we find that agrestic slaves are so common in that district, that in an estimate given in the same report, of the costs of cultivation in different kinds of land and under different modes of culture, the subsistence of labourers of that description is included as one of the ordinary charges, and when we consider how closely connected this district is with the neighbouring ones, how similar are the customs and habits of the ryots, the tenures of land, and the system of agriculture, we can scarcely doubt that, in the contiguous parts of Rajahmundry and Guntoor at least, and probably more generally, the husbandry is mainly carried on by a class of field labourers who are in the same condition as those who are called slaves in Masulipatam. And, indeed, the description of the slaves in Rajahmundry, who are said to form a distinct class, considered to be impure, and, therefore, unfit for domestic service, leads to the inference that they are the same as the Paria agrestic slaves of Masulipatam.

Origin of this particular kind of slavery.

Of the origin of this condition of slavery, to which a particular class of the rural population is subject in Masulipatam, and probably in the neighbouring districts, if not throughout the northern circars, we have not found any information. But seeing that the people subject to it are of the Paria tribe, one of the two of which the great body of agrestic slaves in the Tamil country is composed, and to which also belongs a large part of the slaves of Malabar, it is reasonable to suppose that it arose out of the same circumstances as in those countries, and probably had originally the same character.

General observations, 1836. Appendix IX.

The judges of the provincial court observe generally of the servitude known by the name of "slavery" in the northern circars, including, we apprehend, that which we have just adverted to, as well as domestic slavery, that "it may be considered a voluntary submission to the loss of liberty for the assurance of a certain but undefined subsistence, comprehended in the general term 'livelihood.' It is an irregular system of servitude involving no loss of social rights, nor exposing the individuals to any other restraint than ordinary service imposes."

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This may be sufficiently correct as applied to the condition of the slave of the ryots in the villages, of those belonging to zemindars in the more settled parts of the country, employed partly in domestic services, partly in field labour and other out-door work, and of the male domestic slaves in the families of householders in the towns. But we conceive that an exception must be made of the hill zemindaries, and that the remarks of the collector of Ganjam, already quoted, as to the despotic power which the chiefs in those territories practically, though it may be unlawfully, exercise over their slaves (as perhaps over other servants), must be taken as applicable to them all from Rajahmundry to Ganjam; and we think the observation of the court must be understood with some qualification with respect to female slaves employed as attendants in the private apartments, in the families of zemindars and Mussulman householders, over whom, from our general information, we cannot doubt that a greater degree of personal restraint is exercised than over any common servants.

Exceptions.

It does not appear that the right to the services of slaves, agrestic or domestic, has ever been the subject of civil action in any of the courts of the northern circars; and both are exempt from sale. The law, it is said by the provisional court, "is available to such as fall under the denomination of slaves in common and in equal degree as to all other classes," and in this position the district judges and magistrates appear generally to agree.

Sale of children by parents.

The sale of children by their parents, under the pressure of want, occurs in times of scarcity; but such sale does not confer a right to their services against their will after they are of age to make a free choice.

Self-sale.

We do not find any notice of persons passing from freedom to slavery by self-sale.

Exportation of slaves.

Slavery in India, 1828, p. 486, *et seq.*

We see that formerly a traffic was carried on chiefly by the French and Dutch settlers in the northern circars, by purchasing children brought to sale by their parents in times of distress, or kidnapped, and exporting them by sea as slaves, to suppress which a proclamation was issued by the government of Madras in 1790, prohibiting absolutely any traffic in the sale or purchase of slaves. This and other measures taken in concert with the French and Dutch authorities appear to have been effectual, and the practice seems to have been put down for a long time.

Appendix XIV.

But a case has lately come under judicial investigation at Madras, from the evidence in which it appears that it has been partially revived. In the Appendix will be found reports upon this case from the advocate-general and the marine police magistrate at Madras, and the magistrates of Vizagapatam and Ganjam. The facts are briefly as follows: A brig, the Moydeen Bux, navigated by natives, but under British colours, arrived at Madras from Calingapatam, in the Ganjam district, bound to Nagore, in the district of Tanjore, having a number of children on board shipped at Calingapatam. The master-attendant having received information of this, and suspecting that the children were intended to be dealt with as slaves, instituted an inquiry as magistrate of the marine police, and eventually, upon the advice of the advocate-general, committed the nakhodah, or native commander, and others, for trial before the supreme court, upon a charge of slave-dealing, in contravention of the Act 5 Geo. 4, c. 113.

The parties, it appears, were acquitted on the trial before the supreme court on a point of form, in consequence of a verbal omission in the indictment. The number of children discovered by the police was 26.

The brig Moydeen Bux was driven into Calingapatam by stress of weather, and remained there during the whole of the south-west monsoon. At this time a great scarcity prevailed in Vizagapatam, the neighbouring district, and the people were suffering the extremity of want, and ready to sell their children for a trifle, or to give them away to persons who would undertake to subsist them. Under these circumstances, the children were obtained by the nakhodah and his people, and there does not seem to be any ground to suppose that they used either fraud or violence. There does not appear to have been any concealment practised, either in procuring them or shipping them, showing a consciousness of wrong on the part of those concerned.

Indeed, as noticed in another place, the sale and purchase of children in time of famine is declared in a late circular order of the Foujdary Adawlut not to be an offence according to the Mahomedan law, and, therefore, not punishable by the criminal courts. It is not probable that the nakhodah and his people were aware of the penalty denounced by Act of Parliament for slave-dealing; but if they knew it, they might still be ignorant that they rendered themselves liable to it, by the mere act of transporting by sea, from one place to another within the same territory, children purchased by them, as allowed by law in a time of famine, whom they might have carried to the same place by land without objection.

Appendix XIV.

It appears that the Choolia (Mahomedan) merchants of Nagore carry on a considerable trade with the port of Bimlipatam, in the district of Vizagapatam, where some of them usually reside, passing to and from Nagore occasionally. The magistrate of Vizagapatam states in his letter to the marine police magistrate, that it has been proved that these persons have been in the habit of procuring children in that district and conveying them to their own country, their alleged object being to procure converts to their religion, lascars for their vessels, and slaves for domestic purposes. The same officer has informed the law commission that he is, however, "satisfied, that the practice of exporting children has been very limited, and that the transaction which led to the trial at Madras arose from the very peculiar circumstances of the past season." He has also transmitted to them a copy of a letter from the acting principal collector of Tanjore, stating, that, from the inquiries he has made, there appear "no grounds to suppose that it is customary for native vessels to bring

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bring children to the ports in that district for the purpose of disposing of them for domestic or other description of slavery."

The magistrate of Ganjam has also informed the law commission, that, having made diligent inquiry in consequence of the late affair of the Moydeen Bux, "All the information he has obtained leads to the belief that nothing of the nature of a trade in slaves has prevailed in this district for very many years." With respect to the Moydeen Bux, he observes, that "the accidental arrival and detention of the brig at a time when extreme distress prevailed in the neighbourhood, appears to have afforded facility for procuring the children, of which the Lubbies (or Choolias) availed themselves; but I do not think there is any ground to suppose that the vessel came expressly to the coast for any such purpose, or that children have in any other instances of late years been shipped from ports in this district." He remarks, that the Lubbies of Nagore and the other ports to the southward are in the habit of adopting into their families children of other castes, who serve them as domestics, and are also employed in their vessels and generally in their commercial transactions; and adds, "I have had an opportunity of seeing something of the Lubbies in the Tanjore and Madura districts, and consider them a very industrious and well-conducted class, and I am disposed to think that in obtaining these children the people of the Moydeen Bux had no criminal intention of selling them again as slaves for the sake of profit."

A case is mentioned as having occurred in the Masulipatam district during the famine in 1833, in which a party was convicted of having purchased or otherwise procured children for the purpose of exporting them as slaves to the Nizam's country, and was sentenced by the Foujdary Adawlut to imprisonment and hard labour for three years. This case will be noticed more particularly in another place.

Appendix IX. Slavery in India, 1838, p. 429.

Of the remaining districts comprehended by the board of revenue under the general designation of Telingana, Nellore, Bellary, and Cuddapah, it is stated by the local officers, that in Nellore, there is no slavery, although some few Mahomedans have domestic servants who were purchased by them from their parents in infancy, but who cannot be considered slaves, as they are at liberty to leave their masters at their own will.

Nellore. Appendix IX.

With respect to Bellary and Cuddapah, which compose what are commonly called "the ceded districts," it is reported that no cases of slavery have come under the cognizance of the authorities in those districts, and we see that it is stated positively by Mr. Campbell, who was for some time collector of Bellary, that "no agrestic slaves whatever exist there, and that the domestic slaves, if there be any, do not exceed 100 or 200 in a population of above 1,000,000."

Bellary and Cuddapah. App. IX. Answers of A. D. Campbell, Esq. p. 462, Appendix I. (Public) Report Select Committee House of Commons, 16th August 1832.

We may here remark, that in the country of Mysore, which adjoins these districts, agrestic slaves are almost unknown. We find no mention of such slaves in the printed report of the resident, Major Wilks, upon the statistics of that country; and Dr. Buchanan appears to have found slaves employed in agriculture only in the district of Nuggur, which adjoins Canara.* It is worthy of notice also that there are no slaves in those parts of North Arcot, Salem, and Coimbatoor, which border on Mysore to the east and south, as will be seen below.

Mysore. Dated 5th Dec. 1804, printed by order of Gov.-gen. in Council, 4th May 1805. Journey through Mysore, &c. vol. 3, p. 280.

It appears, however, that under Tippoo's reign, the children of thieves and highway robbers were made slaves of the government.† And an order‡ was passed by Tippoo, forbidding the practice which had prevailed of "the aumils and officers of government and other people purchasing and selling abandoned girls and orphan children," and directing that in future they should neither "be sold abroad" nor "lodged in the Deostans" (Hindoo temples), but should "be collected together for government," "and sent to the huzzoor" (the seat of government).

Tamil Country,

Comprising the Districts of Chingleput, N. and S. Arcot, Salem, Coimbatoor, Madura and Dindigul, Tanjore, Trichinopoly and Tinnevelly.

With respect to the Tamil country, we have fuller information in the answers of the collectors to the queries addressed to them by the board of revenue, in 1819, besides the reports of the district judges and magistrates, and the superior courts, in answer to the queries of the law commision circulated in 1835, which will be found in the Appendix, and in the answers of the same authorities to the reference made in 1832, adverted to in the preceding section.

Slavery in India, 1828. Appendix IX. Slavery in India, 1838.

We have also found valuable information in other reports, already in print, which are referred to below in the places where they are cited.

Of the districts composing this division of the Madras territory, it appears from the reports

* Col. Cubbon, commissioner in Mysore, states in a late report (13 June 1840) that predial slavery is found in the Mysore territory only in the districts skirting the Western Ghauts, and there to no great extent.

† Tippoo's Regulations. "British India Analyzed, 1795."

Art. 52. "There are many korchywars, thieves and highway robbers, in your district: you are to find them out and apprehend them, with their women and children; and having selected from them all the young boys and girls who are wanted by government as slaves, you shall provide them with a suitable allowance for their diet, at the rate of one seer of rice and one pice per day, one with another, and send them with great care under charge of the killadar to the huzzoor."

‡ Ibid. Art. 102.

Salem. Coimbatoor. Slavery in India, 1838, p. 389.

ports that slavery does not exist in Salem;* and in Coimbatoor, it is found in a few villages only, in the talook of Caroor, which adjoins the district of Trichinopoly, and that of Polachy, which lies towards Malabar. In these parts, it is stated, there is a class of people "who are serfs of the soil, and are considered attached to the estates on which their families have resided, from time immemorial, and in mortgaging lands these people are always included with the estate."

Ditto, 1828, p. 873.

In all the other districts, slavery, principally agrestic, is found to exist, but in the northern division of Arcot the slaves are few, and are almost confined to the southern talooks, which are those that properly belong to the "Tamil country."

AGRESTIC SLAVES. Dr. Buchanan, Journey from Madras through Mysore, Canara and Malabar, vol. 1, p. 19.

It was observed by Dr. Buchanan, in 1800, that in the lower Carnatic (Carnatic Payin Ghat), much of the land is rented by Brahmins; "but, like the Jews, they seldom put their hand to actual labour, and on no account will they hold the plough. Their farms they chiefly cultivate by slaves of the inferior castes, called Sudra and Punchum Bundum. The Punchum Bundum are by far the most hardy and laborious people of the country, but the greater part of them are slaves. So sensible was Tippoo of their value, that in his incursions it was these chiefly whom he endeavoured to carry away. He settled them in many districts as farmers, and would not suffer them to be called by their proper name, which is considered opprobrious, but ordered that they should be called cultivators. The Punchum Bundum consist of four tribes: the Pariar, the Bulwun, the Shekliar and the Toti. The Shekliars dress hides, and from among the Toti is chosen a particular class of village officers. There are a few Mussulman farmers who possess slaves; but the most numerous class is composed of the different tribes of the Sudra caste. Some of these possess slaves, but many of them cultivate their farms with their own hands."

Chingleput. Appendix to 5th Report of Select Committee of House of Commons (No. 16), 28th July 1812.

In Mr. Place's elaborate report on the land tenures of the district of Chingleput (Jaghire), dated 6th June 1799, we find the following statement on this subject: "In fertile and well-watered villages, the Meerassee whereof belongs to Brahmins, who, being forbid to cultivate themselves, must employ servants for that purpose, the labouring servants are for the most part Pariars, who can by no means acquire property in land; and I have not yet met with an instance of their having done so. They receive wages partly in money and partly in those fees which I explained in my report of the 6th October 1795, called Calavassum, and, if not the slaves of the Meerassidars, renew their service every year. But the other class of servants are men of the Pullee caste, and either by custom or rule have an hereditary right of service under the Meerassidars, and are entitled to one-third of the share which the latter receive of the crops. The Meerassidars, in this case, receive the Calavassum. Madrantica affords a very curious example of the preservation and assertion of this right. Previous to the repair of the tank, it is not known how long the lands were uncultivated:† but so soon as this work was completed, the descendants of many families who had formerly been the hereditary servants of the Brahmins, claimed, and were admitted to, their inheritance, though in the intermediate time they had taken up other occupation, and might be supposed to have forgot it. The office constitutes the inheritance like many offices of the feudal system. It might of course be relinquished by the occupant, who by that means broke the succession; and, in failure of heirs, it rested with the Meerassidar to appoint others or not; but this also cannot be sold, mortgaged or transferred. "It may be better to mention now than hereafter," he added, "one very striking resemblance that this country affords to the feudal system regarding servants; and as I could not possibly find words that would so well describe their situation, I shall beg leave to quote those of Judge Blackstone.

"'Under the Saxon government, there were, as Sir William Temple speaks, a sort of people in a condition of downright servitude, used and employed in the most servile works, and belonging, both they and their children and effects, to the lord of the soil, like the rest of the cattle or stock upon it.'

"'These villeins, belonging principally to the lords of the manors, were either villeins regardant, that is, annexed to the manor or lands, or else they were in gross or at large, and transferable by deed from one owner to another. They could not leave their lord without his permission; but if they ran away or were purloined from him, might be claimed and recovered by action, like beasts or other chattels. They held indeed small portions of land by way of sustaining themselves and their families; but it was at the mere will of the lord, who might dispossess them whenever he pleased.'

"Slaves of this description," continued Mr. Place, "are very numerous all over the country, and are, I think, preferably situated to servants more at liberty, who also, from the constitution of their religion, are very little better than slaves. I have seen that the masters of the former take an interest in protecting and in marrying them; for their offspring is in fact an increase of their own property; nay, so contented are they with the treatment they meet with, that but very few instances have come within my knowledge of their desertion when they have been claimed in the manner stated in the quotation; and but one, where it has been so tyrannical that they were not to be prevailed upon to return. One man, a Nattawar, in Poonamallee, lately dead, possessed 400 families of slaves. Reduced by the improvidence

* This is stated positively by the magistrate with respect to the district generally; and by the joint magistrate with respect to the division under his charge; but the assistant magistrate, while he states that slavery is altogether unknown, yet observes that children, however, are purchased during famine, in consequence of the indigence of their parents. Some girls are taken as wives by their purchasers, some as servants. The latter, he says, are at liberty to abandon the protection of their purchasers whenever they think proper, and the case, it is presumed, is the same with males.—Reports of 1835–6, Appendix IX.

† *Cultivated*, in the printed copy, which is evidently an error.

improvidence of his father to great distress, he could only employ about 100; but so strong did the attachment of all the rest remain to him, that although they had for the most part engaged in the service of European gentlemen, and of myself among the rest, had he possessed the means of subsisting them, they would voluntarily, or with very little persuasion, have returned to him. The servants of the Vellalers were anciently all slaves, and I believe it is only with such that they are now found."

We should have thought that Mr. Place meant to designate by the term "Pullee," the tribe called "Puller," in the other districts of the Tamil country. But we find that Mr. Ellis, speaking of the same part of the country, also mentions the "Palli," besides the "Paller" and "Pareiyer" as serfs, the two latter "as mostly the slaves of the Vellaler," the former "as vassals of the Brahmin Meerassidar."

Paper on Meerassy right; vol. 1, Selection of India Papers, p. 810; also, Revenue Appendix to Report of Select Committee of House of Commons, dated 16th August 1832, p. 522.

In the paper written by B. Sencaraya, late sheristadar to the collector of Madras, on the same subject, which Mr. Ellis annexed to his own, it is stated, that "in the large villages about Madras, including Meerassidars, Ulcudis, and Pyacaris, there may be from 20 to 140 cultivating inhabitants, and in small, not more than five or six; always of course in proportion to the cultivable lands. In the villages held by the Vellaler or Agamudeyar, they possess a certain number of slaves. Each plough at work requires one man; and when the number of slaves, therefore, is not sufficient for the whole cultivation, hired labourers are employed. In agraharams held by Brahmins there are few slaves, and hired labourers are principally employed. In some agraharam villages there are no slaves."

Ibid. p. 544.

From the reports of 1819 and 1835-36, it appears, that the agrestic slaves in the other districts of the Tamil country are generally either Puller or Pariar. The Puller seem to predominate in the southern districts, and it is stated by the magistrate of Madura, that they are of older standing than the Pariar as slaves. In Tinnevelly, it is stated, there are also slaves of all the tribes of the Sudra caste, employed chiefly as domestics, but likewise "in the lighter duties of cultivation."

Slavery in India, 1828, p. 836, *et seq.* Appendix IX.

NUMBER OF AGRESTIC SLAVES.

With respect to Chingleput, it was stated, in 1819, that the chief part of the Pariar of the district were slaves, but we do not find any estimate of their number.* In South Arcot, the number of slaves of both sexes, including children, was then estimated to be more than 17,000.† In Tanjore, the slave-population, it is stated by the present magistrate, is very numerous, and Mr. Campbell, his predecessor, says it amounts to many thousands.‡ In Trichinopoly, the number of the Puller was estimated, in 1819, at 10,600.§ In Madura, at present, the magistrate states, slaves of all kinds bear but a trifling proportion to the whole population.‖ In Tinnevelly, the number of agrestic slaves, or their proportion to the whole population,¶ is not stated in any of the reports of 1819 or 1836, but it is to be gathered from them that the number is considerable. In the report of the collector in 1832, it is stated, that the census taken for 1821, 22 and 23 shows their number then amounted to 324,000; but this amount being about 38 per cent. of the whole population, is so far out of proportion to what we find in any other of the Tamil districts, that we doubted its correctness, and thought it proper to refer to the present collector (Mr. Eden) for explanation. By him we are informed that the statement quoted does not agree with the official account of the census of 1821, 22 and 23; according to which the sum total under the head of "Puller," "Pariar," &c., made up from the details of talooks, is 129,520, and it is explained that this comprises all of the predial classes, and also a considerable portion of other classes not subject to slavery. The grand total of all the classes engaged in agriculture, excluding one or two of the upper ranks of Sudras, it is stated, is about 3½ lacs.

Magistrate of Tanjore, 1835. Appendix to Report of Select Committee House of Commons, 16 August 1832. Collector of Trichinopoly 1819. Slavery in India, 1838, p. 390.

ORIGIN OF THE SLAVERY OF THE PULLER AND PARIAR TRIBES.

As to the origin of the slavery of the Puller and Pariar,** there is no distinct and positive information. Mr. Place observed, "that it would now be difficult to institute any investigation on this point, and that it is one of those things we must be content to know existed with the Hindoo constitution, without assigning a reason or discovering a cause. Perhaps, he suggested, it was thought politically necessary that they should be made slaves when the Carnatic was first peopled." It is now impossible to trace, said the collector of Trichinopoly, in 1819, "whether this establishment took its rise from the voluntary submission of the indigent to the wealthy, or whether the Pullers were originally captives taken in war;" but agricultural slavery has existed in this district from "time immemorial." The collector of Tanjore

Appendix, 5th Report.

Slavery in India, 1828.

Ibid.

* Present population of Chingleput, 3,31,821.

† Present population of South Arcot, 4,84,800.

‡ Population of Tanjore, according to census of 1831, 11,28,730. Number of landholders, 40,642.

§ Present population of Trichinopoly, 4,85,242.

‖ Population of Madura and Dindigul, 7,21,273. The agricultural portion estimated at about one-eighth. The people of low caste, viz. Pariar and Puller, estimated at 16 per cent.

¶ Population of Tinnevelly, 8,50,891.

The above statements of the population of districts are taken from an account furnished to the law commission by the government of Madras.

** What is the distinction between these tribes does not clearly appear. In the Tamil Dictionary, the word *Puller* is rendered as the denomination of a low tribe of Pariar in the southern country.—N. B. *Pariar* is plural, *Parian* or *Paria*, singular.

The Abbé Dubois says, "People of the caste of the Pullis, which is little known but in the kingdom of Madura, and other parts bordering on Cape Cormorin, boast a superiority over the Pariar, because they do not eat the flesh of the cow or ox; but the Pariar hold them to be far beneath themselves, as belonging to the *left hand*, of which they are the dregs, whilst they themselves pertain to the *right hand*, of which they account themselves the firmest support."—Dubois' Description of People of India, p. 460.

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Tanjore supposed, that the slavery of the Puller and Pariar was founded, in the first instance, upon a voluntary contract on their part to men more powerful than themselves, "upon whom they thus imposed a more strict obligation to protect and maintain them and their families than if merely serving them as labouring servants."

Slavery in India, 1828.

The collector of Madura accounted for it in the same way. "When a Puller or Paria was unable to gain a livelihood, he was accustomed to offer himself or his relations as slaves to cultivating inhabitants for a sum of money from one to ten cully-chukrums, when a bond of slavery was drawn out and signed." So, also, the collector of Chingleput observed,

Ibid.

that "the Pariar slaves called 'Adami' (the Tamil name for a slave) came into vassalage in that district by their voluntary disposal of themselves, either for a sum of money, or upon some other agreement, in consideration of which they pledged themselves to service, and were at the disposal of the purchaser either for resale, mortgage or gift. In thus submitting

Ibid.

himself to vassalage, he involved for ever his posterity." "The Puller and Pariar slaves," said the collector of South Arcot, "appear to have been born * in a state of servitude through some contract of their forefathers;" but he added, "the Hindoo code, religious and civil, seems, however, to declare, that the Sudra tribe are naturally born in a state of servitude; and although some of the superiors of the subdivisions of that tribe in modern days have emancipated themselves from this degrading thraldom, yet the lower castes are always looked upon as natural slaves."

Slavery in India, 1828, p. 887 to 900.

The late reports do not throw any more light upon this part of the subject.

The board of revenue, in reviewing the reports made to them in 1819, noticed the various ways in which slavery can originate by the laws of the Hindoos, but did not attempt to determine the original cause of the peculiar slavery of the Tamil country.

It is supposed by some, that the Puller and Pariar tribes are remnants of the aborigines who were found in the country when it was subdued and colonized by the Hindoos; and if this supposition is well-founded, it accounts easily for the state of slavery to which the majority of them have been subject from time immemorial. It may be presumed, that the colonists used the power by which they acquired possession of the lands to secure the command of labour sufficient to make it profitable by reducing to bondage the prior inhabitants: all of them may not have been appropriated; and from the exempted may have sprung those who are to this day free, and those also whose slavery can be traced to contracts made by their forefathers. That some were left free from agricultural slavery, for the purpose of being employed on other services necessary to the community, appears from this, that to the members of the Pariar tribe, from time immemorial, have been assigned, hereditarily, certain village offices.

SLAVE-OWNERS.

Mr. Place believed that, in Chingleput, the tribe of Sudra cultivators called "Vellalers" only had slaves. The collector, in 1819, stated, that slaves were formerly possessed by Vellalers only; subsequently by Reddies, Comawars, and other Sudras also, but never by Brahmins. Dr. Buchanan, however, was informed, that Brahmins and Mussulmans cultivated their lands by slaves as well as the Sudra landholders; and B. Sancaraya, we find, admitted that there were slaves, though few, in the villages held by Brahmins. In the report of the acting judge, in 1835, Vellalers only are spoken of as keeping slaves.

In Trichinopoly, it is stated, "Pullers are only to be found in villages where there is paddy cultivation, and the irrigated lands in which this cultivation is carried on belong to Brahmin Meerassidars, who by the immutable laws of caste are prevented personally exercising the offices of agriculture." The case, it is understood, is the same in the neighbouring district of Tanjore; but there, it is said, the Brahmins, in consideration of their caste, do not receive the bonds of slavery directly in their own names, but have them drawn out in the names of some of their Sudra dependents.

CONDITION OF THE SLAVES, AND THEIR CONNEXION WITH THE LAND.

Slavery in India, 1828, p. 887.

Colebrooke, B. II. c. 4, s. 14.

The board of revenue, in their proceeding dated 25th November 1819, in which they reviewed the answers of the collectors to their queries on the subject of slavery, observed, that "the present state of Hindoo slavery, as described by the collectors, appeared to be nearly the same as it was defined and intended to be by the laws of Menu, but that certain incidents in their villeinage consequent on the provisions of those laws which were enacted with a view to the comfort and happiness of this race of people, have been looked upon as proofs of an abject, degraded, and miserable condition." They alluded "to the circumstance of slaves being sold with the land, or in payment of the rent of it." Upon this they remarked, "that the Hindoo law, on the subject of transfers of property, speaks of land and slaves employed in the cultivation of it, and evidently contemplates these two species of property as one and the same, and not as property separate from each other." "Indeed, the attachment of the Hindoos to the lands which they have always occupied, and to the village

* The magistrate of Chingleput, in 1836, speaks of the slaves in that district as if they had all been purchased individually, making no mention of slaves by birth.—Appendix IX.

The magistrate of South Arcot in 1832, without noticing this hereditary slavery of the Puller and Pariar, observes: "A description of slavery (if such it can be called) no doubt exists in this district, where parties for a consideration engage to cultivate the soil for an indefinite period; but this cannot be called slavery, since, upon repayment of the consideration, the parties are allowed to leave their master and enter into the service of another." In his report, dated in 1836, the same officer speaks of "agricultural" slaves, "if such they can be called," "who are in a manner attached to the soil." "Though the parties are termed 'slaves,' their labour may be said to be voluntary, as they are at liberty to quit their service at pleasure, provided they are under no pecuniary obligation to their master."—Slavery in India, 1838, p. 400, and Appendix IX.

village where they have always resided, is proverbial, and to separate them, therefore, from their native soil, might under such circumstances be considered an additional act of cruelty."

"A certain portion of the produce of the soil which they cultivate is in the Tamil country allowed by the master for the maintenance of his slaves, whose duty it is to till the ground; and unless they were transferred with the land, the new proprietor, when he obtained possession, might experience difficulty in carrying on the cultivation, and the former master might be deprived of the means of enabling him to afford subsistence to his slaves."

"The probability of being transferred with the land, moreover, gives them therefore, on this coast, a sort of property in their huts and little spots of ground, which they can thus occupy without any great fear of being turned out, or transferred contrary to their interests, the feeling and comfort."

They observed, however, that even in the Tamil country, generally, "slaves are not necessarily sold with the land, although the convenience of all parties seemed to have rendered practice common."

The reports recently received, as well as those of 1819, reviewed by the board of revenue, certainly make it appear, that in practice, in the Tamil country, the slaves in question are not always sold with the land, although that is most usual, so much so, perhaps, as to warrant its being taken as the original custom of the country, and to make it reasonably presumable that the occasional exceptions which are now found in practice, have arisen from an abuse of the power of the master. Mr. Campbell, who was employed for a time in Tanjore as principal collector, states, that "the agrestic slaves in the Tamil country are almost invariably transferred with the land. From this being done either in a deed separate from that disposing of the land alone, or without any deed at all, a few of the local authorities, from imperfect inquiry, have been led to question the fact, which is, notwithstanding, broadly stated by others; but I entertain none (no doubt) of the general practice." "The removal of them from their village, and consequently from their families, would be contrary to ancient usage, or Indian common law, and hence the practice of transferring them with the land when it is sold, which, though not necessary in law, is in the Tamil country almost invariably the practice." Mr. Hyde, the collector of South Arcot, in 1819, observed: "It is stated that the slaves of this district can be sold by their owners to any person and to an alien village, and that no slaves are attached to any particular soil or village: but I am induced to believe that such a practice is at variance with the rights annexed to the state of real bondage; for, in some Meerassi villages, it is known, that Meerassidars have advanced pretensions to possess an equal proportion of the slaves with their share of the villages; and I also believe that such a practice is hardly ever resorted to."

Appendix I. (Public) Report of Select Committee of the House of Commons, 16 August 1832.

"The Pullers are not like slaves," says the judge of Combaconum (Tanjore); "there is no slavery in their treatment; their transfer with lands resembles the transfer of ryots on an estate alienated by government, as Yanam (Enam) Shotrium, &c."

Mr. F. M. Lewin, 1836. Appendix IX.

According to another judge of Tanjore, the removal and sale of the personal slave would be received by the people as no offence, whilst that of the bondsman attached to the soil would be considered an unjust infringement of presumptive right.

Mr. J. F. Thomas, 1832. Slavery in India, 1838.

Purchases of slaves are seldom made, says the assistant judge of Tinnevelly, except where land also is bought, for slaves are for the most part attached to the land, and as part and parcel of it. Where an estate is divided, the slaves are indiscriminately awarded to each shareholder. The caste of cultivators called "Pullers," the joint magistrate of the same district states, are bought, sold and mortgaged with the lands of their masters, as has been the custom for very many years. The collector of this district, in 1819, indeed, said that slaves were sold or mortgaged either with, or separately from, the land; but a subsequent observation by him, that "the slaves in time become so attached to the village in which they are settled, that they seem not to consider their situation, nor to have any desire to be free and independent," implies that their settlement is regarded as permanent; and those who assert that slaves may be sold separately from the land which they have customarily cultivated, appear, for the most part, to maintain, that they cannot, however, be removed from their village without their own consent. The Sudder Adawlut observe, that in the rest of the provinces (excepting Malabar and Canara) where agrestic slavery exists, it is believed that the transfer of such slaves separately from the land is contrary to local "usage."

Appendix IX.

ALLOWANCES, &c.

In Tanjore, there is attached "to each house of the slave, in common with the other householders who are not landowners, a* small piece of land or garden, tax free." And "he is paid for his labour at a regulated rate in grain and clothing which was arranged by the collector in 1802." It appears, that generally the agrestic slaves are considered to have a right to a specific share of the produce of the land cultivated by their labour. An account of this† and of other allowances which the Puller is properly entitled to receive was given by the collector of Trichinopoly in 1819. The share and allowances, commonly called sotuntrums, vary in different districts, but they are generally, it is believed, as distinctly defined by custom as those of the village servants and others. In the Tamil country, says Mr. Campbell, the agrestic slaves are entitled to a certain proportion of the harvest reaped on the land they cultivate, and to prescribed fees in grain at each stage of the previous

Mr. Campbell, Appendix I., p. 455, Report of Select Committee of the House of Commons, 16th August 1832. Minute of Acting 3d Judge Provincial Court S. D. Slavery in India, 1838, p. 391. Ditto, 1828, p. 839.

* Stated by the collector, in 1819, to be 80 goontahs, "the same as to other labourers."

† To a man and his wife 10 per cent. of gross produce, besides contingencies for marriages, births, &c.; on the whole something above 17 per cent.

Ellis on Meerassy.

vious cultivation, as well as at certain national festivals. Mr. Ellis stated, that "they all claim Miras in the incidents of their villeinage, and it is generally allowed to them and their descendants on proving their former residence in the village." The collector of Chingleput in 1819 said, he had inquired into this claim, but could not find that any allowances were accorded to the Pariars and Puller of that district, except Pooreeallum, Calavassen and Aland-adey; but all that Mr. Ellis meant, apparently, was that they claimed a Meerassy right to till the land, and to receive from its produce those or similar allowances; Miras or Meerassy, as explained by him, being any office, privilege or emolument, descending hereditarily.

On the whole it does not appear an unreasonable hypothesis, that in the original constitution of society, after the Hindoos became predominant, when a portion of the conquered race was appointed to till the soil, and bound to that service from generation to generation, not only was their condition and duty thus fixed immutably, but likewise their station or locality; that certain families were attached to each village, and bound respectively to cultivate particular lands therein, or the lands of the village generally, according to the nature of the tenure, as the lands were held in severalty by individuals, or jointly by the community,* with a definite assignment on the produce for their subsistence. In the Tamil country, it is to be observed, the property in much of the land, and the slaves who till it, is vested in corporate village communities, Hindoo temples, and other institutions; and in the villages where the lands are held by such tenures, slaves are a kind of public servants; and perhaps their hereditary attachment to the land with a right to support from it, may as properly be considered a privilege as the hereditary right of the village servant of the same class to his office, and the allowances assigned to it.

EMPLOYMENT.

Appendix I., p. 455, Report of Select Committee of the House of Commons, 16th August 1832.

The following description of the employment of agrestic slaves in the Tamil country, by Mr. A. D. Campbell, is the fullest we have found: "The agrestic or field slaves in the Tamil country are employed by their masters in every department of husbandry: the men in ploughing the land and sowing the seed, and in all the various laborious works necessary for the irrigation of the land upon which rice is grown; the women in transplanting the rice plants; and both sexes in reaping the crop. Their labour is usually confined to the rice or irrigated lands; the lands not artificially irrigated, watered only by the rains of heaven, and producing, what in India is technically termed dry grain, being seldom cultivated for their masters, whose stock is concentrated on the superior irrigated soils; and any cultivation by the slaves on unirrigated ground is generally as free labourers for others, or on their own independent account.† The agrestic slaves work in bodies together, the village accountant registering the work executed by them, which he inspects; but they are not personally superintended by any one, nor placed under any driver; they generally work from about sunrise to sunset, with the intermission of a couple of hours for their meal during the middle of the day. They are not exempted from work on any particular day of the week, but obtain holidays on all the great native festivals; such as those fixed for consecrating implements, the new year, and other great days. No particular task-work is assigned to them daily; it is sufficient that the slaves of each master execute the work necessary for the cultivation and irrigation of his lands. These slaves are also often employed in erecting temporary rooms, or pundals, used by their master in marriages or other festivals, and occasionally are called on by requisition of the collector or magistrate, issued to their masters, to aid in stopping any sudden breach in the great works of irrigation conducted at the expense of government, or in dragging the enormous cars of the idols round the villages or temples, to move which, immense cables, dragged by many thousands, are necessary; in Tanjore, in particular, from the great number of the temples and the frequency of the festivals, this is a very onerous duty."

PERSONAL TREATMENT.

Appendix IX.

It is stated positively by Mr. Campbell, that "the lash is never employed by the master against his slave in the Tamil country," and the general tenor of the reports implies, that it is not usual to employ it, and that, as it is expressed by a former collector of Tanjore, "the slave is not more liable to personal punishment than other labourers, in consequence of his state of bondage." We find it stated, however, by the assistant judge of Tinnevelly, that "when the slaves are employed in the fields, not in task-work, in which they labour with alacrity, they require to be constantly watched, and the cane is in constant use." "They generally labour" (he observes) "from eight to four; but when occasion requires it, their whole time, day and night, must be spent in the field." The general opinion appears to be, that they are not coerced to labour by more severe treatment than hired‡ servants of the same classes

* It is supposed by some that this was the original state of property in the land, generally, in the Tamil villages. On the establishment of every Tamil village, as now constituted, said the board of revenue, 1819, the rights above explained were vested in all the original Vellaler settlers, as a collective body, not in each individually; every one of them, therefore, possessed a separate equal share in the whole Meerassy, and hence in each village, to the present day, the number of equal shares into which the Meerassy was at first divided remains the same as when the village was originally settled, though the holding has altered in course of time, in some villages the lands having fallen entirely to an individual, while in others the sharers have increased in number, and the original sharers have been subdivided into fractional parts.

† It is stated in a minute of the acting third judge of the provincial court, southern division, 1832, that in Tanjore, "when the master has no work for his slave, he allows him to work for another Meerassidar, who pays the man for his labour, by which means the slave acquires personal property."

‡ The Abbé Dubois says: "The Pariahs of India in general are not to be considered in any other light than as the born slaves of the other tribes, at least there is as great distance between them and the other castes, as subsists in our colonies between the planters and their slaves. These lead not a harder life than the Pariahs, and the usage of both is equally severe." "The most of them sell themselves with their wives and children

classes employed in similar work. "The fact, indeed, appears to be" (says one officer), "that the slave is so necessary to the cultivation, and labourers are so scarce, that the proprietors find it their interest to protect and treat them well." "I have examined the Pullers myself on this subject" (says another), "and asked them what course they would pursue if ill-used. They replied, that they would seek other masters at a distance, who would treat them more kindly." "The right of the Puller" (the same officer adds) "is so distinctly defined by custom, and the interest of the Meerassidar so substantially affected by the good conduct and health of the Puller, that it is hardly possible to suppose the Meerassidars would be so blind to their own interest as to cause their Pullers to abscond, or by harsh treatment reduce them to sickness. It has been the custom (he further remarks) to describe the Pullers as the lowest order of society, involved in wretchedness and misery, and reduced to a condition scarcely superior to that of the cattle which they follow at the plough; but so far as it relates to this class of people in Trichinopoly, it is highly erroneous, inasmuch as there is no class of people generally so athletic or tall in stature as the Pullers." Mr. Campbell also remarks, "that if a judgment may be formed from the appearance of the agrestic slaves in the Tamil country, which is generally that of stout athletic men, their food is not deficient either in quantity or quality." And it is observed by the same officer, who speaks of the use of the cane, that many of the slaves attain to a very great age, a proof, he adds, that they are not worked beyond their strength.

Collector of Tinnevelly in 1819. Slavery in India, 1828. Collector of Trichinopoly in 1819. Ibid.

It is implied in some of the remarks quoted above, that the slave has it in his power to quit his master's service if he is ill-treated. It does not appear that he has a right to do so. The following observations of the present principal collector and magistrate of Tanjore illustrate what is meant: "So long as a slave chooses to remain with his master, he does so, and leaves him for a better at pleasure. Nothing but a civil suit, which would cost more then 10 years of his labour, can recover him, and, being recovered, there is nothing to prevent his walking about his own business as soon as he has left the court which has pronounced him to be the property of another." The magistrates, it seems, decline to assist the master to recover a runaway slave, and leave him to his own resources, which the slave defies. Under these circumstances, mutual interest appears to be really the bond between them. The slave is willing to render perpetual labour to his master by himself and his family, for the sake of a perpetual maintenance, for which, those who work for hire are often at a loss, and the master is constrained to use him well, that is, well enough to make his condition on the whole not worse than that of the free labourer, from the fear of losing his valuable services. It is said, that "the Pullers very rarely quit their masters, a certain sign that they are generally well treated."

Magistrate of Trichinopoly. Appendix IX.

CORRECTION OF SLAVES.

As to the right of the master by law and custom to coerce his slave by personal punishment, we shall only remark here, that it was held by two of the five collectors, who noticed the point in the reports made in 1819, that the master had this right, one remarking, that he was supposed to be vested with despotic authority over his slaves and with power to punish them, and the other that the power of the masters over their slaves is unlimited, except of course where the law intervenes to prevent cruelty and murder. The three others considered that by former usage the master had the right, but that it had ceased to be exercised under the British rule. Of the officers who reported in 1835-36, four are of opinion that the master has the right to correct his slave by moderate personal chastisement if he fails to perform the work assigned to him, three of them expressly referring to the circular order of the Foujdary Adawlut under date the 27th November 1820, as sanctioning it. This order, which appears to have been overlooked by the other officers, who say generally that the slave is equally entitled to protection from the courts against his master, as a free person against another, we shall have occasion to notice more particularly in another place.

Coimbatoor. North Arcot. Appendix IX.

MAINTENANCE IN OLD AGE AND INFIRMITY.

It is asserted generally, that masters are bound to provide for the maintenance of their slaves, when they are unable to work from age or infirmity, and it is this certainty of a perpetual provision which is supposed to reconcile the slave to his condition. On this point, however, Mr. Campbell observes, "I am by no means satisfied that due provision is made for the support of agrestic slaves in sickness or in old age. Their masters are no doubt bound to support them; but in the absence of any summary means on the part of the civil magistrate to enforce this obligation, I fear the poor and infirm slave is too often left to the slow and doubtful remedy of a lawsuit against his master, or to the uncertain charity of his brethren stinted in their own means." The collector of Tinnevelly,* in 1819, stated, that the slave could claim nothing more than a bare subsistence while he worked, and his sotuntrum (or allowance from the produce) at the time of harvest. The assistant judge of that district, in 1835-36, on the other hand, says, that the slaves when they become infirm and useless are still fed by the masters.

The principal collector of Madura particularly states, that it is understood that the protection which the master is bound to afford has been generally rendered in seasons of calamity and scarcity, whilst free cultivators were perishing fromwant.

The

children for slaves to the farmers, who make them undergo the hardest labours of agriculture, and treat them with the utmost severity."

These remarks were written, however, about 25 years ago, since which it would appear there has been much improvement in their treatment.

* It appears, however, from the report of the collector of this district, that the slaves "have the vast advantage of being employed during the whole year," which he thought with occasional bounties compensated for their daily allowance being only half of that of the free labourer.

MADRAS.

The agrestic slaves, it appears, are generally provided with separate dwellings; in Tanjore, as already noticed, they are allowed the privilege of occupying a piece of ground as a garden, free from tax; whether a similar provision is made for them elsewhere does not appear.

MARRIAGES AND CHILDREN.

Slavery in India, 1828.

Ibid.

Appendix IX.

Ibid.

Ibid.

Annexed to Report of Provincial Court, 1836. Appendix IX.

Their marriages are made at the expense of their masters, and they enjoy some little gratuity at every birth. It was stated in 1819, by the collector of South Arcot, that "slaves cannot enter into matrimonial connexion without the consent of their owners, who, as they defray the expenses of the marriage, virtually revive the contract of hereditary bondage, for the offspring of slaves are always regarded as the property of their father's owner." But in a report made at the same time by the collector of Chingleput, we find it averred on the contrary, that the claim to the children of a slave "does not always rest with his immediate proprietor. In the event of his marrying with one of the females belonging to his master, the children all become his property; but should he marry with a female slave of another person, the children of such marriage mostly become the property of the proprietor of the female, though in some villages the custom is otherwise; and in the event of a female slave having children previous to her marriage, their disposal depends upon the custom of the village, as they sometimes become the property of their master, and are sometimes made over with herself to her husband upon their marriage." Again, it is stated by the acting judge of Chingleput in 1835-36, that "if a female slave marries a free person and has issue, the master can claim the female progeny, and the husband the male progeny, and the husband cannot carry his wife away without the consent of the master; and when it happens that the free husband consents to become the slave of his wife's master, the master can claim the services of both the male and female progeny." In general, it would appear that among the Puller and Pariar, the children born to a man in a state of bondage are slaves to his master. The present collector of Madura, however, confines the right of the master to the male issue, "the female issue being at liberty to go where they please." And the assistant judge of Tinnevelly says, "the females are always allowed to live with their husbands, whether the latter belong to their masters or to strangers. The stranger, in such case, has the benefit of the work she performs, but she still continues to be the property of her master; and her children, as soon as they are able, are obliged to work for him. The women (he adds) appear to be of little value as respects their labour, yet their price is generally higher than that of a man of equal age and qualifications, owing, of course, to the above arrangement." This statement, we observe, is contrary to the exposition of the Hindoo law on the point, by the law officer of the provincial court, southern division, by which it was declared, that "the wife of a slave is also the slave of the master," on the anthority of a verse from Jugganardyen, importing that "the husband and wife are one and the same;" and one from the Smriti Chandrika, in the chapter concerning slaves, viz. "The husband is master to his wife, if that husband be a slave; although his wife be born of free parents, she is also a slave."

PROPERTY.

Slavery in India, 1828.

Appendix IX.

With respect to property, the collector of Coimbatoor, in 1819, observed, that "the master possesses the power, not only over the person but over the property of his slave, and he may make use of the cattle reared by the slave for agricultural purposes." The principal collector of the same district in 1835-36 remarks, that "the general opinion with respect to the property of a slave is, that whatever belongs to a slave belongs to his master; but without the consent of the slave, the master would refrain from taking any of his effects, even the cattle he might possess for agricultural purposes; nor could he take effects which the slave himself had purchased or received by free gift from the master. The property of a slave is derived from the master."

The foregoing observations, however, may perhaps be taken as referring rather to theory than to practice, since slavery is so little known in Coimbatoor.

Slavery in India, 1828.

Appendix IX.

Ditto.

The collector of South Arcot, in 1819, said, "The possessions and acquisitions of slaves are generally considered to be the property of their masters, who, however, usually relinquish them to the family of the slave." On the other hand, the magistrate of Tanjore says, "No legal rights of masters over their slaves, with regard to their persons or property, are recognized by the magistrate in this district;" and we learn from Mr. Campbell's account, before quoted, that "in this district the Pullers are permitted by their masters, the Meerassidars, who confine their attention to the cultivation of the rice lands, to employ their spare time in the cultivation of the unirrigated lands, as free labourers for others, or on their own account." And one of the judges of the provincial court of this division, as we have before noticed, states, that their earnings by such extra labour enables them to acquire personal property; adding, that "instances have been known, although rare, of slaves purchasing their liberty, by paying the amount which their master demands for his (their) freedom, or by procuring a substitute." The judge and the magistrate of Madura both say, that the agrestic slaves are not incapacitated from possessing property independent of their masters, and leaving it to their heirs. The former, however, observes, that should the slave die, the master generally takes possession of his property, and even during his life exercises authority over it, but rather with the consent of the slave than in virtue of any right vested in him as the master. The assistant judge of Tinnevelly states, that the slave "is permitted to amass whatever by his diligence he may acquire; such acquisitions, however, are very rare." "When not required to work for their masters, they are permitted to work for hire, and by this means some have attained the means of purchasing their freedom." The sub-collector and joint magistrate of the same district writes to the same effect, as to the right of the slave to appropriate what he gains by working for others, when his master does not require his services.

services. It appears, therefore, on the whole, that whatever the right of the master may be in theory, practically it is not exercised; and that any property the slaves may acquire by labouring for hire when their masters have not work for them on their own lands, is at their own disposal.

EMANCIPATION.

The assistant judge of Tinnevelly in the above quotation speaks of slaves purchasing their freedom, though he adds, "they can seldom procure it for less than double their own value. The price of a well-bred, strong young man very seldom exceeds 20 rupees, yet there are few candidates for the honour of being free at the sacrifice of a comfortable and certain provision." Except this and the statement of the judge of the provincial court quoted above, we do not find any notice of agrestic slaves purchasing their freedom. "It does not appear," said the collector of South Arcot, in 1819, that "enfranchisement of slaves ever takes place; yet as some owners have been reduced to indigence, and are unable to employ or subsist their hereditary slaves, those persons are ostensibly free, and labour for any person who will employ them. Cases of emancipation occur in the extinction of the owners' families, and from this description of Sudras, who still sacrifice their liberties, modern slaves are constituted, for they are mostly very needy, and consent to perpetual and hereditary bondage for about 20 or 30 pagodas, which the cultivator advances for the celebration of a marriage ceremony. In no instance, I believe, do engagements exist where a labourer discharges such a loan by his manual labour." So strong do the slaves esteem the obligation they lie under to their masters, that many instances, it is said, have occurred of their voluntarily supporting them, when they have fallen into adversity, by the earnings of their labour, instead of seizing the opportunity to abandon them, and obtain enfranchisement. The assistant judge of Tinnevelly, in 1835–36, stated, that at that time, a landholder in that zillah was in the daily receipt of half a measure of grain from each of his 500 slaves. Another striking instance will be found in the extract from the report of Mr. Place given above.

Slavery in India, 1828.

Appendix IX.

It does not appear that in the Tamil country agrestic slaves have been sold for the recovery of arrears of revenue. The collector of Tinnevelly, in 1819, stated that it was usual for the tahsildars, in giving an account of the property of a person offering himself as a security, to include his slaves; but he had always rejected them as unavailable property to the sircar. It is observed by the board of revenue that in Malabar alone have any slaves been sold for arrears of revenue.

Slavery in India, 1828.

Ibid.

It is stated in the minute of the acting third judge of the provincial court for the southern division, already quoted, that "no instance has of late years occurred of a slave having been put up to auction by order of a court, although repeated instances have occurred of courts being moved to do so." But we observe that, in the district of Tinnevelly, so late as 1834, after the date of that minute, a sale of slaves took place openly before the auxiliary court in satisfaction of a decree; and we find that the judge at Coimbaconum, in a report made by him in 1832, remarked that the records of his court showed that sales of slaves under the orders of the court had taken place in the Trichinopoly division of that zillah. We apprehend, however, that it may be assumed with certainty that slaves are never sold now in these districts in execution of decrees.

Report of assistant judge, 1835–36.

Appendix IX.

Slavery in India, 1838.

DOMESTIC SLAVES.

The domestic slaves in the Tamil country are comparatively few, and, from the accounts given of them, which we proceed to notice, it would appear that the term "slavery" is scarcely applicable to their condition.

They are divided into two classes. 1. Those employed as domestic servants. 2. Females attached to companies of dancing women.

Tanjore.

In Tanjore, with a population exceeding a million, according to Mr. Campbell, there are not above 100 or 200 "house or domestic slaves;" meaning, no doubt, slaves employed as domestic servants in private houses and families, thus excluding those attached to the companies of dancing women belonging to the Hindoo temples, of whom, probably, the number is considerable in that district, where such temples abound.

Slavery in India, 1828.

In Trichinopoly, the neighbouring district, the only slaves not agrestic, it is stated, "are among the dancing girls employed in the Hindoo pagodas, some of whom are purchased in infancy from indigent parents, who have no other means of providing for them." The number of this description, however, it is supposed, is not great. "Numerous examples occurred in former times (said the collector of South Arcot, in 1819) of Mahomedans purchasing Hindoos as domestic slaves, whom they circumcised and converted to their religion; but I am informed these cases are rare now. Brahmins and other superior classes purchase Sudras also for domestic purposes, and the persons so purchased are constituted hereditary slaves. The class of dancing girls are also in the habit of purchasing young girls, chiefly from the Kykullee or weaver caste, for the purpose of educating them in their profession; and the children of those girls, if females, continue to form a portion of the company to which their mother was attached."

Ibid.

Appendix IX.

The judge of Madura states, that "rich natives, principally in seasons of scarcity or famine, buy children of both sexes, and train them up as domestic servants, or they purchase the services of grown-up persons, who voluntarily sell themselves as bondsmen in times of difficulty, sometimes for life, sometimes for a term of years. These slaves are fed and clothed, and sometimes married, at their master's expense. Should they afterwards prove thieves and rogues, they are turned adrift; and on the other hand, should they dislike their

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master's service, they leave it, and seek shelter and service elsewhere. Yet no appeal to the authorities is ever made in such a case for the recovery of a slave." "Mussulmans also purchase Hindoo children from their parents and others. This also most frequently happens in times of scarcity, when their parents are starving themselves, and unable to support them; but sometimes the children are stolen or kidnapped and sold to them. Such slaves rise to so much consequence in the family in which they are brought up, that they are no longer regarded as slaves, but become as members of the family; they almost always become converts to, or are brought up from infancy in, the Mahomedan religion, and married to females of the same faith, but of a lower grade. After three generations, however, their descendants are considered pure Mussulmans, and are admitted to all rights and privileges as such." "Dancing women are in the habit of purchasing female children of the better castes as slaves, whom they bring up in all the accomplishments peculiar to their own profession. But these girls, after they grow up, claim equal right to the property of their mistresses, as if they were their own daughters, and after their death perform their funeral rights, and become heirs to their property, after which they become entirely free; they are, in fact, to all intents and purposes, on the same footing as adopted children." A nearly similar account is given by the principal collector and magistrate of Madura. He observes, that the domestic slaves can hold no property; and that all the property acquired by girls purchased by dancing women belongs, in fact, to the female by whom they were originally purchased, to whom, however, they often become heirs. He refers to a proclamation published by a former magistrate, prohibiting the purchase of slaves,* in consequence of which, it is supposed that the number of slaves in these two classes has decreased, but not of agrestic slaves. Both the judge and the magistrate observe, that slavery, as it exists in this district, is more generally a blessing than a curse.

Appendix IX.

The assistant judge of Tinnevelly mentions that slaves are to be found of all the tribes of the Sudra caste as well as the Pariar, employed in the lighter labours of the field, but chiefly about the house. He observes, that among the higher classes of slaves, the daughters are always reserved, if of pure blood, for the harams of their masters or their relations, "and from the offspring of these alliances are taken wives for the male slaves." "From this system of connexion (he remarks), probably arises the confidence which is reposed in a female slave by a master of her own caste. She is employed in washing, bringing water to the house, and attending his children, and is exempt from all laborious duties." The magistrate of this district, in 1825, brought to the notice of the superior authorities, that the custom which he believed to be more or less prevalent throughout the Madras territories, "of the sale and purchase of female children by dancing women, for the avowed purpose of bringing them up to a life of immorality," was more common in Tinnevelly than elsewhere, and recommended that it should be prohibited by law, observing, that this prohibition would serve as a check upon child-stealing, which he said was occasionally practised under the pretence of purchase. The collector of Tinnevelly, in 1832, also mentioned this class of slaves, composed of female children, bought by dancing women "for devotion to the service of the pagoda deities." These, he stated, are "never purchased after their earliest youth, and are brought up with much care as to their accomplishments, to prepare for the duties afterwards expected from them." Both this officer and the joint criminal judge stated, that the children to recruit this class of slaves are generally procured from other parts of the country, particularly Travancore. The latter said, he believed they were treated by their purchasers for the most part as if they were their own daughters.

Slavery in India, 1828, p. 934.

Slavery in India, 1838.

FEMALE SLAVES IN THE FAMILIES OF MUSSULMANS.

Regarding the condition and treatment of female slaves in the families of Mussulmans in these districts, little is known.

TREATMENT OF SLAVES UNDER BRITISH RULE.

It appears to be the general opinion, that the treatment of slaves in the Tamil country has become more lenient under the British rule, particularly with regard to their persons. In former times, the discipline exercised by masters over their slaves, it is stated, was of a very severe description; but we gather that it has been mitigated latterly, from a general impression that the spirit of our Government is unfavourable to slavery, from an apprehension that the power of inflicting punishment upon a slave is not sanctioned. and that the exercise of it might subject the master to a penalty; and from the non-interference of the magistracy to help the master to recover a slave who has been driven by ill-treatment to run away, making it the interest of the master to conciliate him as the only means by which he can secure his services; and there seems to be no ground to believe that the limit of moderate correction is commonly exceeded.

Province of Malabar.

Respecting the state of slavery in Malabar, we have drawn much valuable information from the reports of Mr. Baber, formerly judge and magistrate of that district, and afterwards a judge of the provincial court; of Mr. James Vaughan, a former collector; and of Mr. Græme, who had a special commission to inquire into the state and condition of the country and

* A translation of the proclamation of the magistrate of Madura, referred to above, which is dated 4th October 1828, has been furnished to us. It forbids all persons to buy or sell children, as the regulations do not authorize it, and notifies that children who may be purchased will be immediately restored, if claimed by their parents.

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and people, which are to be found in the volume of Papers on Slavery in India, printed by order of the House of Commons, in 1828; and from the papers contained in the second volume, printed in 1838, particularly one drawn up by Mr. F. C. Brown, the proprietor of an estate in Malabar, chiefly cultivated by slaves, whom he possesses by inheritance from his father, Mr. Murdoch Brown, the manner and circumstances of whose acquisition of them is a subject much discussed in the correspondence, which occupies a considerable part of the former volume. We have also referred to Mr. Baber's answers to the questions of the Board of Control, contained in the Appendix (Public) to the Report of the Select Committee of the House of Commons, dated 16th August 1832, and to the printed accounts of Dr. Buchanan and of Mr. Jonathan Duncan (formerly the president of the commission for the management of Malabar, afterwards governor of Bombay). The other papers we have had under consideration are reports made by the local officers and courts, in 1826 and 1835, and some more recent reports of the present principal collector and magistrate, which will be found in the Appendix.

Buchanan's Journey through Mysore, Malabar and Canara. Asiatic Researches, vol. 5.
Appendix IX., X., XI.
Slavery in India, 1828, p. 844.

It appears that agrestic slavery prevails throughout the province of Malabar; but, comparatively speaking, in North Malabar to a very small extent, increasing gradually from the northern extremity of the province to the southern and eastern boundaries.

The number of agrestic slaves in Malabar, exclusive of Wynaad, was estimated, in 1819, at about 100,000, of which number perhaps one-twentieth was in North Malabar, four-twentieths in the Centre Talooks, and the remaining fifteen-twentieths in the South and East Talooks.

In North Malabar it appears the land is cultivated chiefly by the owners and hired Coolies; but in South Malabar nine-tenths of the cultivation, more particularly of the rice land, is carried on entirely by Chermas or slaves.

By the census taken in 1833, the number of slaves of all descriptions, as stated by the principal collector,* was 1,40,933. Mr. Brown,† however, in the paper mentioned above, remarks, that the periodical census being taken according to the different castes, it comprehends, under the general denomination of slaves, besides those who are actually in slavery, all those of the servile castes who are possessed of independent property in land and paying revenue to government; all those who, like the voluntary‡ settlers on his property, are dispersed, in yearly increasing numbers throughout the country, working for themselves, and free to go wherever they please, to better their condition; and all those, a still larger number, who are settled in the neighbourhood of the towns on the sea-coasts, and there deriving an independent livelihood. All these persons, he remarks, although belonging to the servile castes, have passed from the state of serf bondsmen to that of proprietors and free labourers, and they are in complete enjoyment of all the personal liberty consistent with Hindoo institutions.

Appendix (Public) Report of Select Committee of the House of Commons, 16th August 1832.

The slave population appears, from the information to which we have had access, to be on the increase, contrary to the opinion expressed by Mr. Baber in his answers to the questions of the Board of Control in 1832.

ORIGIN AND NATURE OF THIS SLAVERY.

Major Walker, one of the first officers employed in this province, in his report on the tenures of Malabar, observes that "the Chermas or slaves of the soil are said to have been reduced to slavery in the following manner:

Major Walker's Report, Slavery in India, 1828, p. 866.

"The Brahmins, when § Parasharum divided among them the lands, represented to him that without assistance they must remain uncultivated; accordingly Parasharum went in search of the wild people, who at that time inhabited the jungles, collected them and presented them to the Brahmins. They were thenceforward considered as jenm, ‖ and continue to this day to cultivate the lands in Malabar."

He states that "the Chermas are absolute property; they are part of the live stock on an estate. In selling and buying land it is not necessary that they should follow the soil; both kinds of property are equally disposable and may fall into different hands. The Chermas may be sold, leased and mortgaged, like the land itself, or like any cattle or thing."

"In the same manner as the soil, the possession of Chermas was originally confined to a particular class. They were then employed entirely in the labours of agriculture, but though they were the first and sole cultivators in Malabar, it is not to be imagined that this is the case at present, since there are many Kudians, of all castes, who cultivate their own lands."

Slavery in India, 1828, p. 914.

Mr. Græme, in the report made by him as commissioner in Malabar, observes, that "slaves are said to have been introduced by Parasarama, for the tillage of the ground, at the time he gave the country to the Brahmins. By others they are said to have derived their origin from the Hindoo law, or at least to have had their numbers multiplied under the operation of it. Individuals

* Note of Mr. Clementson, principal collector, upon extract of Mr. Græme's report, annexed to his letter dated 19th December 1835. App. IX.

† Mr. Brown says, the number of the census of 1833 was 1,46,202. He observes that the house slaves are included in the enumeration of the free castes. Since this was written we have seen a late report from the magistrate of Malabar, in which the number of slaves of all descriptions, according to the last census (the date not mentioned), is stated at 1,44,371, or about one-seventh of the whole population.

‡ Mr. Brown states that he possesses by inheritance 155 slaves, male and female, and has also upon his property 105 other slaves, voluntary settlers of 10 and 20 years' habitancy. Of his own slaves some have been 36 years upon the property.

§ *See* Dr. "Buchanan's Journey through Malabar," &c., vol. 2, p. 348, for this tradition; also "Historical Remarks on the Coast of Malabar," by Mr. Jonathan Duncan, in 5th vol. Asiatic Researches.

‖ Absolute property.

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Individuals became out-castes or chandalas by sins against the laws of their castes, and subjected themselves to servitude."

Mr. Vaughan says, "By the laws and customs of the country it is as impracticable to reduce a free-born subject to a state of bondage, as it is contrary to them to emancipate a slave; and 'once a slave always a slave' may be considered a motto to be prefixed to the subject of slavery in Malabar, according to the ideas of natives." "Slaves now in existence have been slaves from their birth; they are descendants of slaves, whose origin must be traced in the traditionary legends of Malabar." Mr. Brown also says, "In Malabar, individuals become slaves by being born in the castes, which, according to the Hindoo religion, are servile." Dr. Buchanan, Mr. Vaughan and Mr. Brown, agree that, though in a certain sense slaves of the soil, they are not attached to particular lands, but may be transferred separately. Mr. Græme also says they may be sold with or without the land.

Appendix Report Select Committee, p. 424.

"Of agrestic predial slavery," says Mr. Baber, "the origin is of very remote antiquity: the general term given for this description of slavery is 'adami,' or literally, as I understand the term, serf, aboriginal or indigenous, being held previously under the same tenures and terms as the land itself, throughout, under some slight modifications, the Malabar coast. By the common law or desh-achary, this slavery is fully recognized, having existed from time immemorial, but not so absolute as has obtained since the Malabar coast provinces came under the Company's government, namely, of disposing of them off or separate from the soil, the land of their birth, which I consider decidedly at variance with, and in innovation of, that law, as observed in ancient times; and in this opinion I consider myself borne out as well by the traditionary legends of their origin, as by the fact I have before mentioned, of the tenures and forms of sale of slaves being precisely the same as of lands. Such a practice is, moreover, inconsistent with the due observance of their religious ceremonies, every part of Malabar having its tutelary deity, and all classes of slaves have their household gods (their lares and penates) to whom in particular they perform the same ceremonies that all other castes that are free-born do to theirs. They likewise cherish the memory of their ancestors, and consecrate a spot of ground where all the members must meet and make offerings."

In support of this view, Mr. Baber quotes from a report of the commissioners, of whom Mr. Jonathan Duncan, afterwards governor of Bombay, was president, on the first settlement of Malabar in 1793, as follows:—

'They (Poliars and Chermas) * are considered in a great degree in a state of villeinage, and as bondsmen to the soil, though they are not properly or lawfully objects of slavery, like slaves in the full extent of that word, unless they happen to be made over as part of the stock, at the same time that the master, the Brahmin or Nair landholder, should have disposed of the land on which they live."

CLASSES SUBJECT TO THIS SLAVERY.

The agrestic slaves of Malabar are known generally by the name of Cherma, † but they are subdivided, according to Mr. Græme, into 21 classes or tribes, viz.; 1, Kulladee; 2, Kunnakun; 3, Yerlun; 4, Allur; 5, Punnian; 6, Parayan; 7, Numboo Vettoovan; 8, Kongolum; 9, Koodummer; 10, Nuttalum; 11, Malayen; 12, Koorumber; 13, Punni Malayen; 14, Adian; 15, Moopen; 16, Naiken; 17, Poolyan; 18, Waloovan; 19, Ooratee; 20, Kurrumpallen; and 21, Moovilen. ‡ Of the above, it appears, that the Punnian, Adian, Moopen, and Naiken are chiefly to be found in Wynaad. § The largest class is that of the Poolyan, which, according to an account taken by Mr. Sheffield, principal collector, in 1827, as quoted by Mr. Baber, comprises about one-half the whole slave population, exclusive of Wynaad. Next to it is the Kunnakun.

Slavery in India, 1838, p. 419.

According to Mr. Brown, the principal classes are: 1, the Vettowan; 2, the Erehlen or Yerlen; 3, the Kunnakun; 4, the Malien, or Malayen; 5, the Punneen, or Puniun; 6, the Poleen, or Poolyan; 7, the Pareen, or Parian of the Coromandel coast; and the above is the order of their precedence. "Even among these wretched creatures, observed Dr. Buchanan, the pride of caste has its full influence; and if a Churma or Poolyan be touched by a slave of the Parian tribe, he is defiled."

The Poolyan, says Mr. Brown, must remain 10 paces from the Vettowan; the Parian the like distance from the Poolyan; and the Nyadee, a free man, but of a caste lower than the lowest of the slaves, 12 paces from the Parian. The distinctions arising from caste among these classes is illustrated by Mr. Brown by an example taken from the practice between people of the Vettowan and Poolyan classes upon his own estate. "They meet and work together on all working days, but on leaving work the Vettowans invariably bathe ere they return to their houses or taste food. After bathing they utter the usual cry, and warn the coming Poolyan to quit the road and retreat to the prescribed distance. Their houses are obliged to be 40 paces distant from the Poolyan's; they desert their houses when less; they will not frequent the same roads, nor buy at the same bazar,—there being a separate one kept by Mahomedans for the Poolyans; nor will the children intermix in each other's games on a common play ground." "They are subdivided," says Mr. Vaughan, "into different castes or sects, observe different forms of worship, have their separate and peculiar

* Mr. Duncan, in a note to historical remarks in the 5th vol. of the Asiatic Researches, gives an account of the castes of Malabar, received from the rajah of Cartinad, in which the Poliars are described as "bondsmen attached to the soil in the lower part of Malabar, in like manner as are the Punniers above the Ghauts."

† Singular, Cherma or Cherman; plural, Chermar.

‡ According to Mr. Brown, the subdivisions are 20. According to the circuit court and Mr. Sheffield (Appendix IX.), 18.

§ Mr. Græme remarks, that in the Wynaad, all the field-work is done by slaves called Punnians, who are held in higher estimation than the slaves of the lower district They are admitted to the thresholds of their masters' houses, and are employed in grinding rice for the use of the temples.

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peculiar customs, and regulate their economy in conformity to the customs handed down from father to son, from generations, the origin of which is lost." Mr. Græme observes, that "the different castes of slaves keep up a distinction between each other, and do not intermarry or eat together. With the exception of the castes of Parian and Kunnakun, the other castes of slaves abstain from eating or slaying the cow. These circumstances (he remarks) tend to strengthen the idea of their having been out-castes, and having adopted the habits of castes from which they originally sprung."

With respect to the observances of the slaves towards people of the pure castes, Mr. Græme states, that "the rules of Malabar prescribe that a slave of the castes of Poolyan, Waloovan and Parian, shall remain 72 paces from a Brahmin and from a Nair, and 48 from a Teean; a slave of the Kunnakun caste 64 paces from a Brahmin and Nair, and 40 from a Teean; and the other castes generally 48 paces from a Brahmin and Nair, and 24 from a Teean; In the northern division (he observes), these rules are deviated from in practice in favour of the slaves, whilst in the southern division they are thought to be exceeded in strictness." Slavery in India, 1828, p. 920. *See* also Duncan's "Remarks" in Asiatic Researches, vol. 5.

Mr. Brown states that the slave castes cannot approach nearer than the prescribed distances, either to the houses or the persons of the pure caste, without polluting both the one and the other. Accordingly "the lower servile classes, wherever they go, give notice of their coming by uttering a particular cry at every four or five paces; if the cry be answered by another uttered in like manner by a superior, giving warning that he is approaching, the slave instantly quits the road and retires." "The Polyan is interdicted the highway, as his presence would pollute the houses situate upon it. The only exception (he says) that I know to this restriction, is in the towns on the coast, particularly Calicut, where, from the presence and the countenance of Europeans, and their own numbers, Polyans may be seen on the highway. Upon my own property, where we have been settled so many years, and in my own neighbourhood, where we possess some influence, the restriction is so rigidly enforced, that my Polyans cannot approach, much less walk through, the village inhabited by the free labourers; they cannot work on the lands near their houses, and when at work upon my own lands at a distance, or walking upon my own roads, they are obliged to leave their work and quit the road, if a child, able to speak, utter the usual cry of warning and superiority."

"So very impure are all castes of slaves held (says Mr. Baber), that they are obliged to erect their huts at a distance from all other habitations; neither are they allowed to approach, except within certain prescribed distances, the houses or persons of any of the free castes; those distances vary from 72 to 24 paces, as well with reference to the caste of the several grades of free men as to their own; and even among these wretched creatures the pride of caste has its influence. If a slave accidentally touches a Brahmin, he must purify himself by prayer and ablution, and by changing his poonool (Brahminical thread). Hence it is that slaves are obliged to leave the road and call aloud from as far off as they can see a Brahmin coming. Nairs and other castes, who purify themselves by morning ablutions, if polluted as above, must fast and bathe." Public Appendix Report Select Committee, p. 427.

Of the classes enumerated and denominated above, those named below* follow the custom of "Murroo Mukkatayum" defined as "inheritance† by sons to the right of their mothers," or, rather, of their mothers' brothers; and the others that of "Mukkatayum," or "inheritance by sons to the right of their fathers."

In the Calicut district, however, Mr. Græme observes, "There is an anomaly in the general system among the Poolyan, the Kulladee, and the Kunnakun, which are the only castes of slaves residing there. There is a mixture of the two customs of Mukkatayum and Murroo Mukkatayum, that is, the one or the other does not obtain separately in different families in the district, but in all the families throughout the district, the inheritance partakes of the two modes, and half of the children are considered to go with the mother, and consequently to belong to her proprietor, and half to be attached to the father, and therefore to be the property of his master. Where the number may not admit of an equal division, the odd number is reckoned to be the mother's."

Mr. Græme states, that "the wife of a Poolyan and of all the castes who observe the Murroo Mukkatayum, may be sold separately, and may, therefore, belong to a different master from the master of the husband, but she cannot be separated from her husband; she must be allowed to remain with him. She is purchased separately in consideration of her future offspring, which by the custom of Murroo Mukkatayum would become the property of her purchaser. In the other castes the females are not separately saleable, neither the wife nor her female children. The daughters become the temporary property of the masters of their husbands; but this right of property ceases on the death of the husband, and the wife returns to the house of her father."

The court of circuit for the western division state, generally, that the offspring of a female slave, who observes the "Mukkatayum," begotten before marriage, becomes the property of her owner; those born in wedlock belong to the husband's master, but the mother, after the death of her husband, becomes the property of her former owner. The issue of a slave who Appendix IX.

* Poolyan, Waloovan, Ooratee, Kurrimpallen and Mavilen.

† For an account of this custom of inheritance among the Nairs, which has been adopted by other classes, *see* Buchanan, vol. 2, p. 412. Also Thackeray's Report, No. 23. Appendix 5th Report Select Committee of House of Commons, 1812, p. 801; and Duncan's "Remarks," Asiatic Researches, vol. 5.

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who observes the Murroo Mukkatayum becomes the property of the female's owner. Exceptions, however, are mentioned in the talook of Koorumbarnaud and in Wynaad. In the former, it is said, the first born goes to the male's master; but should there be no more, a valuation is put upon the one, and the amount divided. In Wynaad, a valuation is put upon the offspring, and the amount divided between the owners of the male and female slaves. It is not stated how, in the latter case, the children are disposed of.

According to Mr. Sheffield, the magistrate of Malabar, whose report is referred to in that of the court of circuit last cited, in all the tribes of slaves except the Poolyan, the female slave on her marriage leaves the estate of her own master and accompanies her husband, with whom she resides, and her master cannot oblige her to return to his estate, unless she survive or be divorced from her husband. With regard to the Poolyan tribe, who observe the Murroo Mukkatayum, the prevailing custom in the Chowghaut, Kootnaud, Ernaud and Betulnaud districts, is for the husband to reside in the house of his wife; in the remaining talooks, the wife invariably resides in her husband's house. In every part of the province, he says, the usage decidedly imposes upon the masters the obligation to allow their married slaves to live together. Mr. Holland, the judge, states the same.

Mr. Sheffield states, that in Temalapoorum, with the exception of the Pariar and Kunnakun castes, females are purchased and given in marriage to the male slaves by the masters; but that this custom does not exist any where else.

It is usual, he says, for the male slave to present the owner of the female, on the occasion of their marriage, with a few fanams, and some articles of trifling value, with which he is supplied for the purpose by his own master; but nothing more is given to the owner of the female slave.

The female slave, he adds, while* living with her husband, works for the latter's master, from whom it is not customary for the owner of the former to demand compensation, nor is any thing paid to him by the master of the husband for the loss of her services; the latter is, however, bound to maintain the wife as long as she resides with her husband. After his death she is sent back to her own master. The male Poolyan slave, who resides at the house of his wife, goes daily to work for his own master. The owner of the wife cannot, in any manner, command his services.

Mr. Vaughan states, that "no valuable consideration is given by the male for possession of the female to her owner. The contract may be dissolved at the pleasure of the parties."

Mr. Baber remarks, that "although the ceremony of marriage is observed, it is not indissoluble; the man may separate from his wife, and also, provided he has her consent, part with her to another, on his paying back to his master his marriage expenses, which seems but just, since he originally defrayed them, and must again, if his slave take another wife."

Dr. Buchanan also remarks, speaking of the Poolyan, that when a man becomes tired of his wife, and she gives her consent, he may sell her to any other person who will pay back the expense incurred at the marriage. A woman may leave her husband when she pleases. If she choose to go back to the hut of her parents, they and their master must pay back what they received for her; but if she choose to cohabit with any other man, the whole expense is lost. They are, however, he observes, "seldom guilty of this injustice." The marriages of the Pariars, he says, are similar to those of the Poolyan.

The whole cost of a marriage, which is defrayed by the master, he states, is about 24½ fanams, or 16*s.* 1½*d.*

SALE OF SLAVES.

In describing the nature of the agrestic slavery in Malabar, it has been shown that the slaves are not now considered as attached to the soil, and privileged to abide on the estates on which they have been born and bred, and, practically, are treated as the absolute property of their masters, and subject to transfer,† with or without the land, like any other stock; though Mr. Baber, on grounds which are deserving of attention, contends that the practice of selling slaves off the land of their birth is a modern innovation.

Public Appendix Report from Select Commitee, p. 424.

He censures the practice as cruel and oppressive, asserting that it has the effect "of separating husbands and wives, parents and children, and thus severing all the nearest and dearest associations and ties of our common nature;" but it will be seen, from the information we have cited, that he is in error as to the separation of husband and wife.

"How or whence the practice originated," he observes, "it would be difficult to say; but I have no doubt, and never had in my own mind, that it has derived support, if not its origin, from that impolitic measure in 1798, of giving authority to the late Mr. Murdock Brown, while overseer of the Company's ‡ plantation in Malabar, to purchase as many slaves as he might require to carry on the works of that plantation."

From

* Dr. Buchanan observes, that the females are allowed to marry any person of the same caste with themselves, and their labour is always exacted by their husband's master, the master of the girl having no authority over her so long as she lives with another man's slave; a custom which he notices with approbation as one that ought to be recommended to the West India planters.

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† The provincial court say, that the competency of the master to transfer the slave by sale, mortgage or lease, has never, they believe, been disputed or doubted; but they add, that no final decree has ever been passed by the court, whereby property exclusively in slaves (that is, without reference to the land to which they belong) has been recognized or rejected.

‡ This plantation appears to have been made over by the Company to Mr. M. Brown, and is now in the possession of his son, Mr. F. C. Brown, of whose information on the subject of slavery in Malabar we have largely availed ourselves.

From the correspondence on this subject, which will be found in the volume of Papers on Slavery in India, printed in 1828, it is evident that the practice did not originate in the order of the Bombay government, referred to by Mr. Baber, the purchase of slaves having been sanctioned by that order, expressly "on the ground of its not being incompatible with the subsisting regulations for the province." This is clear also from the report of Major Walker, quoted above. And we find that while the Company had only a factory at Tellicherry long before the acquisition of the territory, the transfer of slaves was recognized and sanctioned by an order of the government of Bombay requiring such transfers to be registered in the office of the factory, on the parties attending and proving how the vendor became possessed of the slave. But it is worthy of observation, that the commissioners in Malabar declined to permit Mr. Brown to purchase slaves, without the express sanction of government; observing, that although they were persuaded that, under Mr. Baber's superintendence, none of those evils could arise which the first Malabar commissioner's proclamation, prohibiting the sale of slaves, was well-calculated to prevent, yet they were fully aware that it might encourage the vicious part of the community to plunder the weaker class of ryots. They, therefore, considered this mode of procuring labourers, especially in the then state of the country, as impolitic. They feared, it seems, that encouragement would be given to the stealing of slaves from their masters, or the kidnapping or enslaving of free persons. It is to be remarked, however, that the order they referred to, which was passed in 1793, did not prohibit the sale of slaves within the province, but "the practice of shipping kidnapped and other natives as slaves."

P. 594 to 598.

Slavery in India, 1828, p. 683.

Ibid. p. 681.

This was pointed out by Mr. M. Brown, in his reply to the commissioners; and the government of Bombay (of which Mr. Duncan, who as commissioner had passed the order, was the head), appears to have acquiesced in his construction of it.

Ibid. p. 597.

But there can be no doubt that the practice of buying and selling slaves separately from the land derived support from the sanction given to it by government in this instance, and in another mentioned by the judges of the court of circuit (in their report upon the proceedings of Mr. Baber, in the case of certain kidnapped children, who were discovered on Mr. Brown's plantation in the condition of slaves), in which "a considerable number of bondsmen, who were the property, and found on the estate of a person named Shinoo Putlen, formerly cariakar of the rajahs of Koormanand, whose property was confiscated on account of his having gone into rebellion, were, about the year 1800–1, transferred to Mr. Brown's charge to be employed on the plantation."

Ibid. p. 686.

And without entering into the question of Mr. M. Brown's conduct, in the case alluded to, it may be remarked, that the admission of the court of circuit (whose views on the subject differed very much from those of Mr. Baber),—that it was "very apparent that numbers of the inhabitants of Travancore had been introduced (into Malabar) in a state of slavery, and but too often reduced to this situation by every criminal means,"—justified the apprehension of the commissioners; under which they had been unwilling to give any sanction to a practice so likely to lead to abuse. It is further worthy of notice, that the abduction of slaves "sometimes with their consent, frequently without it," is reported to be a common offence, "causing serious affrays, when not unfrequently the unfortunate Chermas, the flesh of contention, are sufferers for the crimes of others."

Slavery in India, 1838, p. 403.

It is gratifying to us here to observe, that the government of Madras has lately come to the resolution of emancipating the slaves upon government lands in Malabar; which has been approved by the Court of Directors;* and that the practice of realizing arrears of revenue due to government by selling slaves off the land,—which, Mr. Baber remarks, cannot fail to have confirmed proprietors in the too ready disposition to consider their slaves as much property as any chattel or thing,—was long ago abolished. And we may also remark here, that we have not found any late notice of the practice of kidnapping slaves and free persons, in Travancore, and elsewhere, to supply the demand for slaves in Malabar; the suppression of which traffic is probably owing greatly to Mr. Baber's exertions.

Appendix X.

Slavery in India, 1828, p. 886.

Slaves may be sold,† then, according to the practice which has prevailed, if not from the first, yet as far back as our records extend to, with or without the soil; and Mr. Græme adds, "in a different place from that of their birth or of their usual residence; they may be disposed of in another talook, but it must be contiguous, and that seems the utmost extent to which the power of removal goes. It is not customary at least," he says, "to send them to a great distance, and such a measure would be considered unwarrantable, cruel, and, if not justifying, at least causing, desertion."

"They may be let out," Mr. Græme states, "on simple rent, or mortgaged under the deeds of Veerompaium, Puneyum, Kanum, Wottie and Uttipair."

SLAVES LET OUT FOR HIRE OR MORTGAGED.

From the descriptions of these deeds‡ as applied to land, we understand that the first two are

* The same has been done in Coorg, as will be shown more particularly in the sequel.

† Mr. Brown says, slaves are sold but rarely in the present day, at pleasure, for this reason, that if they abscond, the purchaser is left to his own means to recover them. He therefore takes care previously to ascertain whether they are willing to become his slaves, and often gives them a trial. They may be sold in legal execution for the debts of their masters, but custom imposes a strong restriction to selling them separate from their families, even if their low value did not make the inhumanity gratuitous.

‡ The assistant judge of Malabar, in 1835-6, submitted with his report the forms of the deeds in use; viz.— Appendix IX.

1. Deed of sale absolute—full value received.
2. Ditto of mortgage, slaves made over to mortgagee.
3. Ditto of lease, apparently for the year.

4. Deed

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No. 23, Appendix 5th Report Select Committee of the House of Commons, 1812.

Buchanan's Journey, vol. 2, p. 370.

are forms of lease, and the others mortgages. Under each form of mortgage, the slave, we apprehend, is delivered over to the mortgagee, and by the last the mortgage is foreclosed, and the property irrevocably and completely transferred. Dr. Buchanan explains, that "there are three modes of transferring the usufruct of slaves. The first by jenmam, or sale, where the full value of the slave is given, and the property is entirely transferred to a new master, who is in some measure bound by his interest to attend to the welfare of his slave." "A young man with his wife will sell for from 250 to 200 fanams, or from 6*l.* 4*s.* to 7*l.* 8*s.* 11½*d.* Two or three young children will add 100 fanams, or 2*l.* 9*s.* 7¾*d.* to the value of the family. Four or five children, two of whom are beginning to work, will make the family worth 500 to 600 fanams, or from 12*l.* 8*s.* 3*d.* to 14*l.* 7*s.* 11*d.*" "The second manner of transferring the labour of slaves is by canum, or mortgage. The proprietor receives a loan of money, generally two-thirds of the value of the slave; he also receives annually a small quantity of rice to show that his property in the slave still exists; and he may re-assume this property whenever he pleases to repay the money borrowed, for which, in the meanwhile, he pays no interest. In the case of any of the slaves dying, he is bound to supply another of equal value. The lender maintains the slaves, and has their labour for the interest of his money and for their support. The third manner of employing slaves is by renting them for patom, or rent. In this case, for a certain annual sum, the master gives them to another man, and the borrower commands their labour and provides them with their maintenance. The annual hire is eight fanams, 3*s.* 11½*d.* for a man, and half as much for a woman."

In Mr. Græme's report is a table taken from the written testimony of the principal inhabitants of each district, which he observes "may be presumed to show, in an authenticated state, the sums for which the slaves are generally leased, mortgaged and sold."

By this it appears that the price of a male varies from 40 to 250* gold fanams; of a woman from 25 to 210; of a boy from 10 to 100.†

The proportion of the amount for which a slave is mortgaged to his price on sale is apparently on the average about two-thirds, as stated by Dr. Buchanan; but we observe that the maximum amount advanced on mortgage is, with respect to several of the castes, stated as high as the sale price.

The rent‡ for which slaves are let out by the year is stated lower than in Dr. Buchanan's account, the highest for a man being 7½ gold fanams, and varying from that to three gold fanams.

We observe that, in the table given by Mr. Græme, in several of the castes females are omitted, as if they were not subject to sale, lease or mortgage. And we see that Mr. Holland, judge of Malabar, in 1826, mentions that he has "heard it said that the females of the Kanaka and Erala castes were, previously to our acquisition of Malabar, considered as exempted from bondage." He "doubts whether this usage is allowed by slave-owners to exist at present," "but alludes to it as matter for inquiry." Females of the two castes here mentioned, we remark, are omitted in the table.§

Mr. Græme observes, that "it is very generally admitted that the price of slaves has risen since the Company's government; this is attributed to the increased demand for them; and the demand again owes its rise to the tranquillized state of the country, to an extended cultivation, and to a greater number of teeans and others of the lower classes having become cultivators of land, than was usual under the former custom of the country." But if any judgment can be formed from the partial statement of the assumed prices of the slaves lately emancipated on the government estates, it would lead to a contrary inference, for the present time, the highest price for a male slave there given being below the average in Mr. Græme's table.

The

4. Deed of pledge, as security for the performance of a contract for the delivery of a quantity of paddy; if not delivered, the slaves to be made over to work out the interest of the debt due by the contractor.

5. Deed of transfer of a debt for which a slave was mortgaged: it is not expressed that the slave is included in the transfer.

A document certifying the transfer of slaves (without land), by sale, in execution of a decree, was also submitted by the assistant judge.

* According to Mr. Græme's table, 3½ gold fanams are equal to a rupee, which, at the present official rate of exchange, is equal to two shillings.

† Mr. Barber remarks upon the same table, that the largest sum the highest class slave will fetch is 250 old gold fanams, equal to 6*l.* 5*s.*, and the highest rent 7½ fs. per annum, equal to 3*s.* 9*d.*; but the average selling price of all is 132 old gold fanams, equal to 3*l.* 6*s.*, and average annual rent 5 fs., equal to 2*s.* 6*d.*; while the prices of the lowly Pooliar Chermas, who compose more than half the aggregate slave population, are still less than the lowest of the other castes.

‡ In a list of slaves on government lands in Malabar, ordered by the Madras government to be emancipated, the annual rent for a male is stated at various rates, from 6 as. 1 p. to 2 rs. for a male, and from 4 as. 7 p. to 1 r. 11 as. 5 p. for a female; and the price for a male from 12 rs. 8 as. to 28 rs. 9, 2, and for a female, from 10 rs. to 42 rs. 13, 9; the highest price for a male being equal to about 2*l.* 17*s.*, and for a female, 4*l.* 5*s.*

§ In special appeal No. 2, of 1828, on the file of the zillah court of Malabar, which will be found in the Appendix IX., wherein three male and three female Cherma slaves of the Kunnaka caste were the subjects of action, Mr. Holland admitted the special appeal on the ground that Kunnaka Cherma females were not before the time of the English Government subject to the slavery which their male relations suffer, and no subsequent law authorizes the aggravation of slavery in any way. In this opinion, the Hindoo law officer, a native of Palghaut, in Malabar, concurred. And the judge, Mr. Maclean, who disposed of the case, passed a decree accordingly, dismissing the claim to hold the females as slaves, and directing the original plaintiff to bring a fresh suit for the male slaves alone.

The following table of the allowances to slaves compared with those to free labourers in the different districts of Malabar is extracted from Mr. Græme's report:—

	Daily Allowance of Paddy for		Total.	Daily Allowance of Paddy for a Free Labourer.
	A Male Slave.	Female Slave.		
	MacLeod Seers.	MacLeod Seers.	MacLeod Seers.	MacLeod Seers.
Calicut - - -	1½	1	2½	2½
Betulnad - - -	1½	1	2½	2
Chowghaut - -	1¾	1¼	3	2½
Temelpore - - -	1¾	1¼	3	2½
Palghaut - - -	1¾	1¼	3	2½
Waloovanad - -	1¾	1	2¾	2¼
Ernad - - -	1¾	1	2¾	2¼
Nedoonganad - -	1¾	1	2¾	2¼
Shernad - - -	1½	1	2½	2
Koorumbanad - -	1½	1	2½	2
Cavoy - - -	1¾	1	2¾	2½
Cherikal - - -	1¾	1	2¾	2½
Kartnad - - -	1½	1	2½	2
Kotiote - - -	1½	1	2½	2¾
Tellicherry - -	1½	1	2½	2¼

"*N. B.*—The rates here mentioned may vary in respect to the price of paddy."

Mr. Brown states, that the above table is substantially correct; but, with reference to the note subjoined to it, he affirms that the rules are invariable, whatever may be the price of paddy. It will be observed that the allowance for a male and female slave together, is generally rather more than a free labourer can earn, independently of what may be gathered by his wife and children; the proportion of the male slave's allowance taken separately, being to that of the free labourer generally about as three to five.

These appear to be the full allowances which are given only when the slaves are required to work, as noticed below.

Mr. Baber remarks, with reference to the same table, that nothing is there stated as allowed to young or aged; but adds, that it is within his own knowledge that this is generally half what able-bodied men and women receive, provided they do some work. Dr. Buchanan says, children and old persons past labour get one-half, but no allowance is made for infants.

Besides the ordinary allowances, masters "give presents of clothes, oil, or grain, or a few fanams on a birth, death, or marriage, in the family of a slave," and on other occasions. And in the harvest time slaves are entitled to the crop of certain portions of the different fields as a compensation for watching them.

Mr. Græme.
Mr. Baber.
Dr. Buchanan says one-twentieth of the gross produce.

In the caste of Pooliun, which is considered the most industrious and docile and most trustworthy, a further fee of the same description is given to a kind of head man, whose duty it is to prevent the inroads of cattle on a large tract of rice land belonging to different masters. Mr. Baber states that many of the Mopilla or Mahomedan part of the community allow their slaves during working seasons cooked rice or conjee (rice water), at noon, and their treatment of their slaves generally is more liberal than that of their Hindoo neighbours.

Mr. Brown, one-tenth of what they daily reap and gather.
Mr. Græme.

"In most places (Mr. Græme* states) slaves are fed by their masters throughout the year, but their allowance, on days that they have no work, is only half of what is fixed when they are employed.† In several places on the coast, however, they are only paid when they work, and when not employed by their masters, they seek subsistence elsewhere. In the neighbourhood of large towns this is no hardship; on the contrary, they acquire much more in carrying grass, firewood, and other things, to the market, and in working for others, than they can get from their masters; and slaves in this situation are in finer condition, more intelligent, and more cheerful than they are elsewhere. The only hardship to them is that they are obliged to obey their master's requisition for attendance upon an inadequate allowance."

* Mr. Vaughan says, the proprietor is bound to see the fixed allowance served out to his slaves daily. A frequent failure on the part of the master to perform this duty is sure to be attended with desertion to another, from whom they expect kinder usage, and when this does take place, the recovery of them is attended with difficulties that are not easily overcome, for, independently of being obliged to have recourse to courts of justice, months and years, perhaps, elapse before they can discover to what place the slave absconds.

Mr. Græme mentions that the slaves in the districts adjoining the Coorg country show their sense of ill-treatment by deserting thither.

† Mr. Græme notices that, in the Palghaut district, slaves have what they have not in others, employment throughout the year; when their presence is not required in the rice cultivation, they have to bring wood for fuel and building from a distance, which is not necessary in the districts where the cocoa-nut grows in abundance near the houses of the inhabitants.

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ance." With respect to those who reside "in those remote parts where there is no demand for their labour (Mr. Baber says), they are left to eke out a miserable existence by feeding upon wild yams, and such refuse as would only be sought after by that extreme wretchedness 'that envied the husks that the swine did eat,' and not unfrequently are they tempted by the cravings of hunger to rob gardens of jack (arto carpus), plantains (musa), cocoa-nuts, &c." "But the slave (says Mr. Græme) is scarcely ever exposed to the extremity of actual starvation; and it has been stated, by respectable public authority, and I understand with correctness, that a beggar of this caste is seldom or never to be found." In another place, however, he observes that the slave in the interior is a wretched, half-starved, diminutive creature, stinted in his food, and exposed to the inclemencies of the weather. And he again remarks, that "their diminutive and squalid appearance* sufficiently indicates that they do not enjoy that comfortable state of existence which every person should at least have it in his power to acquire by his labour." He remarks at the same time that there are no doubt many free men "who are equally indigent with the slave." Common free labourers, he says, are able to procure work for eight months only in the year, or 20 days of each of the 12 months.

CLOTHING.

With respect to clothing, Mr. Baber† states, that "the allowance consists of a waist cloth, called moond, to men, and moori, signifying a fragment, to women: it is just large enough to wrap round their loins, and is of the value of from one to two fanams, equal to from 6*d.* to 1*s.*; in some districts this is given but once a year, but more generally twice, at certain festivals, which fall in September and May. None of the women (Hindoos) wear upper garments: there is a colloquial saying, "chaste women require no covering, prostitutes only require to cover themselves." As a substitute for these waist clothes, it is very common with slaves, especially in the retired parts of the country, to use or wear bunches of leaves, generally of the wild plantain tree, supported by a fibre of some tree or vine."

Mr. Baber mentions, that female slaves, particularly those belonging to Mopillas, "neglect not to adorn their persons with necklaces of cowry shells, glass beads, and brass bracelets, finger and ear-rings."

DWELLINGS.
Dr. Buchanan.

"The slaves erect for themselves small temporary huts, that are little better than large baskets. These are placed in the rice fields when the crop is on the ground; and near the stacks while it is thrashing." The slave (says Mr. Græme) "has his sieve of a hut in the centre of the rice lands."

"They are permitted to dwell together in huts at a certain distance from the house of their master when the crop is not on the ground."

EMPLOYMENT.

With respect to their employment, Mr. Baber says, "it is always in agricultural pursuits, because they are more expert in them than any other class of the people; these, however, are not confined to manuring, ploughing, sowing, harrowing, hoeing, reaping and thrashing, but they are likewise employed in fencing, tending cattle, watching the cattle, and even in carrying agricultural produce, it not being customary to use carts or cattle in the transportation to market; and, when the harvest is over, in felling trees, and preparing materials for house-building, &c., and this without intermission of a single day, so long as their master can find employment for them." "The slave has to toil from morn until evening, with no other sustenance than his morning's conjee (rice water) and evening meal, after which he has to keep watch, by turns, at night, in sheds erected on an open platform in the centre of the paddy field, several feet under water, exposed to the inclemency of the weather, to scare away trespassing cattle or wild animals." Mr. Brown says, "field slaves are employed and are worked in the same way as free labourers. In North Malabar they may be seen working apart in the same field with their Nair master and his family. Like them, they are employed in raising the staple productions of the country, rice, pulse, pepper, cocoa-nut, betel-nuts, and cardamoms. They do not work in gangs, nor under a driver, but as farm-servants do in England, under a bailiff. They work from nine to ten hours a day, all the days of the week, except the customary holidays and festivals,‡ if their master has work for them; if not, they seek for work elsewhere; in crop time they probably work harder, because they are paid one-tenth of what they daily reap or gather. Task-work is known and used; the lash is not used to either sex to make them work if they are well, and if they do not come to work, they are not paid."

POWER OF MASTERS OVER THE PERSONS OF THEIR SLAVES FOR COERCION AND CORRECTION.

According to Major Walker,§ "the jenmankar (or absolute proprietor) by the ancient laws of Malabar, is accountable to no person for the life of his own Chermas, but is the legal judge of their offences, and may punish them by death if they should appear to deserve it." "The kolloo-naven (a temporary and conditional master by mortgage, or lease, we presume,) can neither put to death a Cherma nor sell him, but he may chastise him." Mr. Græme, however,

* Dr. Buchanan observes, that the ordinary allowance would be totally inadequate to support the slaves, but on each estate they get one twenty-first part of the gross produce of the rice in order to encourage their care and industry. Yet their diminutive stature and squalid appearance show evidently a want of adequate nourishment. Mr. Brown, however, affirms that, in point of food and in other respects, their condition is not widely different from that of the bulk of the lower castes of free labourers; and this is stated also by the principal collector.

† According to Dr. Buchanan, a male slave annually gets seven cubits of cloth, and a woman 14 cubits.

‡ "Our slaves (says Mr. Brown) have always had Sundays to themselves besides."

§ Mr. Vaughan also says, apparently upon the authority of Major W., that "in former days the proprietor possessed the power of life and death over his slaves; but this was probably seldom or never had recourse to."

however, says, "It is not admitted that the proprietors of slaves had, at any time, the power of life and death over them; that measure of severity was never executed except under the sanction of the nadwallee of the district, in particular cases, but generally, of the rajah."

"Their authority over them extended only to corporal punishment, and confining in the stocks, and they still chastise them for petty offences."

But from the written* statements of the inhabitants of the different districts of Malabar, in answer to queries from Mr. Vaughan, it appears that in former times greater severities were exercised by the master, and that mutilation by cutting off the nose was not an uncommon punishment; at present, it seems, corporal punishment, not so severe as to injure the body, is usual, to which is added confinement and putting in the stocks, and when the slave is very refractory he is occasionally made to labour in chains. Mr. Baber affirms, that he has repeatedly observed on the persons of slaves marks and scars from stripes inflicted by the rattan. The pundit of the provincial court, himself a slave owner, says, that the masters inflict punishment for misbehaviour by a few stripes on the back with a rope, or a thin branch. The sherishtadar, and Malabar moonshee, of the same court, say, that further than punishing for refusing to remain under them or neglect of duty or misconduct, masters do not ill-treat their slaves, though instances have been known of such punishment having occasioned mortal injury. The assistant-judge of Malabar observes, that "by the Hindoo law, owners may inflict moderate corporal punishment upon their slaves for petty offences; slaves submit to such chastisement without making any complaint. In cases of serious ill-usage, masters have been punished on the prosecution of the slaves without reference to their relation."

Slavery in India, 1828, p. 847, *et seq.*

Appendix IX.

Mr. Græme says, "The slaves of Malabar are equally well defended by the British law against any enormous stretch† of power, as any other subjects of the British Government; and the collector and magistrate of the province (he observes) declares,‡ that there have been few complaints of ill-usage, though instances have not been wanting of the proprietors having been brought to justice for wounding and murdering them." But he remarks upon this statement, "if the ill-usage alluded to is that of corporal punishment, or of neglecting to supply a proper quantity of food, it must be observed, that in most places slaves have been too entirely dependent upon their masters, and the interference of the magisterial authority has hitherto been so systematically withheld from regulating the *modus* of their daily food, that they could not, with any regard to the interest of themselves and families, resort to a higher power. Even the cases of wounding and murdering are probably brought to notice more by the agency of the police officers than of their own accord."

Mr. Baber averred, that "there was hardly a sessions of gaol delivery, the calendars of which (though a vast number of crimes are occurring which are never reported) did not contain cases of wounding and even murdering slaves, chiefly brought to light by the efforts of the police; though, generally speaking, they are the most enduring, unresisting and unoffending classes of the people."

INSTANCES OF CRUELTY.

In a report made by him, as judge of circuit in the western division, Mr. Baber brought to the notice of the Foujdary Adawlut two cases of murder, in which the deceased were slaves; "one had deserted, it was supposed, from ill-treatment; the other had, through hunger, stolen a few handfuls of the paddy he had been set to watch," and proposed, among other measures for ameliorating the condition of the slaves suggested by the instances of maltreatment which the calendar exhibited, that all personal injuries done to a slave by his master should be estimated like personal injuries in other cases. It was upon this occasion that the Foujdary Adawlut issued the order to which we have several times adverted, declaring the law as expounded by their law officers with respect to the power of the master to chastise his slave, and his liability to punishment for exceeding that power. The following is the exposition of the law officers: "Under the Mahomedan law, a master is competent to inflict correction (tazeer) upon his own slave. If, therefore, the master should, in a lawful manner, correct his slave for committing an act by which tazeer is incurred, he is not liable to punishment; but if a master should chastise his slave without his having been guilty of any offence incurring tazeer, or in the event of the slave having committed such an offence, if the master should not correct him in a lawful manner, but treat him with violence and cruelty, the master would be liable to tazeer."

Slavery in India, 1828, p. 907.

Ibid. p. 908.

"The court, under the foregoing exposition of the law, considered that the existing regulations sufficiently provide for the punishment of owners of slaves, who may treat them with cruelty; and with a view to discourage and prevent as much as possible the practices alluded to by the third judge, they directed that the several magistrates be desired to make public the foregoing provision of the Mahomedan law, by a circular notification to the police-officers under their jurisdiction respectively, and that they be enjoined to apprehend all

* *See* Mr. Baber's comments, p. 428, Appendix I. Report of Select Committee of House of Commons, 16th August 1832.

† In another place he says, against injury to their lives or limbs, or any great severity of ill usage; Mr. Brown understands that the precise condition of the servile castes under British law, as to life and limb, is the same as that of freemen, that they are recognized to be to the same extent under the protection of the civil magistrate.

‡ Mr. G. here alludes to Mr. Vaughan, who said the slaves might be considered as well protected by the laws as any other race of beings; but from the tenor of his preceding remark it seems that he meant only that, in respect to life, they are equally safe.

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all persons charged with cruelty towards their own slaves, in like manner as they are directed to apprehend persons charged with other crimes of a heinous nature," observing that "it will be the duty of the criminal judges in such cases, whenever the acts established in evidence may appear to demand greater punishment than they are competent to inflict, to commit the offenders for trial before the court of circuit."

Slavery in India, 1828, p. 927.

In another circuit report, in 1823, Mr. Baber officially brought forward a case tried by him, in which evidence had been given of the barbarous mutilation of slaves by cutting off their noses.* Upon this case he made the following observations:—

"Adverting to the facts elicited during the foregoing trial, it will no longer be denied that cruelties are practised upon the slaves of Malabar, and that our courts and cutcherries are no restraints upon their owners and employers; for whatever doubts may exist, with regard to the exact period of the death of the Cherooman Koorry Noryady, or to the immediate cause of his death, there can be none as to the fact of his nose having been amputated, as well as those of three other slaves belonging to the same owner; and that although the case had come before the magistrate, no steps had been taken to bring the perpetrators of such horrid barbarities to justice. Upon the latter head it may be argued, that the slaves themselves preferred no complaint: but if it is to depend upon the slaves themselves to seek for the protection of the laws, their situation must be hopeless indeed; for, having no means of subsistence, independent of their owners or employers, their repairing to and attending upon a public cutchery is a thing physically impossible; and even though those provisions of the regulations that require all complaints to be preferred in writing were dispensed with in favour of slaves, and they were exempted from the payment of tolls at the numerous ferries they would have to pass, and though an allowance were made to them by government during their detention at the cutcherries and courts, unless forfeiture of the right of property over slaves was the penalty for ill usage, their situation would only become more intolerable than it was before they complained."

Ibid. p. 926.

In reviewing Mr. Baber's report, the Foujdary Adawlut observed, that the instances of barbarous cruelty mentioned by him had occurred some years before, and, adverting to the order above noticed, they expressed a hope, that no act of this nature could now be perpetrated, without bringing exemplary punishment upon the offender. They desired that "instructions should be given to the parbuttees and potails to apprehend any person guilty of an act of cruelty towards his slave; and that, when the potail may be the offender, the curnum or shanabogue should report the case to the tahsildar." They ordered that, "the magistrates should also be enjoined, in their circuits, to inquire particularly as to whether offences of this nature are allowed to pass without notice, and that all instances of connivance at the ill-treatment of slaves on the part of police-officers should be severely punished." "It might also be useful (they remarked) to cause a registry to be made of individuals who have suffered the mutilation, of which instances are given in the report, with a view to ascertain whether similar atrocities continue to be committed." And finally, the court observed, that "the perpetrators of any of the cruelties, instanced by the third judge, who may have committed them since the general regulations were put in force in the provinces of Malabar, were of course liable to punishment, notwithstanding the time which might have elapsed since their perpetration."

Slavery in India, 1838, p. 404.

In a report made some years after by another circuit judge, of the same division, we find further mention of ill-treatment, to which the slaves are occasionally subject.

It is to be observed, that only acts of cruelty are contemplated as punishable, the right of the master to chastise his slave moderately being recognized by the order referred to, which remains in full force for the guidance of the magistrates and officers of police and the criminal courts. The order was specially noticed in a report from the Sudder and Foujdary Adawlut to Government, under date the 18th April 1831, in which it was stated, that "the judges did not think that the correction which a master may lawfully inflict on his slave can be defined with greater precision than is done by the law officers in their opinion recited in it." And in a late report referring to an observation made by the government of India, that "much variance in the practice of magistrates exists as to recognizing the right of moderate correction, by a master, of his slave," the judges remark, "that the circular order of the Foujdary Adawlut of the 27th November 1820 has laid down a uniform course of procedure in this respect, and that, inasmuch as no specific penalty is prescribed in the regulations for assaults exceeding the jurisdiction of the magistrate under section 32, Regulation IX. of 1816, the criminal judge is required, under the provisions of section 7, Regulation X. of 1816, as illustrated by the circular order of the 28th January 1828, to be guided in such cases by the Mahomedan law, which does not make a master liable to punishment for correcting his slave, in a lawful manner. for an offence incurring discretionary punishment under that law."

Ibid. p. 428.

Dated 17th July 1839, Appendix XX.

Appendix IX.

We must note, however, that the judges of this court in 1836, in submitting the answers of the subordinate courts and magistrates to the questions of the law commission, took occasion to observe, that though, under the circular order in question, "the magistrates might recognize the right of a master to inflict tazeer on his own slave in certain cases therein specified, in practice it would appear that no such distinction is made."

And

* Amongst the witnesses for the prosecution, two Chermas appeared who had been thus mutilated.

And it was said by the magistrate of Malabar at the same time, that "the relation of master and slave has never been recognized as justifying acts which would otherwise be punishable, or as constituting a ground for mitigation of the punishment; and by the criminal judge, that no distinction is recognized in the criminal courts between a freeman and slave;" which statement is repeated by the court of circuit. Appendix IX.

PROPERTY.

Mr. Baber says, "There is no legal objection that I am aware of to slaves possessing property of their own, independent of their masters." "Out of all the examinations sent up by the late collector, Mr. Vaughan, there are but three wherein it is contended that whatever slaves may acquire the master has a right to; and those are from the principal inhabitants of the less civilized country of Wynaad, where they have, I know, many peculiar customs: it is to be observed, that in neither of the other depositions is the right unequivocally admitted; they merely allow the possibility of the thing, coupled or rather qualified with the condition of doing their master's work. Mr. Warden mentions as a fact, within his knowledge, one of the zarmorin's slaves holding property of his own, though it is the only one he can call to recollection. Pandura Kanaken, an inhabitant of South Malabar, is, I imagine, the instance in question. In North Malabar there is one also, named Karimbai Poolla, who has considerable property of his own, and is, I understand, quite independent of any master. Some of the slaves sow dry grains and cultivate yams, and I have seen also a few plantain trees, and now and then a solitary jack tree, in the ground adjoining their chala huts, the fruits of which they enjoy, but the right in the soil and in the tree is in the masters."

Mr. Brown states, "They may and do acquire property for themselves, and hold it against their master."

Mr. Græme observes, that "in Malabar a few individual instances are mentioned of slaves holding land on patom, or lease, and of their being responsible for the government revenue, it being entered in their names in the accounts; but these are very rare exceptions to the general rule."

The present principal collector, Mr. Clementson, states, that "in the revenue department, the right of the slave to possess and hold land and other property is recognized equally with that of the freeman," and that, "in fact, there are at present about 377 slaves holding land on different tenures, and each paying a revenue direct to government of from 1 to 92 rupees per annum." He adds, that "any complaint of the master taking forcible possession would receive the same attention and meet with the same redress as the complaint of a freeman."

The sheristadar and Malabar moonshee of the provincial court, on the other hand, say, that the possession of independent property by slaves is so rare, that they doubt whether there are 8 or 10 cases in the whole province. In such case, however, the master cannot claim it during the life of the slave and his family; but the slave cannot dissipate or dispose of it without the master's consent. The master becomes entitled to the property of a slave only when the slave has no heir.

Mr. Græme observes, that "masters are not entitled to the property of their slaves, unless they die without heirs; but, except near large towns on the coast, it would appear that this privilege is not very profitable to the proprietor, as property is seldom made by slaves."

MANUMISSION.

Among the questions addressed by Mr. Vaughan to the principal inhabitants in the several talooks of Malabar, in 1819, was the following: "If a Cherma be desirous of returning to his master the amount that he cost him, and thereby be free from slavery, will his master receive the cash, and free the Cherma?" to which the answers were, without exception, in the negative, and expressed in terms to show that the manumission of Chermas had never been contemplated by them as a thing possible.

We have already quoted Mr. Vaughan's own strong expression, that it is so contrary to the laws and customs of the country to emancipate a slave, "that 'once a slave always a slave,' may be considered a motto to be prefixed to the subject of slavery in Malabar, according to the ideas of the natives." Mr. Brown says, "Hindoos of the servile castes are born such." "The caste, in the belief of the Hindoos, is indelible. No human law can unmake, or, in other words, uncaste him (them) any more than it can uncaste a Brahmin." "In this sense, a slave's child, though really free, necessarily belongs to the servile castes, and in this sense, therefore, there can be no law either to hinder or promote his manumission." "But it is in the scope of British law, in matters unconnected with caste, to regard the servile man and the free alike, and thus to recognize by natural right, rather than by express enactment, the claim of the former to acquire and enjoy his personal freedom."

Mr. Baber says, "There is no local act to hinder or promote the manumission of slaves; and though the Hindoo law will not allow to the ruling power the right of granting manumission, there is no interdict against masters doing it."

We have already noticed the emancipation of the slaves* on the government lands in Malabar, by order of the government of Madras, which has been entirely approved by the Court of Directors; we have also shown that there are on Mr. Brown's estate 105 persons of the slave castes, voluntary settlers, and free to go wherever they please to better their condition; and we have given his statement that the number of persons belonging to the several classes who, as he expresses it, have passed "from the state of serf bondsman," and have

* The number of slaves emancipated was 2,009; of whom 1,254 were fit for work—657 males and 597 females. The annual rent for their labour was Rs. 927. 13. Their estimated value, at the average prices current in the country, Rs. 22,833. 10. 5.

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have become free labourers, and some even proprietors, "with the complete enjoyment of personal liberty consistent with the Hindoo institutions," is yearly increasing throughout the country, particularly in the neighbourhood of the towns on the sea coast. We have further shown, on the authority of the principal collector, that there are 377 slaves, as they are called, entered in the public accounts as holding land and paying revenue direct to government. We presume that these people are only slaves by name, as belonging to the servile castes, and that they are not actually under the dominion of masters. Thus it appears, that, practically, the bar opposed by custom to slaves obtaining personal freedom and becoming independent has been removed, and that, however appropriate the motto of "once a slave always a slave" may have been in past times, it is so no longer, except with respect to the slavery of caste. Upon this point, we think the following observations of Mr. Brown are worthy of notice: "It is only by the predominance of this sentiment (reverence for the distinctions of caste, as having a religious sanction) that I can explain the slow progress which 36 years of persevering solicitude on the part of my father, and, since his decease, on mine, have made in raising our slaves in the estimation of their countrymen. Although they mingle daily at work with the free labourers; although they are uniformly protected and treated with the same justice and consideration; although the great improvement in their physical and intellectual faculties has placed the two races on a par, and although the slave is as free as the freeman to go unquestioned wheresoever he may please, to better his condition, yet no nearer approximation has taken place between the two, and the same line of distinction exists almost as broadly as before; so that the time is not come when I can, without public support, claim for the slave the free right of way upon my own property; and I must still endure the pain of seeing a fellow-man, who will, at one moment, fearlessly approach, address or pass me, retreat the next to a distance from one of my own servants."

Appendix XI.

Since the foregoing paragraphs were written, we have had before us a report of the principal collector of Malabar, dated the 7th January 1839, upon the present state of the slaves. No alteration, he says, has taken place in the tenures upon which slave property is held, since the report made by Mr. Græme in 1822 (from which we have so largely quoted), and little or no amelioration in the food and clothing of the slaves; "as regards their treatment, however," he continues, "a decided improvement, from all I can learn, has taken place, and it may be said generally, that the slaves of South Malabar are by no means in a worse condition than many of the free field labourers in North Malabar, where there are few or no slaves."

"Though the landholders and proprietors of slaves," he adds, "still retain the power of mortgaging and letting them out for hire, as well as of selling them with or without the land, and the children without the parent, still I have reason to believe, that the latter proceeding is seldom or never adopted, inasmuch as the purchaser would find it an unprofitable speculation; for in the event of the Chermas running away, which they invariably do if taken even to the adjoining talook, they get no assistance from the local authorities."

Slavery in India, 1838, p. 426.

We must here observe, however, that, though the ordinary practice may be as represented by the magistrate, there appear to be deviations from it occasionally. We find an instance reported by Mr. Newnham, judge of circuit, of the interference of the joint magistrate on the application of a person claiming a whole family as his slaves, and of his passing an order to deliver them to the claimant, notwithstanding their denial of his right of ownership over them, which denial, the judge thought, was made on good grounds. In this case, the joint magistrate, having been directed by the judge to make further inquiry, appears to have been induced to revoke his orders.

Appendix XI.

With the report above referred to, we received a correspondence which arose out of some remarks made by the first judge of the court of circuit for the western division, upon the large proportion of the cases of murder tried at two sessions in 1836–37, in which the crime

13 out of 31.

was committed by Chermas, who, he observed, "in the commission of such deeds appear to be void of all feeling, and perhaps will remain so till some measures be adopted for the improvement of their morals and present lamentable low condition in society."

A reference having been made to the magistrate in consequence of these remarks, he stated, that in examining the accounts for the last 10 years, he found that the murders committed by Chermas did not on the average amount to five cases, the number of persons engaged in them being less than 10 per annum; whereas the total number of murders committed by persons of all classes on the average amounted to 36,—the proportion committed by Chermas being about the same as the proportion of the slave population of the province. We agree with the magistrate in thinking that this result is rather creditable to the class of slaves, considering their degraded state and their moral disadvantages compared with the more civilized classes.

With respect to their morals, generally, we find the following testimony given by Mr. Brown and Mr. Baber:—

Mr. Brown says, "Their habits and morals are those of men kept in a state of ignorance and great seclusion. Theft and drunkenness are the vices commonly imputed to them; of my own slaves I can aver with truth that those born on the estate* are an industrious, honest,

* It is due to Mr. Brown to note that the magistrate of Malabar, in suggesting the establishment of schools for the moral improvement of the slaves, observes, that this has been attained to a very satisfactory extent as regards the slaves attached to his (Mr. B.'s) estate at Anjiracandy.

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honest, simple-minded race, observers of truth, without fraud or guile, whose standard of morals I believe to be at least on a par with that of the free castes."

Mr. Baber says, "With respect to the morals of the slaves, I should say, there is much less profligacy and depravity among them than among their more civilized countrymen; drunkenness is their besetting sin when they can get liquor; but except pilferings in plantations and grain fields, the higher crimes of gang or highway robbery are by no means common; when they have gone on plundering excursions it has generally been as Coolies to bring away the booty: circumvention, chicanery, fraud and perjury, so common to all other natives, are hardly known to them; but acts of ferocity and cruelty are too common." One of the provincial court judges, quoted by Mr. Baber in support of the last observation, says, "They are, as might be expected from the state of degradation to which they are reduced and held, absolutely brutal in their conduct, and destitute of the knowledge of right and wrong. They are extremely malicious and vindictive, carrying the latter spirit to the most shocking extremities on occasions of the slightest provocation, apparently regardless of or perhaps incapable of reflection on the consequences."

DOMESTIC SLAVES.

The Mahomedans in Malabar have domestic slaves of their own religion. "They live," says Mr. Græme, "in the house of their masters, and partake of all the privileges of their religion. This kind of slavery is a social fraternity, and is a step to the best comforts and the highest honours of life among the Mussulmans. It is totally dissimilar in every essential point to the servitude of the Chermar."

Mr. Baber states, that they are natives or the offspring of natives of Arabia, but chiefly of Abyssinia, and called Wadawar or Golâms, who came over with, and are either the personal attendants of, their masters the Seyads (who pride themselves on being descendants of the prophet, and who are very numerous on the coast), or employed in navigating the Arab, Mopilla, or Lubbee vessels, or in the service of the tanguls or high priests of the Mopillas, in all the great Mopilla and other Mussulman families in the principal towns." It is stated by Mr. Strange, the assistant-judge of Malabar, that their number is very limited; but from Mr. Baber's account it is evident that they are more numerous than he supposed.

Mr. Græme. Mr. Strange, assistant-judge. Mr. Brown denies that there can be domestic slavery among the Hindoos. He is right as to the impossibility of a Pariah being the domestic slave of a Brahmin, but wrong in his general negation.

It has been stated, that there are no domestic slaves among the Hindoos in Malabar; but Mr. Baber says there are some, "the descendants of out-caste persons (called Jade Brishta, and Polietta Penna) who had been excommunicated either through some aberration from caste rules, such as eating with, or the food cooked by, men of low caste, or from cohabitation with persons of lower caste than themselves, or within the prohibited degrees of kindred, and of Brahmins convicted of robbery and theft, who had been sold by former governments into slavery to Chitties, Mopillas, and to whomsoever would purchase them."

With respect to the polietta penna or degraded women, Mr. Græme explains, "that they were a source of profit to the rajahs: out-castes, not exclusively but chiefly of the Brahmin caste, they were made over to rajahs to take care of. As a compensation for their maintenance, and for the trouble of preventing their going astray again, the family of the out-caste were in the habit of offering to the rajahs as far as 600 fanams or 150 rupees. The rajahs then disposed of them for money; but their future condition was not exactly that of a slave. They were generally bought by the coast merchants called Chitties, by whom they had offspring who came to be intermarried among persons of the same caste, and in a few generations their origin was obliterated in the ramifications of new kindred into which they were adopted."

KIDNAPPING.

Mr. Baber also supposes that there are domestic slaves free born, but kidnapped and sold in childhood, quoting an assertion of the late Mr. M. Brown, that "he could produce hundreds of them in every town in Malabar, there being few Mopilla or Christian houses in which there were not some of them," of the correctness of which he says he has no doubt.

Slavery in India, 1828, p. 904. Ditto, 1838, p. 11.

There is sufficient proof, that the practice of kidnapping free-born children in Travancore and elsewhere, for sale in Malabar, did exist; but, as we have already remarked, it appears to have been put down chiefly by Mr. Baber's exertions. A case occurred at the French settlement of Mahé, in Malabar, in 1819. The local authority gave ready attention to the representation of the magistrate on the occasion, and it appears from a report of the magistrate, dated 1833, that no other instance of the kind has been brought to notice.

We apprehend that if there be any domestic slaves, properly so called, among the Hindoos, the number is inconsiderable. It does not appear to be at all the practice for free persons to sell their children into slavery under the pressure of want. Indeed, the country is so favoured by nature, that a general scarcity of food, approaching to famine, we believe, is almost unknown.

Travancore.

In the Travancore territory, subject to a native prince, which extends along the coast, south of Malabar to Cape Comorin, predial slavery obtains very generally.

Appendix XII.

In the Appendix will be found an account of it; from which it will be seen that in its main features it corresponds with that of Malabar. The origin is no doubt the same in both countries. As in Malabar, the predial slaves are mostly of the Kunnakun, Poolyan, and Parian castes; they are commonly attached to the glebe, but appear to be sometimes disposed of separately. When their owner parts with them, it is most frequently on mortgages, or on conditions which give him the power of recovery. Manumission is rare, and, it is said, is not desired, though the condition of the slave is described as very miserable.

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In early times the master had power over his slave's life; but this has ceased, and it is said that "personal chastisement is not often inflicted; but they experience little sympathy." "In sickness they are wholly left to nature, perhaps dismissed in poverty, and in age often abandoned." They are treated capriciously, and, on the whole, rather rigorously. They are looked upon by the other classes with even greater contempt and aversion than in Malabar. They never possess property.

"A very considerable number of predial slaves," it is stated, "belong to the government, to whom they escheat as other property on the failure of heirs. They are partly employed on the Sirkar lands, partly rented out to the ryots," as they were on the government lands in Malabar. The Vaidun, Oladuns and Naiadees, in Travancore, are described as slaves in the report referred to; but they are not considered as such in Malabar (though of still lower degree than the Cherman Tribes), and it would appear that in Travancore they are without individual owners, and in much the same wild state as in Malabar.

Appendix XII.

In 1837, the resident in Travancore brought to the notice of government that the inhabitants of Anjengo, a small British settlement in that country, had been accustomed immemorially to hold slaves, and suggested that the practice should be prohibited, and the whole of the present slaves emancipated, "reimbursing their owners for the amount they originally paid for them." The number of the slaves, according to a list submitted by the resident, is 32; viz. 8 males, and 24 females. The owners appear to be chiefly persons of Portuguese extraction. Most of the slaves bear Christian names, and, it is presumed, have been brought up as Christians. Some, though entered in the list as belonging to particular masters, are said to live by their own labour. Two are set down as beggars supported by the poor fund. The prices said to have been paid for them vary from 150 gully fanams ($7\frac{1}{2}$ to a rupee) to 25.

Canara.

Slavery in India, 1828, p. 549.

The first notice of systematic agrestic slavery in Canara, which we find on record, is contained in a report of Mr. J. G. Ravenshaw, collector of the southern division of that district, dated 7th August 1801.

It is stated therein, that by far the greatest part of the slaves employed in agriculture are Daerds; the whole number of them, men, women, and children, being estimated at 52,022 divided into three classes, the Moondaul, Magore or Magor, and Mavey Daerd. The two former, it is said, will not eat the flesh of the cow; the Mavey Daerd, though he will not kill the animal, will eat the flesh. In the Moondaul and Mavey sects, property descends from uncle to nephew; a father gives up his children to their uncle. In the Magore sect, property descends from father to son. A Magore and Moondaul will eat together, but it is not common. They never intermarry by consent; but if a Moondaul runs away with a Magore and marries or defiles her, certain proceedings take place, after which she is considered as made over to her husband's sect, and become a member of it. Neither of these sects associate with the Mavey Daerd.

Of the Moondaul Daerd, in respect of service, the following account is given: If a man goes to a landlord or other person, and says he wants to marry through his interest; if the person consents, he gives him from three to four pagodas ($10\frac{1}{2}$ to 14 rupees) to pay the expenses of the ceremony; the Daerd, as soon as married, brings his wife to his landlord's house, and both are bound to serve him and his heirs so long as the husband lives. They receive cloths annually, the expense of which is $1\frac{1}{2}$ rupee. The man receives $1\frac{1}{2}$ and the woman 1 hany of rice daily, besides one mora of rice per annum between them. This couple have no claim over any children they may have born; they are the exclusive property of their uncle; but if he consent to their remaining with their father till they are grown up, this may be done; and if when grown up, their father's owners give the males money to marry, they are bound to serve him and his heirs as long as they live. Whenever the uncle does not agree to their remaining with their father, when going away, he takes them, and his master pays them according to the work they do. As to the daughters, if their uncle agrees, they may remain with the father till some person comes with their uncle's consent to ask them in marriage; they are then given up and bound to serve their husband's owner. In the event of the husband's death, his master has no right whatever over the mother and children, for whom the children's uncle is bound to provide, and they are bound to serve his master if he has work for them. If a man wants to marry a second time, his master supplies him with money, but, in consideration of the extra expense, he stops the annual allowance, leaving the daily allowance. This sect may be called a life property on the male side; they are never sold, though they sometimes mortgage themselves. If a man who has no owner is distressed for money, he will borrow of some person whom he will agree to serve till he repays the amount; their owners may also mortgage them in the same way.

The Magore or Magor Daerds, it is said, are bought and sold, and thence they and their male heirs are bound to serve their master and his heirs for ever. Females remain with their father till married, after which his owner has no claim on them; they become the property of their husband's master.

The average price of a man and his wife, if purchased together, is from four to five pagodas (14 to $17\frac{1}{2}$ rupees). The owner pays only as many of the family as work for him. This sect are sometimes mortgaged as well as sold. At the time of purchase, a small piece of

of land, with a cocoa-nut and jack tree upon it, is assigned to them. They receive the same daily allowance of rice and the same cloths as the Moondauls, but not an annual allowance, the land and trees being considered equivalent. The master sometimes gives them a bullock.

Of the Mavey Daerd the following account is given:—If a person purchases a man and woman of this sect, and marries them together, they and their male heirs are bound to serve him and his heirs for ever; the purchaser pays the expense of the marriage. If the man dies and the woman marries again, the children she may have by her new husband are all the property of her owner, by reason of his having purchased the woman; but he has no claim whatever on the new husband. In cases when these people are not purchased, but merely bind themselves to service, on account of some person having paid the expense of their marriage, as the Moondauls do, the same rules are observed as with them; but there are many of these sects, who belonging, or being, as it were, an appurtenant to an estate, are bought and sold therewith; they enjoy the same privileges and allowances as those of the same sects who are purchased without an estate. The landlord can neither sell nor mortgage them, nor can they, without the landlord's consent, mortgage themselves or children.

It is stated, generally, that an owner is only bound to give daily subsistence to as many of the family of his Daerds as he employs; if he has more than he requires, he may lend them out to other people, who pay him an annual allowance of one morah of rice, as a sort of quit-rent or acknowledgment that the Daerds they employ belong to him.

Daerds cannot go to work for another person without their owner's consent, and they are bound to return whenever he may have work for them.

Exclusive of the Daerds, Mr. Ravenshaw said, there was another sect of slaves in Canara, though he believed many of them had become free. He further stated, that under the Biddenore government, all illegitimate children, save those by dancing girls, were considered the property of the Sircar, which took possession of and sold them as slaves to any person who would purchase them; the number of this sort at the time he wrote was about 722; there were also, he said, many slaves imported from Arabia.

In a further report, dated 12th August 1801, Mr. Ravenshaw observed, that nearly the whole cultivation of the country was carried on by the Daerds and slaves of other sorts, and that "an estate without a property in some of these people would be of little value, because day-labourers are not to be procured in this as in other countries." He stated that several landlords had suffered considerable loss from their Daerds and slaves having enlisted into sepoy corps; in consequence of which he submitted to the board of revenue the following questions; first, whether it be politic to allow the Daerds, whom he described as "conditional servants for life or for ever," to enlist in any of the Company's corps; second, whether there exists a right to recruit them; third, whether it be politic to allow any description of slaves to enlist, without the consent of the owners, or the owners getting some remuneration for the loss of their services. Referring to the following definition of slavery, viz., "an obligation to labour for the benefit of the master, without the contract or consent of the servant, the master at the same time having the right to dispose of him by sale, or in any other way to make him the property of a third person," he said, "That sect of the Daerds who are bought and sold, and who come nearest to the description of slaves, differ from them in the following respects: their service is conditional; a master at the time of service agrees to give them the usual allowance of rice, cloth, &c.; if he fails and refuses to do which, the Daerds are no longer bound to serve him, and can recover the balance of allowances due to them and their children. If the purchaser agrees to give the established allowances, the Daerds cannot refuse to enter his service; but if from any real cause they have a dread of their man, the old master will generally, on being asked, keep them until he can get another purchaser. A master cannot make a traffic of them; that is, he cannot put them up to public sale, or transport them either by sea or land to any place where there are not people of their caste; as, which is confined to Canara, they can never be sent out of their own country: they can even refuse to be sold out of the moganny, in which they are born and bred. Such is their strong and rooted attachment to the place of their nativity known, that no person ever thinks of purchasing and taking one away to a distant place, even in the country; it seldom indeed happens that they are ever bought or sold at more than 20 or 30 miles distant from the place of their birth. This sect of Daerds, therefore, and their children, may, I conceive, be truly called conditional servants for ever. Those of the Mavey Daerds who are attached to estates have the same privilege as those just mentioned, except that in case of their landlord omitting to give them their regular allowance of rice, &c. they cannot quit his lands; but on making a complaint, they can recover their right with damages. All other descriptions of Daerds are conditional servants, on the male side, for life, and in no case have they, so long as their master feeds and clothes them according to usage, a right to leave his service." Mr. Ravenshaw argued that, enlisting them was useless, because they were sure to desert, and that it was impolitic to permit it, for, "if the recruiting of the Daerds or slaves, the property of the landlord, is allowed to be continued, it will be the cause of every possible mischief toward checking the prosperity of the country; it will afford those descriptions of people an asylum to fly to, whenever caprice or any trifling cause may tempt them to leave their master (who, as in that case they will never be able to command to a certainty hands to cultivate their estates) will foresee a train of new calamities coming upon them, which they were not even labourin g under

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under in the late government, and which all the advantage they have or can gain by the present will not recompense. The very fabric of their agricultural system will be undermined; if which be the case, their attachment cannot longer be depended on, any more than can the troops raised by the property thus wrested from them."

The board of revenue submitted the subject for the consideration of government, but it does not appear that any definitive orders were passed.

SOUTH CANARA.

Buchanan's Journey, vol. 3, p. 5 to 7.

Dr. Buchanan gives a statement of the population of the southern division of Canara, which was furnished to him by Mr. Ravenshaw, wherein the "Daerd," described as "slaves employed in cultivation," and "Mar Daerd," as "day-labourers, messengers, &c." make up the number of 52,022, stated in that gentleman's report. Dr. Buchanan observes, that in the part of the country to the south of the river Chandragiri, now belonging to the district of Canara, which was formerly a part of the province of Malaya or Malabar,

Ibid. p. 12.

"in cultivation more slaves than freemen are employed." On the north side of this river

Ibid. p. 35–36.

begins the division of Canara, called Tulava. In this division he says, "the cultivation is chiefly carried on by Culialu, or hired servants; but there are also some Muladalu, bought men or slaves." "A male slave," he states, "is allowed daily 1½ hany of rice, or three-fourths of the allowance for a hired servant; a woman receives one hany; the man gets 1½ rupee's worth of cloth and two rupees in cash; the woman is allowed only the cloth. They receive also a trifling allowance of salt and other seasonings. A small allowance is given to children and old people. When a slave wishes to marry he receives five pagodas (two guineas) to defray the expense. The wife works with the husband's master. On the husband's death, if the wife was a slave, all the children belong to her mother's master; but if she was formerly free, she and all her children belong to her husband's master. A good slave sells for 10 pagodas, or about four guineas. If he has a wife who was formerly free, and had other children, the rate is doubled. The slave," he says, "may be hired out, and the renter both exacts his labour and finds him in subsistence. Slaves are also mortgaged, but the mortgagor is not bound to supply the place of a slave that dies; and in case of accidents the debt becomes extinguished, which is an excellent regulation."

17½ rupees, at present worth 35*s.*

He adds, that "freemen of low caste, if they are in debt or trouble, sometimes sell their sister's children, who are their heirs, but have no authority over their own children, who belong to their maternal uncles."

He further states, that the hired servant "differs little from a slave;" for "although at the end of the year he may change his service if he be free from debt, yet this is seldom the case; and when he gets deeply involved his master may sell his sister's children to discharge the amount, and his services may be transferred to any other man who chooses to take him and pay his debts to his master;" and although his allowance is larger than that of a slave, on the other hand, the master is not obliged to provide for him in sickness or in old age.

Buchanan, vol. 3, p. 100.

He mentions other classes of slaves in this part of the country. "Having assembled some of the Corar or Corawar, who under their chief, Habishika, are said to have

Ibid. p. 95, *et seq.*

once been masters of Tulava, I found they are all slaves, and have lost every tradition of their former power. Their language differs considerably from that of any other in the peninsula. When their masters choose to employ them, they get one meal of victuals, and the men have daily one hany of rice, and the women three quarters of a hany. This is a very good allowance; but when the master has no use for their labour, they must support themselves as well as they can. This they endeavour to do by making coir or rope from cocoa-nut husks, various kinds of baskets from rattans and climbing plants, and building mud walls." "Their mode of living," he observes, "is apparently very miserable, but, in spite of it, they are a good-looking people, and therefore probably are abundantly fed. If they can get them, they marry several wives, the master paying the expense of the marriage feast." "When a man dies, his wives, with all their children, return to the huts of their respective mothers and brothers, and belong to their masters." "They follow all the oxen and buffaloes of the village, as so much of the live stock, when these are driven in a great procession, which the farmers annually celebrate."

Ibid. p. 106.

"In the northern parts of Tulava (he says) are two castes, called 'Bacadaru' and 'Batadaru,'* both of whom are slaves; both speak no other language than that of Carnata, and both follow exactly the same customs, but will not, in general, eat or intermarry with one another. They seem to be poorer and worse looking than the Corar. The master gives annually to each slave, male or female, one piece of cloth, worth a rupee, together with a knife. Each family has a house and 10 hanies sowing of rice land, or about a quarter of an acre. At marriages they get one mudy of rice, three-tenths of a bushel, worth about 2*s.*, and half a pagoda, or 4*s.* in money. When their master has no occasion for their work, they get no wages, but hire themselves out as labourers in the best manner they can, not having the resource of basket-making, and the other little arts which the Corar practise."

"The

* In the report of the magistrate in 1826, the "Bukkadroo and Buttadroo" classes are mentioned particularly. It is remarked of them, that "they are prohibited by their customs from carrying quadrupeds of any description, or any article having four supporters, as a burden on their heads (it being considered derogatory to the caste), under penalty of being instantly expelled, though they may carry viler loads, such as dung, turf, &c. When necessity, however, obliges a person of either of these castes to break through this custom, and carry any thing having four legs, such as a cot, couch, table, chair, &c., one leg of it must be removed, to enable him to take it up on his head with impunity."

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"The master is bound, however, to prevent the aged or infirm from perishing of want. When they work for their master, a man gets daily one and a half hany of rice to carry home, with half a hany ready dressed, in all two hanies, or rather more than one-sixteenth of a bushel; a woman gets one and a quarter hany of rice to carry home, and half a hany ready dressed; and a boy gets one hany of rice."

NORTH CANARA. Haiga. Buchanan, vol. 3, p. 139.

In the division of North Canara, called Haiga, comprising the talook of Onore, most of the cultivated lands, says Dr. Buchanan, are private property, and the proprietors chiefly Brahmins. Most of them cultivate their lands on their own account, but perform no labour with their own hands; "most of the labour is performed by slaves. These people get daily one and a half hany of rice; a woman receives one hany; each gets yearly two and a half rupees worth of cloth, and they are allowed time to build a hut for themselves in the cocoa-nut garden. They have no other allowance, and out of this pittance must support their infants and aged people. The woman's share is nearly 15 bushels a year, with rather less than 14½ rupees; to this if we add her allowance of clothes, she gets 16¾ rupees a year, equal to 1*l.* 16*s.* 8½*d.* The man's allowance is 22½ bushels, or 23¾ rupees, or 2*l.* 3*s.* 0½*d.*

"A male free servant, hired by the day, gets two hanies of rice. Both work from seven in the morning till five in the evening, but at noon are allowed half an hour to eat some victuals that are dressed in the family as part of their allowance."

SOONDAH ABOVE THE GHAUTS, WESTERN PARTS. Buchanan, vol. 3, p. 226.

In the western parts of the talook of Soonda, in Canara, above the Ghauts, in which the cultivation of gardens of betel-nut palm, betel-vine, pepper, &c. is the principal object of the farmer, according to Dr. Buchanan, "a few slaves are kept; but most of the labour even in the grounds of the Brahmins is performed by the proprietors, or by hired servants. The Haiga Brahmins toil on their ground at every kind of labour, except holding the ploughs, but they never work for hire." All the gardens, says Dr. B., belong to these Haiga Brahmins.* The hired servants "eat three times a day in their master's house, and get annually one blanket, one handkerchief, and in money six pagodas, or 48† rupees, or 2*l.* 8*s.* 4½*d.* Their wives are hired by the day, and get one and a half seer of rough rice, and three dudus, of which 49½ are equal to one rupee. In so poor a country (Dr. Buchanan remarks) these wages are very high. A male slave gets daily two puckah seers of rough rice, with, annually, one blanket, one handkerchief, a piece of cotton cloth, and some oil, tamarinds and capsicum. He gets no money, except at marriages; but these cost 16‡ pagodas, or 6*l.* 8*s.* 11½*d.*, for the woman must be purchased. She and all her children, of course, become the property of her husband's master. The woman slave gets daily one and three-quarters seer of rough rice, a blanket, a piece of cloth and a jacket annually; children and old people get some ready-dressed victuals at the house of the master, and are also allowed some clothing. The men work from sunrise till sunset, and at noon are allowed one Hindoo hour, or about 24 minutes, for dinner. The women are allowed till about eight in the morning to prepare the dinner, which they then carry to the fields, and continue to work there with the men till sunset."

EASTERN PART OF SOONDA. Buchanan, vol. 3, p. 243.

In the eastern and more open parts of Soonda, says Dr. Buchanan, "farmers who are not Brahmins, unless their farms be large, work the whole with their own families; but rich men must hire servants or keep slaves; and to hold the plough, Brahmins must always have people of the low castes. This is a kind of work that even a Haiga Brahmin will not perform."

	£.	s.	d.
"A man slave gets daily two seers of rough rice, or yearly about 26 bushels, worth	1	2	-½
A handkerchief, a blanket, and piece of cloth, worth two rupees	-	4	-½
A pagoda in money	-	8	-¾
Six candacas of rough rice at harvest	-	14	6
	£.2	8	7½"

"The women get one piece of cloth annually, and a meal of ready-dressed victuals on the days that they work, which may amount annually to 8*s.* 1*d.*"

"Hired men get four seers of rough rice a day, worth less than 1½*d.*"

Slavery in India, 1828, p. 842.

From the report of Mr. Harris, the collector of Canara, in 1819, in answer to the queries of the board of revenue, it appears, that "Dher" (apparently the same as "Daerd" in Mr. Ravenshaw's reports) is the general term for the tribes to which the common agrestic slaves in Canara belong. According to this report, there are 12 classes of Dhers, "labourers on the soil;" "their number estimated at 60,000;" "one-half are decidedly sold, and are transferred with estates, or may be sold. The remainder are (not) actually in slavery; they are of the same caste, and sell their children, but themselves work as daily labourers on estates." "They come under the fixed term of out-castes or Pariahs." "Slavery also exists among the Mussulmans and Suders to a considerable extent;" the number estimated at

* The Haiga Brahmins, he remarks, seem to have changed countries with the Karnataca Brahmins of Soonda, who in Haiga are in greatest estimation, while the Brahmins of that country have all the valuable property in Soonda.

† *Sic orig.*; correctly, six pags. = 21 rupees; the value of which at present is 2*l.* 2*s.*

‡ 16 pags. = 56 rupees; 5*l.* 12*s.* at the present exchange.

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at 20,000. "Tilling the land is the chief occupation of the 12 classes" of Dhers; also "rearing of cattle, and the lowest menial offices; in short, every description of labour unconnected with the internal economy of the master's house, which they could not enter."

With respect to the slaves who are liable to be sold, "the right of sale (it is said) was, and is still, the master's exclusive privilege, either with or without the land; the price varies and is settled amongst the purchasers and sellers." "The usual rates are as follows: for a strong young man, from 12 to 20 rupees; ditto woman, 12 to 24 rupees; a child never under four rupees."

"It is customary to pass a bill of sale on a bargain being made, or a mortgage bond." "The transfer by purchase or gift is attended with a short ceremony between the seller or giver, and receiver, and the slave. The slave drinks some water from his brass basin, and calls out, 'I am now your slave for ever.'" "The master can lend his slaves out on hire; he can sell the husband to one person, and the wife to another. This is not often done, because neither of the purchasers can be sure of keeping his purchase; care is always taken in purchasing not to carry the slaves to any distant estate, their attachment to the soil on which they were born being well known. The master can sell the children, but this is seldom done, from the foregoing cause, the fear of desertion."

The master "feeds and clothes his slaves. He never pays them wages in money, but presents them on their marriage, or particular ceremonies, with a small sum." "The quantity of food and clothing to a slave varies in every talook: it does not seem to be regulated by any rule, although it would appear that some original quantum obtained. The average may be thus estimated:

"Food.—A man one and a half canara seer coarse rice, two rupees weight salt, a little betel-nut and leaf; a woman one seer; a child three quarters ditto. Clothing.—A man two pieces of cauthy, six cubits, in some talooks a kumblee and roomal given. Woman, one ditto, seven cubits. Child, one ditto, four cubits.

"The salt, betel, &c., are optional; it is also customary to give them conjee (the water in which rice has been boiled) from the master's house."

"From every inquiry," said the collector, "I cannot learn that any wanton cruelty is experienced by the slaves, the master being well aware that on any ill-treatment they will desert him, and the trouble and expense of recovering them would, perhaps, amount to the value of the deserters.

"They have no day which they can call their own. It often happens, however, that a kind master, on any of his great ceremonies, grants to his slaves that day to themselves free from all labour." "If a Dher accumulates a little real or personal property, he retains it independent of his master." "The master of a deserving slave sometimes gives him a slip of ground which he may cultivate for his own use. He also enjoys the produce of such trees, roots and vines as he is permitted to plant; but the right in the soil, or tree, is in the master."

Slaves, it is stated, are prohibited borrowing money from any but their master, who supplies them with what they require for their sacrifices and marriages. "There does not exist any interference on the part of the master in the ceremonies (of marriage); but if the slave of one man marries the female slave of another, the child born of that marriage, if a male, goes to the owner of the male, and *vice versâ*." The 12 classes, however, it is stated, have different customs with respect to marriage and religious ceremonies.

The number of slaves of all descriptions in Canara has never been correctly ascertained, but the collector estimated it at 82,000.

Slavery in India, 1828, p. 936.

In the report of the judge on circuit in the western division, on the first sessions of 1825, he brought to notice two cases tried in Canara, wherein the accused were charged with causing the death of their slaves by severe chastisement. "The frequent absence from his master's work, which occasioned the deceased's chastisement, in one of these cases, was owing to visits to his wife, who resided at a distance on her master's estate, who would not allow her to live with her husband." This induced the judge "to make inquiry at Mangalore regarding the prevailing custom in instances where the slave of one master marries the slave of another, and particularly whether their respective owners can prevent their living together;" and he was informed, that "it is usual for the female slave to reside with her husband; and if his residence be at such a distance as to prevent her from coming to work daily at her master's house, the master of the husband must indemnify the owner by the payment annually of half a morah of rice; but if her master should employ the female at his own house, he must employ, also, her husband, whose owner he must indemnify by the payment annually of one morah of rice."

Appendix IX.

In consequence of this report, a more particular investigation was ordered to be made as to the obligation of the masters of slaves to allow the married to live together; upon which the acting criminal judge of Canara, Mr. John Vaughan, reported, that "the male and female married slaves are always allowed to live together." "The custom of the females living at the houses of their respective husbands is general, that of the males living at the houses of their wives is not so frequent." "The females living at the houses of their husbands are employed to work by the masters of the latter, and the usual allowance on that account is paid by them to the masters of the female slaves, and *vice versâ* where the male slaves are employed by the masters of the female slaves." "In some parts where the houses of the husband and wife happen to be in the same village, the wife and husband work at the houses of their respective masters, and after their work is over, the female goes to the house of her husband, or the husband to her house. The masters of the female or male slave

slave cannot object to their living together, and the master of the female has no reason to do so, since the children which she produces are the property of her master." The above, the judge remarked, was stated by the persons questioned by him, not as "known right, but as the prevailing custom."

The magistrate of Canara, Mr. J. Babington, on this occasion, made a very full report of the state of the slaves of all descriptions in that district, agreeing generally with that made by the collector in 1819, but more complete and distinct, and, where it differs, probably more correct. Appendix IX.

In this report, the Dhers, or "slaves by birth and caste," "labourers on the soil," are estimated at 60,000;* and are said to be divided into 12 classes, under the same denominations as in the report of Mr. Harris; and it is stated, that "about one half are the property of individuals, and can be sold, with or without the estate on which they are living. The remainder are not in actual bondage; they work as day-labourers on estates, and are at liberty to take service where they please. They are, however, in the habit of selling their children as slaves, and the latter become the absolute property of the purchaser from the day of sale."

The following, it is stated, are the rates at which slaves are sold in Canara, viz.

A strong young man - - - - - -	Rupees	12
A strong young woman - - - - - -	„	16
A boy or girl - - - - - - -	„	4

"When a Dher is sold or mortgaged to another, a bill of sale or mortgage bond is passed by his original master to the purchaser or mortgagee, and a short ceremony takes place, at which the slave acknowledges his new master by exclaiming aloud, 'I am your slave for ever.'"

"By the custom of the country, the master builds his slaves a hut and supplies all their wants: he is not, however, liable for debts contracted by the slave without his knowledge."

"The daily subsistence and annual clothing of the slaves vary in some talooks," but the averages are stated as follows: "To a man one and a half seer of coarse rice per day, and a piece of cloth or cumblee per annum, not exceeding the value of three quarters of a rupee. To a woman, one and a quarter seer of rice, one cloth per annum of the same value. To a boy or girl of an age to rear cattle (generally above eight years, none being granted to those under this age) three quarters of a seer of rice, and one cloth of four cubits, worth about a quarter of a rupee."

"Besides the above subsistence and clothing, the master sometimes gives to his slave, on reaping the crops, the produce of a bett land yielding from one to a quarter morah of paddy, and sometimes allows him at the same season to take home as much paddy as he can carry to his house at one time," with some other indulgencies occasionally.

"When a master does not give his slave the regulated daily subsistence, it is usual for the latter to remonstrate with him; where this is not attended to, he gets the friends of his master or his fellow-bondsmen to intercede for him; and where this proves ineffectual, he generally applies to the sircar servants, who in such a case send for the master, remonstrate with him, and get him to satisfy the slave; others desert their master's service and remain absent until their master consents to their reasonable demands."

"The slave never had any land that he could call his own;† latterly some have rented lands from individuals: but no wurgs‡ appear in their names in the sircar accounts. Where the slave has planted any cocoa-nut, sooparee, or other trees of his own in the master's compound, the master and slave possess equal right to their produce; in some cases where the slave wishes to have the whole, the master's share in the trees is rented to him. The slave cannot either mortgage or sell these trees to others, and when he dies, his heirs enjoy this right in the same way; where there are no heirs, the right of inheritance of the trees goes to the master."

For petty offences and trespasses, "by the existing custom of the country, the slave is liable to be punished by his master, by threatening and abusing, tying his hands behind him, flogging him with switches of trees," and in other ways not more severe. "Formerly masters treated their slaves as they thought proper, and punished them frequently with great cruelty;" but their power has been restricted by the order declaring them "liable to be called to account for any barbarous treatment of their slaves, and punished as if they had committed these acts of violence on a freeman." "Now when masters inflict cruel punishment on their slaves they apply for redress to the sircar."

"The master finds it for his own advantage to treat his slave well, since he has discovered that the latter will not be forced back into his service, when he only leaves it on account of maltreatment." Mr. Babington, as magistrate, had always "refused interference after ascertaining the fact of oppression or ill-usage by the master, and the latter had been forced in consequence by conciliation to induce his slave to return, the loss of his services in the meantime acting as a wholesome lesson to teach him the policy of kindness to his bondsman." "On the other hand, when a slave had quitted his master's service from any other motive than

* The present population of Canara is understood to be near 8,00,000.

† In Mr. Græme's report on Malabar, it is observed, that in Canara it is not uncommon for slaves to have small pieces of land given to them by their masters for raising vegetable productions, and they sometimes have parts of rice fields and a few cocoa-nut trees particularly assigned to their use. Lands are also leased out to them.

‡ Estates, or independent holdings.

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than to escape violence and oppression, he had, as magistrate, directed that he should be restored to his owner." He did not find this course of proceeding prescribed by any regulation, but considered it consistent with the orders above referred to, and not in opposition to any orders.

"When two Dhers belonging to different masters agree to marry, they carry offerings to their respective owners." "When the marriage takes place, the owner of the male gives him two rupees and one moorah of rice, and the owner of the female slave gives her one rupee and one moorah of rice, and sometimes more; but no kind of grant whatever is made by the owners to each other." "The wife lives in her husband's house, in whose owner's temporary service she is now considered to be, and is supported by him, but he has no right either to sell her, mortgage, or lend her out to others." "She still belongs to her former master, and is obliged to attend at his house twice in the year, at the time of transplantations, and reaping the crops, for which, however, she is paid the usual daily allowance;" "and in the event of non-attendance, she must indemnify him in the payment of from half to one rupee, or from a quarter to one moorah of rice," "or it is given by the owner of her husband." "In case of child-birth or sickness, her former master generally defrays the expense attending it; when he cannot afford it, it is done by her new master."

"The children born of this marriage go to the proprietor of the woman, who can sell, mortgage, or otherwise dispose of them. The female slave continues to live at the house of her husband till she becomes old, or till his death, when she returns to spend the remainder of her life in her former owner's bondage. When one of the parties is bought on the occasion of marriage, the rights of the respective owners in the parties themselves, and in the children, are determined by specific conditions made at the time of purchase. The master is at liberty to sell the husband to another person, and the wife to another, but in most cases they are not thereby considered to be separated, because the masters to whom they are sold generally allow their living together, especially the owner of the female, who permits it more readily because he has a right to the children she produces. The objection, when any is made, is on the part of the owner of the husband, because he is deprived of his services without any commensurate advantage." "There is no positive obligation upon the owners of married slaves to allow them to live together, when the male and female belong to different masters; it is very generally done, and the master who keeps them from either living together, or visiting each other at reasonable times, is considered to act harshly, but not illegally or unjustly, as he is admitted to have a right to make the most of his slave's time."

"Few instances occur of the families of slaves being separated by a sale, and in these few, the new masters almost always live near, and the slaves can visit each other at leisure hours. The impolicy of separating them to a great distance had evinced itself in the very few cases in which it had taken place by the slaves absconding from their masters repeatedly, and depriving them of their services for a time at least."

"The master can lend out his slaves and their children on hire (called hall mundy hunna), which he receives, but the daily allowance of one and a half seer of rice per man, and one and a quarter seer per woman, and three quarters for each boy or girl, which is also given by the person hiring them, is taken by the slaves themselves."

The other slaves in Canara, besides the Dhers, Mr. Babington estimated at only 4,500 instead of 20,000 as computed by the collector in 1819. According to Mr. Babington, the following are some of the causes to which this slavery is owing, viz. "Being sold as slaves by the former government, the gooroos (high priests), or parents; being born of slaves so sold; captives taken in war; persons selling themselves in payment of debts, or disposing of themselves to others as a stake at play; or for food to support life in a time of scarcity; for love for the female slave of another; and for various other reasons, being sold or selling themselves, as slaves, either permanently or for a stipulated time." We find it stated by Mr. Harris in 1819, that "Suders, or Brahmin women, who had lost caste by having connexion with a man of inferior caste," were made slaves by being sold under the Mahomedan government, "and their descendants continue slaves." When Mr. Baber was magistrate in Canara, he said, "some stop was put to this, but there is no doubt it continues in an underhand manner to this day."

These slaves, it is stated by Mr. Babington, "seldom ever marry according to the strict meaning of the term. No ceremony takes place either religious or civil; they live in a state of concubinage, and are generally faithful to each other." "When a male and female agree to live together, they inform their masters and solicit their sanction." "The owner of the man agrees in some cases with the master of the woman for her purchase, or *vice versâ*." "Sometimes they are allowed to live together without a change of property in either." In the latter case, "the children universally go to the owner of the woman." "When the man lives at the house of the woman's master, it is usual for him to make some compensation* to his master for the loss of his services; and when the woman lives at the house of the man's owner, she makes a similar compensation as a token of subjection to her master." "But this arrangement is not of frequent occurrence, and only takes place when the masters live at a distance from each other. When this is not the case, they visit each other at their leisure hours; and are ready at their respective masters' houses at the usual time, to begin their daily labour."

Mr.

* The extent of this compensation is not defined by custom. It is considered a voluntary offering, and consists of money, fruit or vegetables, according to the ability or inclination of the donor.

Mr. Babington, in conclusion, expressed his opinion, "that the present condition of the slaves in Canara is better than in any part of the world where slavery is tolerated," "as good, if not better than that of many of the free labourers; for, sick or well, the slave is supported by his master, and has always a hut to cover his head in the inclement season; his food also is wholesome, and generally sufficiently abundant; the punishment to which he is liable is not severe, or, according to his ideas, disgraceful, and his work is not oppressive or beyond his strength. Instances of cruelty do occur, but they are only sufficiently numerous to form an exception to the general practice; and as they are now punishable by the police, they are likely to be of more rare occurrence."*

Mr. Babington saw no objections to its being made a compulsory rule, that married slaves should be allowed to live together, it being provided, that the owner of the slave removed thereby from his service should receive the usual indemnification. It would not, he observed, be a greater infringement of the master's right than the order above referred to, which deprived him of the power of severe punishment, "and would neither be more opposed nor considered more oppressive" than the latter, which had been silently acquiesced in by the whole of Canara, and it would be a considerable step towards the improvement of the condition of slaves. But he thought the rule ought to be passed in the same way as the last one, by an order, and not by a regulation, as a legislative enactment on the subject of slavery would give such a sanction to it as would tend to resuscitate and perpetuate the system, which appeared to him to be dying a natural death.

Differences in the accounts of slavery in Canara.

On comparing the accounts, the substance of which is given above, it will be observed, that the custom of the father having no power over his own children, while those of his sister are subject to him, which Mr. Ravenshaw and Dr. Buchanan notice as prevailing in some of the tribes of Dhers, is not mentioned by Mr. Harris and Mr. Babington. This is probably owing to their having had generally in view in their remarks, those who are commonly bought and sold, and whose servile condition is hereditary, among whom, it appears from Mr. Ravenshaw, the ordinary custom in respect to the paternal relation and authority obtains, the children being subject to their own father, and the sons following his condition.

Mr. Harris and Mr. Babington say, that the labourers of the Dher tribes who are not actually in bondage themselves, yet are accustomed to sell their children; while Dr. Buchanan states, that it is their sisters' children whom they sell, or who are sold on their account. We presume, that this depends upon the caste to which they belong, that they sell the children over whom they have parental authority, their own or their sisters' children, as the case may be, according to the custom of the caste.

Mr. Harris and Mr. Babington, say generally, that the slaves who are saleable may be transferred indifferently, with or without the land they have been used to till; while Mr. Ravenshaw on the other hand states particularly, that there are some who are considered as appurtenants to estates. It is likely that this usage in favour of the slave, as we esteem it, and which we are inclined to think was originally the more general, has been gradually falling into desuetude, from the want of power on the part of the slaves to maintain it against their masters, whose interest it is, obviously, to abolish it, as limiting their proprietary right.

Slavery in India, 1838, p. 405.

In Mr. Babington's report it is stated, that "the civil courts every day decree slaves to a suitor, like cattle, grain or any other kind of property;" and we see that, in a report of Mr. Newnham, first judge of the court of circuit for this division, dated in August 1829, he said he had been informed that the courts in Canara daily put up slaves for sale, as they would any other moveable property, and noticed particularly a civil suit wherein a demand was made "of 20 moolumunishers (slaves), value 50 pagodas, without individual specification, immediately followed by a like summary demand for brute animals." Mr. Newnham objected "to the practice of thus suing without name or individual description for so many sentient creatures of God;" and the court of Sudder and Foujdary Adawlut, upon his representation, ordered, that in suits for slaves, "each should be distinguished by his particular name, and the specific sum at which the owner values him, under penalty of nonsuit."

When a married couple of slaves belong to different masters, the children, according to Dr. Buchanan, Mr. Babington, and Mr. Vaughan, belong to the owner of the mother; but Mr. Harris says, the child, if a male, goes to the owner of the male, and *vice versâ*. Mr. Ravenshaw states, that even when they both belong to one master, only the male children become his property; and the female children, when they are married, become the property of their husband's master. But he speaks of females being purchased for the purpose of being married to male slaves, and when these are the daughters of slaves, it may be presumed, that they are sold by the owners of their parents, who thus transfer their property in them to the owners of the intended husbands.

It is stated by all, that it is not the practice to sell slaves so as to cause their removal to a distance from their homes, to which they are said to be greatly attached. Mr. Harris and Mr. Babington, however, say only that it is found impolitic to do so, as the slaves so removed are discontented, and apt to abscond; whereas Mr. Ravenshaw asserts not only that some are appurtenants to estates, and therefore not liable to be removed from them, but that the

* Mr. Græme observes, that the Canara slaves are not held in the same disrepute with regard to caste as in Malabar; their approach, short of actual contact, is suffered without contempt by their Soodra proprietors, and they seem in this respect to have the same privilege as a man of the Tean caste in Malabar has relatively to a Nair.

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the rest generally are privileged to refuse to be sold out of the mogany* in which they are born and bred.

It is remarkable that Mr. Harris and Mr. Babington do not notice the peculiar kind of life-servitude particularly described by Mr. Ravenshaw, as prevailing among the Moondaul Daerds or Dhers, arising from a voluntary contract, by which a man having obtained from a landlord the means of defraying the expense of his marriage, in consideration thereof, engages his own services and those of his wife, to him, for the term of his own life, but does not bind his offspring nor his wife after his death; a kind of bond servitude, which, from Mr. Ravenshaw's account, appears to be commonly renewed on the male side in the same way, and for the same consideration, from generation to generation.

Neither do they notice the way in which, according to Dr. Buchanan, the labourers of some of the Dher tribes, originally free to choose their service, occasionally lose this right by becoming indebted to their masters, whereby they are placed at his disposal, and may be transferred by him to the service of any one who will pay the debt, while their sisters' children may be sold by him for its redemption.

It is to be supposed, that they did not consider the persons in either of these conditions as in a state of slavery; but, as affecting themselves, their state would appear to have little advantage over that of slaves in the more strict sense of the term.

With respect to the allowances to slaves, both of food and clothing, the accounts agree pretty nearly; and it seems, that when their dues are not rendered, they find means of working upon their masters to do them right, which are generally effectual. The fear of driving them to desert, it is stated, operates to prevent their masters from stinting them of their proper allowances. These allowances are less than those of free labourers, but it is to be considered, as Dr. Buchanan observes, that the master of the free labourer is not obliged to provide for him in sickness or in old age. That this obligation rests upon the masters of slaves is asserted by both Dr. Buchanan and Mr. Babington.

The same fear of the desertion of the slaves, it appears, has a salutary effect in checking the masters in punishing them for misconduct, since the magistrate will not interfere to oblige them to return, when they have fled in consequence of ill-usage. The slaves are deemed to be liable to punishment by their masters by the custom of the country; but the masters, it is said by Mr. Babington, are restrained from carrying it beyond the limits of moderate correction, partly by that fear, and partly by the apprehension of being called to account before the criminal tribunals for any act amounting to cruelty, under the circular order issued by the Foujdary Adawlut in 1820. Mr. Babington states, that there has been a decided improvement in the treatment of slaves in this respect; but it must be observed, that a late magistrate, Mr. Cotton, while he assents to Mr. Babington's account of the state of the slaves in Canara generally, at the same time remarks, that it appears to be very much the same now as it was under the Hindoo and Mahomedan governments.

Appendix IX.

It was stated by the judges of the provincial court of the western division, in 1836, that "they were not aware that the civil courts had ever recognized, in the masters of slaves, any legal right with regard to their (the slaves') property; though, as respects their persons, the competency of the master to transfer the slave by sale, mortgage or lease, according to the ancient laws and customs of the country, had never been disputed or doubted" in this province, or in Malabar; but that it did not appear that in the provincial court any final decree had ever been passed, whereby property exclusively in slaves, that is, without reference to the land to which they belong, had ever been recognized or rejected."

Enclosures in letter from Register, Sudder Adawlut, dated 26 Aug. 1839.

In the following year, some discussion took place upon this subject, between the zillah judge of Canara, the provincial court, and the Sudder Adawlut, with reference to a special appeal before the zillah judge. The report of the zillah judge and the provincial court, and the proceedings of the Sudder Adawlut, will be found in the Appendix.

Appendix IX.

In the case in question, certain slaves were attached at the instance of a party, who had obtained a decree against their owner; whereupon, another party, who alleged that he had received them in mortgage from the owner, instituted a suit to obtain their release from attachment. The district moonsiff, before whom this suit was brought, decreed that they should be released, as required by the plaintiff. The party who attached them, who was third defendant in the suit before the district moonsiff, appealed, and the case was further tried by the Sudder ameen, who adjudged, that the slaves should be sold for the satisfaction of the decree, on account of which they had been attached, after paying the sum for which, it was admitted, they had been mortgaged to the plaintiff in the suit before the district moonsiff.

The case having been brought by special appeal before the zillah judge, he reported it to the provincial court, and requested instructions on these points, viz. "Whether an award of slaves is authorized by a British court of judicature, and whether, as in the case in question, they could be legally ordered by him, as a subject of Her Majesty's Government, to be brought to the bazar and sold."

He said, he had "examined several decrees amongst the records of the court, to see if an award similar to the one under discussion could be found, but had observed, in most claims for slaves, there was a claim for land, and that slaves apparently went with the land, but had never been ordered to be sold in the way specified in the decree." In laying the case before the Sudder Adawlut at the presidency, the judges of the provincial court said they felt some difficulty in submitting their opinion upon the points referred by the zillah judge; they

* A subdivision of a talook.

they "believed they were warranted in asserting that, in the provinces of Malabar and Canara, the sale of slaves, except with the land or estate to which they may belong, has never been authorized by the courts;" but, they added, "there is no doubt that the custom is common in both districts, of transferring slaves by mortgage or sale, independently of the land, by private contract; though it is understood that such transactions are generally between neighbouring landholders, and that the slaves are seldom removed to a greater distance than a day's journey, and then only with their own consent."

With respect to the particular case referred to, the judges observed that the decree of the Sudder ameen, from which a special appeal had been admitted, might be set aside on the ground of irregularity, without passing a decision upon the questions raised by the zillah judge.

The court of Sudder Adawlut expressed their opinion that the course suggested by the provincial court should be followed. They added, that "the zillah judge might properly refuse to do more than had been already done by the courts," as stated by the provincial court, "namely, authorize a sale of slaves with the estate or land to which they belong;" and they advised generally that he should "confine his sanction to such orders as he finds to have been passed on former occasions by the zillah court, and refuse compliance with any novel application on the subject."

While we note the assertion of the provincial court, that in these two provinces the sale of slaves, except with the land or estate to which they belong, has never been authorized by the courts, we must observe, that we find among the decisions of courts in Malabar and Canara, transmitted through the provincial court in 1836, many by which transfers of slaves, without land, by sale or otherwise, are distinctly recognized and adjudged to be valid; and we must refer to the report of Mr. Newnham, first judge of the same provincial court, quoted above, in which he stated that the courts in Canara daily put up slaves for sale as they would any other moveable property. Slavery in India, 1838, p. 405.

It does not appear that slaves have been sold in this province for the recovery of arrears of revenue.

We do not find any particular account of domestic slavery in Canara. Probably the number of domestic slaves is very small. It does not appear that children are sold into slavery in Canara as a means of providing for their subsistence.

We have not seen any notice of the enfranchisement of slaves by their masters in Canara, either gratuitously or in consideration of a price paid.

Coorg.

An interesting correspondence on the subject of the predial slavery prevailing in the territory of Coorg will be found in the Appendix. Appendix XIII.

This territory, which was brought under the British dominion in 1834, is situated on the summit of the Western Ghauts, bounded on the north by Canara and Mysore, on the east by Mysore, on the west by Canara and Malabar, and on the south by Wynaad, a talook of Malabar above the Ghauts.

It appears that slavery has existed in this country from time immemorial. At present it is supposed that half of the agricultural labourers are in that condition. There are two descriptions of slaves, viz.: 1st, those attached to the soil, transferable from one proprietor to another, but not removable from the land to which they belong; 2d, those who are the personal slaves of the cultivators, and who may be either sold or mortgaged by them, but not to a person who will carry them out of the country, unless with their own consent; they always remain attached to their actual masters, and move with them. Their number is estimated at nearly 7,000. They are of 16 tribes, which are classed under three general denominations, viz., Holeyaroo, Yewaroo and Paleroo. In one tribe, called Mare Holeyaroo, the inheritance goes to the sister's son; in the others, it follows the common custom. The females of the Paleroo caste do not remain in slavery after the death of their husband. The female children of slaves of this caste, it is said, are not the property of their masters unless by purchase, they are sent to their maternal grandmothers to be brought up.

Marriage contracts among the Coorg slaves are sometimes made by the parents of the parties with, and at other times without, the interference of their masters. The marriage-tie is dissolved by the parties at their pleasure, each being at liberty to form a new connexion. The children commonly remain attached to their fathers. The existing slaves have been slaves from their birth, and are the descendants of slaves, who are supposed originally either to have submitted voluntarily to the condition in order to obtain a livelihood, or to have sold themselves for a price. Some of the tribes are supposed to be indigenous, some to have come from Canara, and some from Mysore.

The rajahs of Coorg had always a considerable number of slaves belonging to them, who were employed in cultivating the punniums or royal farms. When land was given to a ryot for the purpose of cultivation, one or two slaves were originally made over to him from those belonging to the rajah. The ex-rajah had about 1,757 slaves; but many of them made their escape in the war.

When the country came under the British dominion, the lands which had belonged to the rajah became the property of the state, and the question immediately arose, what was to be done with the slaves upon them. The commissioner in reporting upon the subject observed, that these slaves might have been emancipated had there been no others in the country, but finding that slavery prevailed generally, and that there were several thousands more, he deemed it inexpedient to attempt any immediate change in the existing system. The

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Governor-general in Council was inclined to effect a general emancipation by means of a pecuniary payment to the owners of slaves, if it could be done without risking any serious disaffection to our rule in consequence, and directed inquiries to be made cautiously to ascertain the state of feeling on the subject. The commissioner and the local superintendent agreed in opinion, that it was inexpedient to emancipate the slaves generally. "I think," said the commissioner, "that the emancipation of slaves ought not to be contemplated in the present condition of Coorg under any circumstances, even of proposed pecuniary compensation to the owners; and that such a measure, if practicable at all, would be fraught with much evil to the slaves themselves, as well as prove a source of great inconvenience and deep discontent to their proprietors." The commissioner and superintendent did not think it advisable even to proceed at once to emancipate the slaves on the government lands, but proposed a modified plan, by which they were to be assigned to respectable ryots, "who should be required to maintain them on the same terms as ordinary labourers, paying them the same rate of hire, demanding their attendance only during working hours, and, especially, allowing them the entire management and control of their family affairs, and the settlement of their children's marriages." "The rising generation to be considered the property of government, but to be in reality perfectly free, except in being placed under the surveillance of the potails of their villages," and "in being obliged to apply for the permission of the sircar when desirous of removing from one part of the country to another." The Governor-general in Council, however, "determined to emancipate those slaves whose persons, as belonging to the state, government had the undoubted right to set at liberty."

The plan proposed by the superintendent for carrying this measure into effect, and providing for the employment and livelihood of the liberated slaves, was to settle as indepen dent ryots on the government lands all who were desirous to undertake cultivation on their own account, giving them advances (as usually allowed to the lower class of ryots) to purchase cattle, implements of husbandry, and the means of subsistence, until the produce of their farms should enable them to depend entirely on their own resources, and exempting them from the whole of the land rent for the first year, and half of it for the two following; and to give to those wishing to establish themselves as free labourers, a donation of three rupees to each man, two rupees to each woman, and one rupee to boys and girls under 12 years of age, to enable them to procure clothing and other necessaries.

For such as should be unable from age or infirmity to gain a livelihood for themselves, a small allowance was recommended, sufficient to purchase food and obtain accommodation in their villages. These recommendations were approved and adopted by government; but a further recommendation of the superintendent, that the emancipated slaves should be placed under surveillance generally, was disapproved; he was, however, authorized to impose a certain restraint upon such of them as should evince a determined disposition to idleness and mischief.

The number of slaves emancipated under these orders was 1,115, and the amount of donations paid to them was 2,238 rupees. Each individual was furnished with a certificate of freedom. About 50 families were settled as cultivators on government lands. Some continued to work on the estates to which they were formerly attached. A number refused to work, and wandered about the country without employment, but committed no excesses, and did not show any disposition to mischief, as had been apprehended. No discontent was excited among the remainder of the slave population, excepting a few individuals, who were instigated to express dissatisfaction by camp followers and others with whom they associated, and the Coorgs in general appeared to view the proceeding with indifference. This is the substance of the first report made by the superintendent in April 1836, soon after the emancipation of the government slaves was carried into effect. Again in August 1837, the superintendent reported, that he had not heard a single instance of any of the individuals who had been emancipated having misconducted themselves, as it was at first apprehended they would do. A number, he said, had continued in the service of the ryots to whom they were formerly attached; 383 families had during the past season established themselves as independent labourers, and between 50 and 60 families cultivated on their own account small patches of land. On the whole, he had reason to believe that they were a remarkably quiet, well-behaved, industrious people. A further report has been recently received, in which the superintendent states, that still no instance of misconduct on the part of any of the emancipated slaves has come to his knowledge, but, on the contrary, all accounts he has received of their pursuits and habits confirm the favourable opinion he before expressed of them. A few of those who had undertaken the cultivation of lands on their own account, he says, have thrown them up, but there are still between 30 and 40 families so engaged. About one-fifth of the whole have established themselves as independent labourers, or have attached themselves to the ryots as domestic servants. It is supposed that some few of the Yerrawaroo tribe, who came from Wynaad, have entered the service of ryots to whom their relatives are attached.

Dated 6th June 1840.

Such of the emancipated slaves as have taken land for cultivation have congregated in small villages in the neighbourhood of the farms to which they formerly belonged. They occupy farms varying in size, and bearing an assessment ranging in amount from 5 to 20 rupees. The superintendent states, "they are better clothed than they were; their dwellings are for the most part substantially built, and their condition appears on the whole decidedly improved. "Those who have re-entered the service of their former masters, or who have attached themselves to ryots as domestic servants, are maintained very nearly, if not precisely, on the same footing as they formerly were. They live with the slaves of the establishments

establishments to which they belong, are allowed the same rations, and are required to work the same number of hours." Some have stipulated for a payment in money from 2 to 4 rupees a year instead of clothing, but the greater number receive the same allowances, and are otherwise treated exactly as if they continued slaves. Indeed, it is said, that many have destroyed their certificates of freedom, and "have bound themselves to continue for life in the service of their masters, on condition of being maintained, as slaves are in their old age, or when unable to work from illness; and that others have done the same in order to procure the means of getting married, or to obtain the consent of masters to their marrying female slaves of their establishments." "The condition of this class cannot, therefore (the superintendent remarks), be regarded as being in any way improved." He adds, that he "cannot perceive any difference in the circumstances of those who have established themselves as independent labourers, the rates of hire differing little from what they formerly received."

Mr. Secretary MacNaghten's letter to Colonel Fraser, dated 12th October 1835.

The result of this interesting experiment has justified the expectation of government, founded upon "the experience of other countries and other times," "that the emancipated slaves of Coorg would willingly work to obtain their livelihood, and that those for whose benefit they had hitherto been tasked would willingly employ them as hired labourers." It has also proved the groundlessness of the principal objection raised against the measure, that it would occasion a general feeling of discontent among the remaining slave population. The superintendent states, that the liberation of the Punniah slaves has been regarded by the rest with perfect indifference, and has not produced the slightest alteration in the conduct of any. This indifference, however, it is proper to remark, is attributed to there being no obvious improvement in the condition of the great majority of the liberated slaves to provoke the jealousy of their fellows who remain in bondage.

From this example it appears, that the mass of slaves do not care for freedom by itself, and rather prefer slavery, with its evils, for the sake of the important advantage of a sure provision against want, and that the freedman is by no means considered an object of envy. We imagine that the emancipation of slaves would not be felt as a boon by the general body, though there would probably be a few every where who, having a capacity to improve their condition, would be benefited by the removal of the shackles which now prevent them from rising from their low estate. We do not think the result of this experiment is to be regarded as discouraging. It was as much as could be reasonably expected that a few out of the mass would be benefited immediately, and a few have been benefited. It is perhaps more than was to be expected that none should be worse off than before; but, as things have turned out, it would seem that all who have not benefited are at least as well off as before.

It is stated, that the wealth of a cultivator in Coorg is estimated by the number of his slaves, as in proportion to their number is the extent of the lands he has under cultivation. They are said to be well treated by their masters, "who, actuated by self-interest, if not a better motive, pay much attention to their comfort," "and protect and treat them with kindness, as forming a part of their family." They appear to be well provided for in general. "Three seers of rice for a male slave, two seers for a female, and one and a half to a boy or girl, are given by their masters, independently of salt and curry stuff, which are supplied sometimes monthly, at other times daily." They are entitled also to a load of grain once a year at harvest. "They reside in houses provided for them by their masters in the small villages, and a piece of ground is appropriated to their use, in which they usually grow vegetables or tobacco." They are supplied with clothing twice a year. The above rations, however, are not given universally throughout the year. "Some ryots in Coorg provide their slaves with subsistence at those times only that they work for them; at other times they are obliged to seek a livelihood elsewhere, but are bound to return to their master at the season of cultivation." The masters have authority to chastise their slaves moderately for faults, but not to inflict severe punishment upon them. Instances of ill-usage, the superintendent believes, are very rare. He observes, that the slaves have at all times the means of escaping from ill-treatment, and that they are in the habit of absconding on receiving the slightest cause of annoyance. Considering this, he thinks that the conduct of the master towards his slave cannot differ much from what it would be were the latter a free domestic servant.

From the accounts above cited of the allowances made to the slaves in Coorg, we apprehend that they are better off than those of Malabar and Canara, and it would appear that they are better treated generally. Yet it is stated by the superintendent that a considerable number, about 500, have this year migrated to Wynaad, a talook of Malabar, which adjoins Coorg on the south. It is alleged that this is owing to the Wynaad proprietors having increased the allowance to their slaves, and put them in respect to food and clothing on an equality with the slaves of Coorg, while the labour in Wynaad is lighter.* It is stated by the superintendent that there is an old understanding between the Coorgs and the ryots of Wynaad, according to which, slaves absconding from either district are not claimable by the master whom they have left, after having crossed the frontier. For some years past, he says, this custom has operated much to the advantage of the Coorgs, the immigrations from Wynaad having much exceeded the emigrations thither. But this year several who came from

* We have quoted in another place a remark of Mr. Græme, that the slaves of Wynaad are held in higher estimation than those of the lower district.

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from Wynaad have returned, and have induced a number of the slaves of Coorg, with whom they were associated, to accompany them. Desertions in this manner from the one district to the other, he states, appear to have been of constant occurrence. Many of the slaves, on crossing into Coorg, are claimed by ryots to whom they were formerly attached, and the same is the case in regard to those absconding from Coorg to Wynaad; so that many of the slaves on either side of the frontier are considered as having masters in both districts, and they have changed so often from one to the other, that it would be almost impossible now to say to which they properly belong. Thus, when slaves desert to Wynaad, it is not to be concluded that they do so in consequence of ill-treatment; but the superintendent thinks that this conclusion is to be drawn when slaves, not belonging to families which came originally from Mysore, and have still connexions there, desert thither, for the aversion of the Coorgs to the open country is said to be so great, that nothing but ill-treatment could drive them to settle there; and the same, he adds, may be inferred in the case of such as desert from Malabar or Canara, as the slaves (as well as all other inhabitants of the coast) entertain the greatest dread of the climate above the Ghauts, and are very unlikely to select Coorg as a place of abode, unless it be to escape from the tyranny of a master.

It appears that "partial assistance has occasionally been accorded to inhabitants of Canara in recovering slaves who have taken refuge in Coorg, and the like assistance has on one or two occasions been received by Coorgs who have proceeded in pursuit of their slaves to Canara." But a late application from the magistrate of Canara for the restoration of fugitive slaves belonging to a person in that district, led to a reference to the commissioner on the subject, and he has laid the matter before government. The superintendent states that he "does not believe that any serious inconvenience would result from the officers of government affording no assistance to the owners in recovering such slaves as may fly from Coorg into Mysore," and is "not aware of any that is likely to arise from the same course being pursued in regard to such as may fly from Malabar or Canara into Coorg." He does not think it expedient at present to prohibit the district authorities from taking any active part in restoring runaway slaves who may remain in Coorg, though he does not believe that any serious inconvenience would result to the owners from such a prohibition. He says that applications for assistance of this nature are extremely rare; but "any change in what has hitherto been customary in this respect would no doubt be regarded by many of the most respectable inhabitants as an encouragement to insubordination amongst their slaves, and as leading to innovations which, in their opinion, could not fail in the end to cause the utter ruin of their families." He adds, that he "knows of no change which would be likely to give rise to so much alarm and bad feeling as the adoption of any measure likely to weaken the right which masters now possess to the services of their slaves."

Domestic Slavery.

From the details given above, it will be seen that domestic slavery is found, more or less, all over the Madras territory, but, generally speaking, it is rare among Hindoos, and not common even among Mussulmans. We quote the following further remarks on the subject from the board of revenue, and Mr. A. D. Campbell. "The slaves in this part of India (say the board of revenue) may be divided into two very distinct classes; the one consisting of the slaves of Mussulmans, the other of the slaves of Hindoos. The former are exclusively domestic slaves employed in the house, and are commonly purchased whilst infants, and brought up in the Mussulman faith by their masters; many of them are females employed in the seraglio or haram of the richer Mussulmans to attend on their ladies; and once there inclosed, they are seldom allowed egress from it, as they are viewed as part of that establishment, which it is the chief point of honour with a Mussulman to guard from the view of another. The men slaves are employed as menial servants, and, having free communication with others, and means of complaint, are generally well treated; but none except those who have access to the recesses of the haram can judge of the treatment which the females receive. The Mussulman slaves, however, are comparatively few in number; the great slave population consists of the Hindoos, of whom none are confined, and all of whom, with the exception of a very few, are employed in agriculture, and may be termed field slaves, though occasionally employed in domestic service." Mr. Campbell says, "In regard to food, clothing, employment, treatment and comfort, there exists the greatest contrast between the domestic and agrestic slaves in the territories under the Madras government. The domestic slaves, confined principally to the Mahomedan families, being brought up invariably in the creed of their masters, are at once amalgamated with the family itself, who treat the males indulgently, with somewhat of that privileged familiarity allowed in all countries to those who are permanently attached to a family, and are rather its humble members by adoption than its servants or slaves. They are well fed, well clothed, and employed in domestic offices, common, except in families of the highest rank, to many of their master's relatives. The free communication with others, and facility of access to the British tribunals, which the want of all restraint over egress from the house ensures to the male domestic slaves, combines with the indulgent treatment of their masters to qualify their bondage, so as nearly to exclude it from what the term 'slavery' implies. Such, however, is not the lot of the female domestic slaves employed as attendants in the seraglios of Mussulmans of rank; they are too often treated with caprice, and frequently punished with much cruelty. Once admitted into the haram, they are considered part of that establishment which it is the point of honour of a Mussulman to seclude from all communication with others. The complaints made to me, as superintendent of police at Madras, against the nabob of Arcot, and subsequently, when

Slavery in India, 1828, p. 897.

Appendix I. Public Report from Select Committee of the House of Commons, 1832, p. 453.

when magistrate of Bellary, against the brother of the nabob of Kurnool, gave me an insight into transactions committed in the recesses of the female apartments of these two personages, which has left on my mind a strong impression of the cruelty and wanton barbarity with which this class of female slaves were subject to be treated." "Indeed (he adds), little doubt can be entertained that the seclusion of female slaves in the harams of Mussulmans of rank too often precludes complaint, prevents redress, and cloaks crimes at which Europeans would shudder."

Mr. Campbell says, he does "not think that domestic slaves are ever sold." "Individuals generally become domestic slaves (he remarks) by being sold, when children, by their parents, in years of scarcity." "A Hindoo, however, who buys a child on such an occasion," "treats it as a Briton would, not as a slave, but rather as a servant to whom food and raiment are due, and whose wages have been advanced to maintain the existence of the authors of its being authorized by nature to contract for its service until it is old enough to confirm or cancel such compact." "On the child attaining maturity, it is, in practice, as free amongst the Hindoos as amongst Britons, unless long habit or attachment induces it voluntarily to acquiesce in a continuation of its service." But, "under the spirit of proselytism which characterizes the Mussulman faith, a male infant is no sooner purchased than it is circumcised; and whether male or female, it is invariably brought up in the Mahomedan creed, which, if it be a Hindoo (as is usually the case), irrevocably excludes it from all return to its parents or relations." "Besides the purchase of children in years of scarcity, I have heard (Mr. Campbell adds) of natives, to cancel a debt, voluntarily selling themselves as domestic slaves for a certain number of years; but this is unusual." "There can also be no doubt that children are sometimes sold without the knowledge of their parents." Mr. Campbell here alludes to discoveries made by him, as superintendent of police, at Madras, reported in a letter to government, dated 27th May 1818, in which he stated that "his highness the nabob of Carnatic, the various branches of his family, and indeed the whole of the principal Mussulmans at Madras, were in the habit of purchasing female children to serve as domestic slaves in their families," and that, to supply this demand, certain native women made a trade of child-stealing.

Slavery in India, 1828, p. 901.

Dancing Girls.

Another condition, which is considered by many as a species of slavery, prevails more or less in most of the districts under the Madras presidency, but chiefly in the southern districts, and most of all it would appear in the district of Tinnevelly, at the extremity of the peninsula. The subjects of it are the dancing girls, entertained on the establishments of the Hindoo temples. They are purchased in infancy by women of the companies attached to those establishments, who bring them up with great care, and treat them, it is said, with as much kindness as if they were their own children, and indeed commonly adopt them, and leave their property to them at death. The resemblance to slavery consists in the children being purchased by strangers, separated from their natural connexions, and brought up in a manner to fix their destiny for life without a choice on their part. They are cut off from the charities of home and family relations, and are trained to a public profession, which but too surely involves them in a life of immorality, exposing them particularly to prostitution, which it may be said is their common lot.

Dr. Buchanan remarks, that "the dancing women and their musicians now form a separate kind of caste, and a certain number are attached to every temple of any consequence. The allowance which the musicians receive for their public duty is very small; yet, morning and evening, they are bound to attend at the temple to perform before the image. They must also receive every person travelling on account of the government, meet him at some distance from the town, and conduct him to his quarters with music and dancing. All the handsome girls are instructed to dance and sing, and are all prostitutes, at least to the Brahmins. In ordinary sets they are quite common; but under the Company's government those attached to temples of extraordinary sanctity are reserved entirely for the use of the native officers, who are all Brahmins, and who would turn out of the set any girl that profaned herself by communication with persons of low caste, or of no caste at all, such as the Christians or Mussulmans." "They are seldom now called upon to perform in private, except at marriages." In another place he says, "All the dancing girls in this country are dedicated to the service of some temple."

Journey, vol. 2, p. 266.

Vol. 1, p. 307.

We observe that the Madras government had this subject under consideration in 1825, upon a representation from the collector of Tinnevelly, who recommended that the practice of selling and purchasing female children for the profession of dancing girls should be prohibited, on account especially of the immoral life to which it consigned them. Upon this occasion the government declined to interfere, "adverting to the nature of the institution of dancing women, and to its connexion with the ceremonies and observances, both religious and civil, of the great bulk of the people," remarking also, that "loss of personal freedom is not among the consequences of being brought up to be a dancing woman, and that the species of immorality that the interference would propose to redress prevails, and is generally tolerated, in the most enlightened and highly-civilized nations of Europe; and it is much more closely connected with general depravity and with misery in England than it is in India."

Slavery in India, 1828, p. 935.

The government did not take notice of an additional argument urged by the collector of Tinnevelly for the measure proposed by him, that "it would serve as a check upon child-stealing, which is occasionally practised under the pretence of purchase:" we think, however,

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ever, that it deserves attention, since we find it stated in the more recent reports, that in Tinnevelly the supply of these establishments is kept up mainly by girls procured in the neighbouring territories of Travancore, and smuggled into the district, and bearing in mind the practice of kidnapping which formerly prevailed in that territory to supply the demand for slaves in Malabar.

SALE AND PURCHASE OF CHILDREN FOR PROSTITUTION.

The selling or purchasing of children for the avowed purpose of prostitution, we observe, was declared by the judges of the Foujdary Adawlut at Madras, on the occasion in question, to be an offence punishable under the existing law.

Slavery in India, 1828, p. 934.

SALE AND PURCHASE OF CHILDREN AS SLAVES.

In the proceedings of the Foujdary Adawlut, under date the 23d March 1820, a case is mentioned in which "the charge was for selling a free-born female child into slavery, and one of the prisoners was the mother of the child." "The transaction (it is stated) was fully proved on the trial; but not being punishable under the Mahomedan law, which has not in this point undergone any legislative modification, the court directed the release of the prisoners, in conformity with the futwah of their law officers."

Slavery in India, 1828, p. 907.

In reporting this case to government, the judges took occasion to observe, that "the purchase and sale of persons free-born involved an obvious infringement of inherent rights, and it did not appear that this traffic had the sanction of old and acknowledged usage, or that its suppression would offer violence to the prejudices of the native subjects of government."

Ibid. p. 900.

The board of revenue, in their proceedings, under date 25th November 1819, had previously recommended to government to pass a regulation in which, among other provisions, "the further purchase of free persons as slaves should be declared invalid and illegal."

Ibid. p. 926.

The subject was again brought under the notice of the Madras government in 1825, by a proposition of Mr. Cotton, principal collector and magistrate of Tanjore, that the sale of children, except by their own parents, in seasons of great scarcity and distress, and the purchase of children, except directly from the parents, should be prohibited under a penalty. "The Governor in Council apprehended that there would be great danger of doing harm rather than good, by any attempt to regulate and restrict by law, as proposed by Mr. Cotton, the practice of selling children. It is obviously desirable, he observed, to avoid giving that sanction to the practice which in the cases not prohibited would be implied by that restriction. The evil appears to arise from the usages of the country with respect to domestic slavery, a subject of much difficulty and delicacy, and where there is more ground to hope for improvement from the gradual operation of the administration of police and justice in a spirit favourable to personal freedom than from positive enactments." But while the government of Madras refused to interfere in this matter in its legislative capacity, we find, as we

P. 126.

have noticed in another part of this report, that one of its magistrates, in 1828, issued a proclamation, forbidding all persons to buy or sell children, on the ground that the regulations do not authorize it.

And lately (even since the above was written) the exposition of the Mahomedan law above referred to, upon which the judges of the Foujdary Adawlut acted in 1820, has been set aside by a new construction of the present Mahomedan law officers of the Foujdary Adawlut, who have declared that, according to the Mahomedan law, the sale of a child by its parents "is not punishable when committed in a season of famine, and that at all other times it is punishable by tazeer," which opinion the court of Foujdary Adawlut has promulgated for the information and future guidance of the subordinate judicial officers.

Appendix XV.

The order of the Foujdary Adawlut, containing this opinion, will be found in the Appendix, together with a report explaining the circumstances under which the judges thought it advisable to issue it.

It will be seen that the present Mahomedan law officers were required to submit their reasons for dissenting from the futwah of their predecessors, and those officers then repeated the opinion already given, observing that it was accordant with the decision recorded in the books of Huneefah, that in a time when scarcity does not prevail, the people of this country are forbidden to sell their children, and that to do so renders them liable to tazeer, "or discretionary punishment."

"Of the correctness of this last opinion" the judges remarked, "there could be no doubt;" and adverting to the different references made to them on the subject, the discordant opinions which had been given, and the doubt generally entertained by the officers in the provinces as to the course they were authorized to pursue in such cases, they deemed it proper to promulgate it for the future guidance of the judicial officers. Thus we find that a circular order of the Foujdary Adawlut, founded upon a construction of their law officers, directly at variance with a futwah given by their predecessors, has made a penal offence of what was before declared not to be punishable by the existing law, and which the government declined to make punishable by a new law.

Ditto.

We have obtained the opinion of the kazee of the Nizamut Adawlut at Calcutta upon the point in question, and we find that he differs from the Madras law officers, holding that parents who sell their children, even in dearth, are liable to tazeer or discretionary punishment, remarking, however, that the degrees of punishment will depend upon the existence or non-existence of the need and urgent want of the parents.

Exportation of Slaves.

With respect to foreign traffic in slaves, we have already referred to a proclamation issued by the Madras government in 1790, to suppress the trade which had been carried on by the French and Dutch in the northern sircars, which prohibited absolutely any traffic in the sale and purchase of slaves. We have noticed also an order passed by the commissioners for Malabar in 1793, prohibiting "the practice of shipping kidnapped and other natives as slaves" from the ports of that coast, and we find, that in the custom-house regulations for that province, prepared by the commissioners, there was a strict prohibition against the exportation of slaves. The penalty was a fine of 250 rupees for each offence. In former times, it appears the export slave trade was principally encouraged by the French and Dutch on this coast. Children were frequently stolen, and full-grown persons carried off by force to be ultimately sold to foreign traders; and with a view to prevent the revival of this traffic, a provision to the same effect, prohibiting the export of slaves from Malabar was introduced in Regulation II. of 1812, but was rescinded by Regulation II. of 1826, upon the advice of the advocate-general, as unnecessary and inconsistent with the Act of 51 Geo. 3, cap. 23.

P. 116.

P. 231.

Slavery in India, 1828, p. 548.

Sec. 18, clause 14.

Slavery in India, 1838, p. 370.

Upon the discovery of the traffic in slaves from Travancore into Malabar, the advocate-general being of opinion, that the statute 51 Geo. 3, c. 23, applied in all its consequences and penalties to all persons residing within the King's or Company's territories, including therefore native subjects, recommended, that the substance of the Act should be published throughout the provinces under the government of Madras; but the Governor-general in Council being referred to, did not consider the provisions of the Act applicable to the importation or removal of slaves by land, and suggested that a regulation should be passed at Fort St. George for preventing such importation; and inquiries having been made into the operation of Regulation X. of 1811 of the Bengal code, which was passed for the same object, and it appearing that it had proved fully effectual, it was proposed, that the Madras regulation should contain corresponding provisions. The provisions of the Act of Parliament, it was observed, would effectually restrain the importation of slaves into the British territories by sea.

Ibid. 1828, p. 560.

No regulation, however, was passed, and subsequently, in 1825, the advocate-general of that day, Mr. Compton, expressed his opinion, that the offence provided for by the statute in question, although committed on land, and even by persons not inhabitants of Madras, might be tried in the supreme court of judicature, and that it was not competent for the government to invest the local courts with power to punish that offence.

Ibid. p. 933; and ibid. 1838, p. 370.

This opinion was circulated for the information and guidance of the courts, and Regulation II. of 1826 was passed, the preamble of which declares, generally, that the offence of carrying away or removing any person from any country or place whatsoever, for the purpose of being sold or dealt with as a slave, is punishable by the said statute.

In 1830, the Foujdary Adawlut brought under the notice of government a case referred to them by the judge on circuit in Malabar, of a free person, a female, alleged to have been removed from one part of the Malabar district to another, for the purpose of being dealt with as a slave, and pointed out, that in Bengal, the Slave Trade Act had not been construed as at Madras, the importation of slaves by land being considered as an offence punishable not under the statute, but under Regulation X. of the Bengal Code. In consequence of this representation, Mr. Norton, the successor of Mr. Compton, as advocate-general, was called upon for his opinion, and having considered the whole subject, he made a full report upon it, referring to both the Act 51 Geo. 3, c. 23, and to that by which it had been repealed, 5 Geo. 4, c. 113. Having reviewed and discussed the provisions of both Acts, he stated, that "he had very decidedly come to the conclusion, that neither in the present instance, nor any other, the removal of a person from one part of the Company's territories in India to another, in order that such person should be there dealt with as a slave, is an offence within the Slave Trade Acts; but that it becomes so, and is triable only by the local law or regulation." He observed, however, that the last statute does "certainly imply," that an offence against it "may be committed on land, and does not merely apply to substantive offences done at sea, or acts accessorial to such offences;" but "if we are to conclude that the land removals are contemplated, we must expressly note also, that they are removals at least into foreign countries; and that such offences are only to be tried by the King's especial commission issued for such purpose. Moreover, even this mode of trial is only to be resorted to when it is committed in a place not being within the local jurisdiction of any ordinary court of a British colony, settlement or territory."

Ibid. p. 371.

Ibid. p. 377.

The supreme government upon this were requested to furnish the Madras government with information as to the construction put upon the Slave Trade Acts in Bengal.

Ibid. p. 379.

In answer, the resolution of the supreme government, under date the 9th September 1817, was referred to, in which the statute was construed as applicable only to the importation or removal of slaves by sea, and it was stated, that nothing had since occurred to induce the supreme government to alter that opinion.

At the same time it was observed, that Regulation X. of 1811 was still in force, although its provisions, so far as they regard importation by sea, had been rendered nugatory by the statute.

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The Madras government, in reporting this correspondence to the Court of Directors, observed, that it would be satisfactory to them to be made acquainted with the opinion of the Company's law officers in England, as to the correct construction of the slave trade laws.

Slavery in India, 1838, p. 33.

The court replied, that the subject had been transferred to the law department. The result we are not aware of.

Printed Circular Orders, p. 188.

In the meantime, the court of Foujdary Adawlut, on the 30th April 1830, circulated Mr. Norton's opinion, for the information of the magistrates and criminal courts, with the following comments and order : "Under Mr. Norton's construction of the Act, the removal of a free person from one part of India to another, to be dealt with there as a slave, without reference to any traffic by sea, is an offence not cognizable by the supreme court, but by the established criminal tribunals in the interior. Persons accused of such a crime should accordingly be committed for trial before the court of circuit." The court of Foujdary Adawlut, at the same time, directed that the prisoners in the case upon which the reference had been made, and who had been admitted to bail, should be brought to trial at the next sessions. Whether this was done or not, and if done, what was the result, we are not informed.

Slavery in India, 1838, p. 429.
Proceedings Foujdary Adawlut, 26th July 1834.
Judge's report, 28th June 1834.

But we find a case reported, in which two persons were tried upon the charge of having "purchased 27 children, whom they were conveying to Hyderabad for the purpose of domestic slavery." The judge who tried the case noticed it in his report as "of a very remarkable character," as "perhaps embracing the first indictment of the kind upon record, since the crime it sets forth has been ruled cognizable by the Honourable Company's courts." The Foujdary Adawlut, considering that the children had not been ill-treated, and "perhaps rescued from an untimely death," "deemed it sufficient to pass a sentence of three years' imprisonment with labour, without irons, on the principal offender," the accessory being acquitted and released.

The offence charged in this case, as stated by the judge who tried it, was that of "conveying children, the subjects of the British Government, by land to foreign states for the purpose of slavery." We presume, that it was considered as falling within the scope of the order of the Foujdary Adawlut above mentioned, as an offence cognizable under Mr. Norton's construction of the Slave Trade Acts by the established criminal tribunals in the interior. But if, as involving an attempted removal into a foreign country, it might, according to Mr. Norton's opinion, be treated as an offence against the statute, it is not clear, from that opinion, that it could be tried by a provincial court. The order of the Foujdary Adawlut, it appears to us, is decidedly erroneous in laying it down generally, that "under Mr. Norton's construction of the Act, the removal of a free person, from one part of India to another," to be dealt with as a slave (including necessarily a removal from one part of the Company's territories to another), "is an offence cognizable by the established criminal tribunals in the interior." For Mr. Norton plainly says that such removal is not an offence within the Slave Trade Act, but becomes so only by the local law or regulations of this country. Now, there is no law or regulation of the Madras code which makes such removal an offence.

Slavery in India, 1838, p. 382.

And we have before us a recommendation of the judges of the Foujdary Adawlut to the Madras government, "that the provisions of Bengal Regulations X. of 1811, and III. of 1832, respecting the importation of slaves and their removal from one zillah * to another should be introduced into the Madras code, with "the rule contained in clause 2, section 30, of the Bombay Regulation XIV. of 1827, respecting the exportation of slaves, or any persons to be sold into slavery," and the draft of an Act framed by them for that purpose. The following is the rule proposed on the latter point :—

Ibid. p. 401.
September 1, 1835.
Government of Madras to Supreme Government, Nov. 17, 1835.
Referred to law commission, Jan. 11, 1836.

"Any person who shall hereafter export slaves from a place immediately dependent upon the presidency of Fort St. George, into a foreign territory, without first obtaining a written permission from the magistrate, whose duty it shall be to grant the same only when satisfied that the object is not sale, shall be punishable on conviction before a criminal, joint criminal, or native criminal court, with fine not exceeding 300 rupees, commutable by imprisonment not exceeding six months, or one year's imprisonment, or both; and the slave, on returning to the territory subject to the presidency of Fort St. George, shall be held to be free."

The recommendations we have thought it proper to offer on this subject will be found in another part of this report.

* They recommend the substitution of the term "zillah" for that of "province," which is used in the Bengal regulation.

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1. In drawing up this division of our report, we have had to work with materials not only scant in quantity, but, with rare exceptions, unsatisfactory in regard to the quantity of information required for compiling a minutely-accurate account of the present social position of the slaves.

2. In fact, the returns to the queries of the commission, circulated in 1835, when the criminal code was under preparation, may be said to be almost the only serviceable materials at command for our present purpose. Those returns embrace, it is true, all the localities under the presidency of Bombay; but in details such as we require, they are, for the most part, defective, owing to the limited range of the inquiries, which were confined to a few specific points touching the relations between slavery and crime. Appendix XVI.

3. This dearth of direct evidence unfortunately is not relieved, in respect of Bombay, by recourse to the printed parliamentary and other slavery papers, of which we have largely availed ourselves in drawing up our Madras section particularly; neither have we enjoyed, as in preparing that of Bengal, the advantage of examining witnesses possessing personal acquaintance with the actual condition of slavery on this side of India. With respect to parliamentary papers, besides a single paper in the Appendix (No. I.) to the Report of the Select Committee, House of Commons, dated 16th August 1832, p. 421, the collection printed by order of the House of Commons in 1838 is the only one in which there is any important information on the subject, in relation to Bombay. In this volume we have found pretty full information respecting the Arabian and African slave trade, as connected with Bombay and the west of India, which we shall notice particularly in the sequel. It also contains the proceedings of the government of Bombay, and the reports of the officers in the provinces, which led to the enactment of the restrictive provisions of Regulation XIV. of 1827, in the code of that presidency, and reports of proceedings in pursuance of those provisions. But the statistics of the slavery actually existing are but cursorily noticed.

The 4th volume of the collection of judicial and revenue papers, printed by order of the East India Company a few years back, is almost entirely made up of able reports by Mr. Elphinstone and Mr. Chaplin, successive commissioners in the Deccan, and by their intelligent assistants, in the administration of the districts above the Ghauts, conquered from the peishwa in 1817-18, which were formed, together with Candeish, into a separate jurisdiction; while the provinces below, fruits of the same remarkable campaign, were annexed to the government of Bombay. But these reports, copious and particular on so many interesting points of historical, statistic and administrative detail, are by no means so on the topic of slavery. Indeed, the earliest series of these reports (for 1819–21) may be said hardly to notice the subject; and though in those of 1822 a general account is given of the origin and nature of the slavery prevailing in the Deccan, we do not find in them details illustrative of the condition and social position of the slaves.

From the information we have gathered from the papers referred to, we are led to conclude that predial slavery is very limited in the territories under the Bombay presidency. It would appear, indeed, to be confined to the zillah of Surat, and to the southern Mahratta country.

Among the returns in answer to the queries of 1835, those of Mr. Grant and Mr. Vibart, the judge and principal collector of the zillah of Surat, both speak of a species of servitude, distinct from that of the ordinary domestic slave, the subjects of which are agricultural labourers. The former of these gentlemen classifies the servile population into the "Gholams," or absolute slaves, "being persons or their offspring who have been purchased," and the "Halees," or bond ploughmen, serving a creditor to discharge a debt. They are called "Halee," he says, from the word "Hull," signifying a plough, "their chief employment being that of ploughmen." Mr. Vibart distinctly states that the Halee is an hereditary bondsman, "almost the only description of slaves," "and usually employed in agricultural labour." Dated Feb. 22, 1836. Dec. 16, 1836. Appendix XVI. Ditto.

In a report of 1825, also, we find mention of agrestic slaves in the same district, as "frequently attached to the soil," in the possession of "the Dessaees, Buttela Brahmins, in Parchole Soopah, and some other pergunnahs." They are distinguished in this report from the bond servants, who voluntarily engage to labour in payment of loans made to them for their marriage, or the like occasions. The slaves, it is said, "are all of the Coolee, Doobla and other poor classes of the Hindoos." By Mr. Lumsden, collector of Surat. Slavery in India, 1838, p. 433. Idem, 433.

We see a similar notice of slaves attached to the soil in the districts of Dharwar Hoobley and Noulgoond, in the southern Mahratta country, where, it is said, the "slaves attached to and who superintend wuttun land, are stationary, though the owners of the wuttuns may not be so; but the slaves of sircar ryots accompany their masters whenever and wherever they emigrate." Slavery in India 1838, p. 443.

Domestic slavery is not thus limited; but, on the contrary, seems to prevail in those provinces as in the other provinces of India.

We proceed, as well as the limited information we possess admits, to inquire into,—

1st. The origin of slavery in the territories under this presidency.

2dly. The laws and usages affecting it.

3dly. The practical condition of the slaves.

1.—*Origin*

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1.—*Origin of Slavery.*

The inquiry into the origin of the slavery existing under the Bombay presidency is facilitated by the political circumstances and history of the territories subject to it, which are almost all (save Bombay island itself) comparatively of recent acquisition, and are inhabited by people professing, for the most part, the same religion.

Treaty of Poorbundur, 1776, confirmed in 1782.
The nabob of Surat resigned in - 1799
Chowrassy district acquired - - 1800
Guickwar share of Kutch - - - 1800
Broach - - - 1802
Kaira - - - - 1805

From the original cession of the town and castle of Bombay to Charles II., there is a very long interval, to the possession of Salsette in 1776, our next permanent acquisition on that side. The districts of Malabar, won from Tippoo by Lord Cornwallis in 1792, and at first intended for annexation permanently to Bombay, were transferred to Madras after the conquest of Mysore in 1799; and Bombay gained little besides the undivided rule in Surat with a district adjacent, till the great Mahratta struggle of 1803. The results of that war left Bombay a gainer, directly and indirectly, from Scindia, Holkar, the peishwa and the guickwar, of considerable territory in Guzzerat and a small portion of Kathiawar.

N. Conkan, S. do. } annexed to Salsette.
Kandeish, Ahmednugur, Poonah, Dharwar, } constituted Deccan Commissionership.
Sattarah, reserved for the Rajah.

Finally, the mighty military revolution effected by Lord Hastings' Pindarree war, of 1817, utterly broke up the Mahratta confederacy, and stripped its chief, the peishwa, of his entire dominions. By this event, and the antecedent treaty of Poonah, Bombay acquired the whole Conkan or seaboard, and the western Carnatic, above the Ghauts, from the Tamboodra to the Sathpoora mountains, more than double her previous area.

Judicial Selections, IV. p. 270.
Chaplin, Deccan report.
Briggs, ditto, ditto.

In the entire of the vast provinces thus acquired by Bombay, Hindoo governments were in possession and actual vigour, and had been so, more or less extensively, since the latter part of the 17th century, when the Mahrattas began to wrest their ancient provinces from the Mahomedans. But the English possessions in Bengal and the Coromandel coast (Tanjore excepted) were conquered from conquering Mahomedans, whose institutions were found in full force; the Hindoos being left in doubtful possession of so much of their religious and civil codes as might suit the views or temper of the victors. In the Bombay provinces, this order of things had long been reversed by the victorious Mahrattas, though the tolerant spirit of Hindooism interfered little with the internal usages of the remaining Moslem population. But we may reasonably doubt whether a Moslem could have made good his plea of legal ownership against an alleged slave in a Mahratta court, even on proof of descent from a captive infidel of the pious wars of Mahmood or Aurungzeeb. We may, therefore, conclude that the strict Mahomedan slave law was, practically, in a state approaching to abeyance, at least, as against Hindoos and their descendants; so that, if Mussulmans held Hindoos as slaves at all, it was rather by the acquiescence of the individual and connivance of the authorities, or by the force of undisturbed usage.

The more common origin of slavery, properly so called, appears to have been sale; either self-sale, by which adults consigned their persons and services to a purchaser of their own accord, or sales by which the parties were disposed of without their own consent by persons exercising power over them. Thus people were formerly imported from Africa, for the purpose of being sold as slaves, and were also brought by Brinjaris and other itinerant tribes, chiefly from Berar and Nimaur. These rovers kidnapped children, or bought them from their parents in time of dearth, when adults even would often sell themselves for a subsistence. The main source of slavery in Western India seems to have been the sale of children, however obtained, by dealers from without. But there is not a doubt that numbers of children have also been sold by their parents within the provinces, and are so even in our days, not for gain, nor from want of natural affection, but generally from feelings of an opposite kind, during the famines to which these parts of India are subject.

Another source of slavery was the practice of sentencing to that condition criminals (not being of the Brahminical class) guilty of offences under the degree of capital, or in commutation of death. Adulteresses, particularly with a paramour of low caste, were thus dealt with. Prisoners taken in war could not be lawfully made slaves.

Appendix XVI. Bondsmen.

In general, the progeny of persons reduced to slavery in any of the above modes were considered as slaves by birth. In one of the returns, however, and certainly one of the best, that of Mr. Simson, there is a distinct assertion, that slavery, whether of the compulsory or bond class, did not, in the southern Mahratta country, descend on children, who were born free, even if both father and mother were slaves, the property of one master. We have not observed that this broad doctrine is confirmed by evidence from other quarters.

Among the slaves by birth also may be reckoned the out-caste Hindoo offspring of unlawful connexions between Hindoo men of low caste and high caste women, or between prohibited degrees of kindred or interdicted classes generally. The offspring of all such connexions seem to have been considered in the light of family-slaves by birth, whether either parent were enslaved or free.

The other description of slavery, that of the debtor-bondsman, considered as in some respects voluntary, appears to have been most prevalent at Surat, where, as above noticed, those subject to it are designated by the name of Halee, or ploughman, and are employed in agricultural labour. It was not, however, unknown, though it was in disrepute, in Maharashtra. These bondsmen were compelled personally to work out their debt; but the evidence of the returns is conflicting as to the effect of the father's condition and engagement on the fate of his descendants. We are disposed to think that, in Maharashtra proper, at least, children were not forced, however meritorious such a pious labour might be, to work out the balance of debts uncleared by the toil of a deceased parent. But it was certainly otherwise in Surat. There the children of Halees do appear to have been joined

Appendix XVI.
Simson, Dharwar.
Grant, Surat.
Vibart, ditto.

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in the liability; and this must render the species of servitude virtually hereditary, the balance being constantly swelled by marriage and other expenses defrayed by the creditor-master according to usage, independent of the food, raiment and lodging which he is bound in all cases to provide.

Bondsmen.—The Halee appears to have had a right to acquire property by gift, inheritance, working at spare hours or otherwise, his debt to the master notwithstanding. But, with respect to other debtor-bondsmen, upon such property acquired and existing at the death of the debtor, the master had a claim as a creditor of the estate, although during the life of the bondsman he could not meddle with the property, payment of the debt having been provided in another shape, namely, the commutation bond. Appendix XVI. Mr. Grant, Surat. Vibart, ditto. Appendix XVI. Simson.

Features common to both of the great divisions of servitude appear to have been, that although all under Brahminical degree might be enslaved in one or other class, yet none could be consigned to owners of caste inferior to their own. It was held, that the *status* of slavery did not of itself damage the individual's caste; and by custom having the force of law, a master could not exact services incompatible with his slave's caste. Appendix XVI. Simson, Dharwar.

2.—*Laws touching Slavery.*

The servile condition being distinctly recognized by the old Hindoo and Mahomedan codes, as well as by the laws or ancient customs prevailing in full force in the various provinces added from time to time to the Bombay presidency, we assume, that, agreeably to civilized practice and to prudent policy, slavery, like other institutions which we found, remained in undisturbed legal vigour until altered by the dominant nation.

The first occasion in which the Bombay government ventured to touch the question of slavery, was in A. D. 1812, when they seized the opportunity of the passing of a set of rules for the guidance of the court of petty sessions on the island of Bombay, under the title of Rule, Ordinance and Regulation I. of 1812, to enact the following rules on slavery and the slave trade:—

"TITLE TWELFTH, OF THE SLAVE TRADE AND SLAVERY."

"All importation of slaves into this island for sale is prohibited.

"The petty sessions shall, in such cases, emancipate the slave and send him or her back to their family, or to the place from which he or she was brought, at the expense of the importer. Where the slave is desirous of remaining, the importer shall pay him the money which would otherwise have been employed in defraying the expense of his return. The petty sessions may inflict further imprisonment in aggravated cases. Bombay Reg. I. 1812, p. 341. Article I. Article II.

"All children born of parents in a state of slavery in this island after the 1st day of January 1812, shall be free. But, if the masters of their parents or any other persons support them from birth till they be capable of working, they shall be compelled to work without wages for such masters or others for such number of years as the petty sessions shall determine to be a compensation for their support during childhood."

This enactment, being applicable only to the island of Bombay, was followed in the succeeding year by Regulation I. of 1813, prohibiting the importation of slaves from foreign countries into the places immediately dependent on the presidency of Bombay. But the preventing of the sale of "slaves," though declared in the preamble to be one of the objects of the regulation, was altogether unnoticed, and the important provision in the rule above quoted for securing the freedom of children born after a specified date of slave parents was omitted in the regulation.

In this regulation the Bombay government only followed up the course of legislation in Bengal, and confined themselves to prohibiting all importation of slaves from foreign countries by sea or land into the territories under that presidency, under penalties of fine, imprisonment, and the costs of returning to his own country any imported slave so desiring, who was in all cases to be set free. The external traffic in slaves may have been destroyed by this regulation, but the internal traffic in purchases and sales remain untouched. The range of the regulation, too, was limited to a comparatively small tract of country, Salsette, Surat, and the small portions of the Guzzerat and Kuttywar provinces then possessed by the British Government.

On the conquest of the north and south Conkan from the peishwa in 1818, and their annexation to the Bombay presidency, the slave regulation became law in this extensive stripe of country, reaching nearly from Damaun to Goa below the Ghauts. But it did not become law in the more extensive conquests above the Ghauts, which, as we have before stated, were separately administered by a commissioner as non-regulation provinces. In these, therefore, slaves might be introduced from without, for sale; while into the Conkan, in common with the old Bombay provinces, slaves could not be so imported in virtue of Regulation I. of 1813. But in all the provinces of the Bombay presidency, slavery and internal dealing in slaves remained equally undisturbed by law until 1820, when a great and remarkable change, no less than the absolute prohibition of all selling of slaves, was introduced into the reserved Deccan provinces only, in which slavery certainly had no less root in law and custom than elsewhere in the west of India.

The Honourable Mr. Elphinstone, commissioner, appears to have been twice applied to by Captain Briggs, his assistant in charge of Candeish (in December 1818, and September 1819), for instructions on the subject of the prevailing slavery; and to have issued orders Slavery in India, 1828.

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in consequence, that no alteration should be made in the existing laws and usages. Of these appeals, the last was a special reference to ascertain whether the practice of "carrying about slaves for sale" was to be permitted, and it distinctly set forth that such practices were frequent, and the subjects of them usually young women and girls, brought by Brinjaris, professing to have purchased them in time of recent scarcity.

The commissioner, in reply, instructed Captain Briggs to sanction the sales described in his reference, but denounced the severest punishment against any who should attempt to carry off young people by force.

When this correspondence came before the supreme Government, under whose orders the Deccan commissioner was specially placed, the Marquis of Hastings, then Governor-general, desired to know Mr. Elphinstone's reasons for giving his sanction to the practices described; and adverted to the difficulties which would be found in checking the practice of carrying off young people by stealth. In reply, Mr. Elphinstone urged the general principle (which guided his administration) of non-interference with the laws and usages of the new country; and he adverted to a case which had occurred some years previously, and in which this abstinence had been enjoined in a question concerning a refugee slave in the cantonments at Poonah.

Mr. Elphinstone having in the meantime been advanced to the governorship of Bombay, when occasion was taken to annex the Deccan to that presidency, the rejoinder of the supreme Government on the slave question was addressed to the Governor in Council of Bombay. It set forth, that the importation of slaves by land or sea, and the sale of such slaves, "being strictly prohibited under the presidency of Fort William, his lordship was not aware of any sufficient objection to the extension of a similar prohibition to the territories conquered from the late peishwa, as well as to the dominions under the presidency of Bombay generally, if it does not already exist in those dominions. And the Governor-general therefore recommends this point to the consideration of the Governor in Council of Bombay."

January, 1820.

The correspondence seems to have closed with an acknowledgment by Mr. Elphinstone in Council of the above letter on the subject of the sale of slaves in the territories conquered from the late peishwa, and an assurance that instructions had in consequence been issued to the commissioner in the Deccan.

The Bombay government further states, in reference to the doubt expressed as to the actual state of the laws at Bombay regarding import for sale of slaves by sea or land, that the trade in slaves stood prohibited at that presidency by Regulation I. of 1813.

We have quoted the correspondence with some minuteness, because it seems to us that the intention of Lord Hastings at that early period of newly-acquired dominion over a proud slave-holding people like the Mahrattas, hardly went so far as the measure adopted by Mr. Elphinstone. The Bombay government were called on to "consider" certain elements of a grave political question under discussion. They appear to have construed this into a positive order to act, and they at once prohibited all sales whatever of slaves, instead of reporting how far it might seem expedient to bar the importation of slaves from without into the peishwa's late dominions, as described by Captain Briggs, and the hawking of them about for sale. In this case, as in those of the Delhi and Cuttack proclamations, the people appear to have acquiesced in the prohibition; at least, we do not gather from the Deccan reports of 1822, or our later returns, that dissatisfaction resulted from the measure. We may perhaps infer, that the value of slave property affected necessarily by such a measure was very low, though of domestic slaves, at least, the numbers were considerable.

Selections, vol. 4, page 504.

The prohibition itself, issued by the Bombay government, not being in evidence before us, we only infer its stringent provisions from allusions to it in the returns. We observe that Mr. Chaplin writes, "The sale of slaves now stands prohibited by the order of the supreme Government. This, however, has increased the price without putting a stop to the traffic."

But Regulation XIV. of 1827 of the revised Bombay code, being of later date and of general force every where under that presidency, sets all such questions at rest. Its comprehensive provisions, by regulating, distinctly recognize, slavery and the sale of slaves, even, we presume, in the Deccan provinces, although, as we have related, every sort of sale had there been forbidden in 1820.

The volume of papers on Slavery in India, printed in 1838, contains, as already noticed, the proceedings of the government and the reports of the local officers which led to the enactment of those provisions.

Slavery in India, 429, *et seq.*

The Governor, Mr. Elphinstone, in June 1825, laid before the council a minute, in which he observed, that, from an old report of Sir C. Metcalfe on the territory under Delhi, it appeared that he had succeeded without opposition in putting a stop to the sale of slaves; the success of which experiment led him to think that the obstacles to abolition under the Bombay presidency had been over-rated. Referring to the interrogatories, formerly circulated by the commissioner in the Deccan, he remarked, that the replies were rather unfavourable, but were directed rather against the emancipation of persons already in servitude than against the prohibition of the sale of slaves. He was himself inclined to propose the entire prohibition of sale, but thought it proper first to consult the judicial and revenue officers, and also the regulation committee and the Sudder Adawlut. If entire abolition should be impracticable, he thought the following modifications might be adopted:—

1. The transfer of grown-up slaves allowed, but the sale of children entirely forbidden.

2. The

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2. The transfer of children permitted during famine, allowing the parents a right of redemption for a certain number of years after the sale.

3. The sale of women for common prostitution prohibited, but the women who keep such slaves allowed to sell them, it being made penal on the purchasers to sell or expose them again to prostitution.

The first modification was intended to remove any objections to the interfering with what was then a marketable property, and also to meet a remark that slaves might often be at a loss for a maintenance if they were emancipated,—a result which would also occur if the reduced circumstances of their master prevented his keeping them while the law forbade his selling them. This object of the modification, it was observed, might be attained by making the consent of the slave a condition of the transfer.

The second modification was intended to counteract an evil, anticipated by some, who urged, that the lives of many children were preserved during famine by the sale of them to rich people; and that if government prohibited this expedient, it was bound to provide other means for their preservation. If the sale of children should be tolerated during a famine, Mr. Elphinstone thought it should be confined to the parent, with a right of repurchase at the same price, as was done by the peishwa's government after the famine in 1803.

The reason assigned for allowing the sale of prostitutes was, that they are often purchased by men who wish to have them as concubines, and even as wives; the worst of which conditions is better than that of a common prostitute.

The answers of all the officers referred to having been received, Mr. Elphinstone, in a minute dated 5th January 1826, observed, that many of them dwelt on the inexpediency of emancipating those persons who were already in slavery,—a measure which was never contemplated; that most of them were unfavourable to the regulation which proposed prohibiting the sale of slaves; and that all (except one from a gentleman who had been but a few years in India) described the condition of a slave among the natives to be as good as that of a hired servant, an opinion, he said, in which the opportunities he had had of observing led him to concur. On a general view of the whole correspondence, he was induced to abandon the proposal of abolishing the sale of slaves at that time. The discontent and alarm the measure would create, he observed, might be considerable, while the advantage would be very small,—all the reports showing that the sale of slaves was of rare occurrence, and the rules he meant to submit being calculated still further to narrow its range. He thought that the three rules he formerly suggested, in case an entire abolition of sale were found inexpedient, might be adopted, with some additions, regarding the separation of relations, and measures for preventing the importation of slaves by sea or land, as well as for guarding against the kidnapping of children. He further proposed that slaves should never be sold without the transaction being registered; but he thought a general register of all persons now in servitude inexpedient. Slavery in India, 1838, p. 457.

The exportation and importation of children who are slaves, whether for sale or not, he thought, should be prohibited except in time of famine.

Mr. Warden, one of the members of the council, also recorded a minute on the subject, in which he said that he did not apprehend the slightest danger or alarm in giving effect to the original proposition of the government. He added, "I presume not to sketch out the mode, or to fix the period of general emancipation, and perhaps the sudden manumission of those now actually in a state of bondage, though abstractedly just, might be politically unwise, but there can exist no good reason, either political or humane, against the British Government prohibiting the purchase or sale of all slaves, legitimate or illegitimate, after a specified time; and likewise ordaining and declaring that all children, male and female, born of parents in a state of slavery, shall from a like date be free."

The following are the rules which were enacted:—

"XXX. Clause 1st.—Any person who shall import into any zillah subordinate to Bombay a slave for sale (and sale within one year after importation shall be deemed conclusive proof that such was the object of the importation), shall be punishable, if the slave be of ten years of age or upwards, with fine, or ordinary imprisonment not exceeding one year, or both; and, if the slave be under ten years of age, with fine, or ordinary imprisonment, or both; and further, the simple importation of a child under ten years of age in a state of slavery, except in time of famine, or immediately after, and on written permission granted by the magistrate, is hereby declared illegal, and will be visited with the retributive measures described in section XXXII."

"Clause 2d.—Any person who shall export a slave from a zillah subordinate to Bombay into a foreign territory, without first obtaining a written permission from the magistrate, whose duty it shall be to grant the same only when satisfied that the object is not sale, will be punishable with fine, or ordinary imprisonment not exceeding one year, or both, and the slave on returning to the Bombay territories shall be held to be free."

"XXXI.—In addition to the preceding rules, the following sales of slaves within the zillahs subordinate to Bombay are declared to be illegal, and all persons concerned therein, either as buyers or sellers, will be punishable with fine or ordinary imprisonment, or both:

"1st. All sales whatever, not registered by the magistrate, whose duty it shall be, after due investigation, to grant or withhold such registration and a certificate thereof, according as the rights of the parties and the provisions of the regulations may seem to require.

"2d. Any sale of a female slave, having a child under ten years of age, by which such child is separated from her.

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"3d. Any sale of a child under ten years of age, though already in a state of slavery, except in time of famine.

"4th. Any sale of a child into slavery, except in time of famine, and by one of the parents, in which case a right of redemption at the price of sale shall be reserved to either parent and the child for the period of ten years.

"5th. Any sale of a female for common prostitution."

"XXXII. Whenever an importation or sale of a slave has been pronounced to have been illegally made, the slave becomes thereby emancipated, and if government shall so determine, on a report to be made by the zillah magistrate, if the case shall have been decided by him, and by the criminal judge in all other instances, a fine commutable into imprisonment, according to their jurisdictions, shall be imposed on the offender by those authorities respectively, and shall be expended when realized in re-exporting the emancipated slave to his own country."

Slavery in India, 1838, p. 406.

By the last section a report is required to be made to government in order to obtain sanction for the imposition of a fine upon the offender, and the expenditure of it in re-exporting the emancipated slave. In the volume upon Slavery in India, of 1838, we find a series of reports made accordingly, which came down to 1836. If this series comprise all the reports made in pursuance of the regulation from the time of its enactment to 1836, it must have come but slowly into operation, the first report being dated in November 1831. In that year only one case was reported, in the following year only three cases, and in 1833 five cases, involving 20 persons who had been treated as slaves, contrary to the provisions of the regulations. In 1834 and the succeeding year, the cases reported were considerably more numerous, but the reports were mostly from two zillahs, Ahmednuggur and Poonah.*

We remark that the judges of the Sudder Adawlut observed upon the returns † made by the local officers in 1836, that, taken as a whole, they lead to the gratifying conclusion, that the laws of 1827 are in successful operation for the gradual extinction of a practice so abhorrent, as is slavery, to natural right as well as to the real health of the social compact of civilized life.

Perhaps the beneficial effects of these enactments have extended beyond the mere intimidation of the penal clauses; for the returns show a general impression on the minds of the people that the government and English gentlemen view slavery and slave-dealers with dislike and disfavour.

We may here notice two somewhat remarkable petitions from parties complaining of the effect of the laws of 1827.

Ibid. p. 488.

The first was from the community of dancing girls of Kaira. In forwarding it to government, the collector observed, that they had stated verbally to him, that, as they neither give nor take in marriage, and by consequence have no families of their own, a few years would probably see the end of the race, since the regulation prohibits them from purchasing children to succeed them in their calling.

In the petition they said, it had been "an old custom with them to purchase girls from their parents, who, through want, offer them for sale. These girls we rear up and treat as if they were our own children, and eventually they become our heirs; we also rely on them for our support. The purchase of girls by us being prevented, (they ask) what are we to do? who are to become our heirs, and how are our names to continue?" In fine, they prayed for an exception in their favour. The Governor in Council transmitted this petition for the consideration of the supreme Government, in the event of any inquiry being in contemplation respecting slavery in India; and, in reply to the collector who forwarded the petition, acquainted him that the government could not, with propriety, at any time erase the enactment complained of from the code, and at the present time deemed it inexpedient to accede to the prayer of the petition.

Ibid. p. 527.

The other petition was from the Gosaens of Poonah, representing that they have been from time immemorial permitted to obtain disciples for their religious establishments by purchasing them, when there are failures by natural means. The petition had reference to cases which had been sent up by the magistrate for trial by the session judge of Poonah, wherein some members of the community were charged with criminal acts in having so obtained disciples, some of whom the petitioners had procured in time of famine. They stated that those who are initiated into their order become joint members of the community, and derive equal advantages with the rest, often acquiring even wealth. They also pleaded ignorance of the law, which they alleged had not been acted upon, though it had been passed seven years before.

The session judge expressed his opinion that from the regulation never having been promulgated excepting by being printed with the rest of the code, and not having been acted upon as affecting these religious orders, the petitioners had really acted in ignorance of the law; and, accordingly, with the sanction of the Sudder Foujdary Adawlut, suspended the trial of the case until the orders of government should be received upon it. Government, however, declined to interfere; and we see a case reported by the magistrate of Poonah, two months after, probably the same, of certain boys who had been sold to Gosaens of the city of Poonah, and made proselytes by them, in which cases the Gosaens, it was stated, had been punished according to law, and the boys emancipated. The magistrate requested instructions how to dispose of them, observing, that most of them wished to remain with the Gosaens.

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* In 1836, only one case reported, but the reports extend only to the early part of that year.
† In answer to the queries of the law commission.

Gosaens. The government decided that none should be allowed to remain in the hands of the Gosaens, but that those who had parents should be returned to them, and the rest otherwise disposed of in a proper manner.

The plea of ignorance of the law set up by the Gosaens, we observe, was urged in another case of slave-dealing, in which a child was sold by her father to a prostitute, tried at Poonah by a different judge, and was admitted by the judge as a ground for mitigating his sentence. The following are the judge's observations on the case:—"The sale of the child occurred very nearly four years ago; it is understood that during the late government, and previously, it was most common to dispose of children in this manner; it is not in evidence, nor is the court aware, that any proclamation prohibiting the practice has ever issued from the magisterial department, and all the prisoners plead ignorance of the regulation, which had been in force scarcely more than a year when the sale took place. That the parties were ignorant of the enactment may also be fairly inferred from the open manner in which the deed of sale was registered by the village koolkurnee and attested by four witnesses." The judge took occasion, from this case, to suggest to the magistrate, that the illegality of the sale of children should be made generally known by proclamation or other mode. Upon this suggestion, the magistrate (Mr. Baber) remarked, "that gross as the ignorance of the people undoubtedly is of our laws in general, he very much doubted whether there is any person living who does not know that the sale of human beings is illegal."

Slavery in India, 1835, page 556. June 18, 1145. J. B. Simson.

The judges of the Sudder Foujdary Adawlut, overruling the principle that ignorance of the regulations might be successfully pleaded in extenuation of the crime of slave-dealing, yet thought it proper to direct, that every publicity possible should be given to the regulation against the practice of buying and selling children, in order that the people might be generally informed that such a practice would undoubtedly entail a severe punishment. It is probably owing to this measure that the regulation had become so operative as it was considered by the judges to be in 1836.

September 12, 1835.

When promulgating the new code of 1827, for the territories subordinate to the presidency of Bombay, the government of that presidency took occasion to annul Rule, Ordinance and Regulation I. of 1812, before alluded to, as forming the law for the island itself, and to pass another Rule, Ordinance and Regulation II. of 1827.

There was in the new rule a very remarkable alteration under the head of "Slavery" (title thirteenth), for, whilst the first two articles were retained entire and unaltered, the third article (which we have already quoted), declaring the children born, after a certain date, of slave parents, to be eventually if not immediately free, is entirely omitted, its place being supplied by an enactment against abduction of females.

We are at a loss to account for this omission, which is the more remarkable because all such rules, ordinances and regulations, being of force only within the presidency itself in the jurisdiction of the supreme courts, require to receive the consent of those courts before they can become law, so that the judges of the supreme court of Bombay must have been cognizant of the omission, and have sanctioned it with a full knowledge of the reasons that led to it.

But notwithstanding the restrictive laws which have been passed at this presidency, slavery continues to exist. The right of one man to coerce the services, to appropriate the acquirings, of another, to sell, to purchase, to bestow, to bequeath, to inherit him, and it may be his offspring, subsists, and with it the undefined though understood obligation of affording sufficient maintenance till death. These ancient rights and obligations, subject to the restrictions and conditions imposed by the law of 1827, still exist, and may be enforced in the courts of justice in such manner and degree as may accord with precedents, with the views of the judge for the time being as to what was ancient law or existing custom, or his notions of what ought to be deemed and taken as good law and custom in these more enlightened days.

Under such a loose system, where the civil and criminal functionaries, even of the same locality, may entertain widely-different views of such undefined rights and obligations, and where these functionaries themselves are in a state of constant fluctuation and change,—where, moreover, the notorious bias of the government and of the dominant and educated class is adverse to slavery, it is easy to understand that the hold of the master on his human chattel must become weaker and weaker, and the entire slave system tend to decay. An examination of the returns in the Appendix will show how rare, indeed almost unheard of, is a suit in the civil courts against a slave or a third party for recovery of services, property or damage by abductionor desertion. Yet almost all the reporting functionaries agree that a slave-owner has a good cause of action in the cases supposed, and possesses rights which cannot be questioned in the abstract, though so difficult of enforcement as not to be worth the attempt in these times. In confirmation of these sentiments, we subjoin the opinion of the Bombay Sudder Foujdary Adawlut, as set forth in two letters lately received, which will be found in the Appendix. The first dated 20th July 1839, is to the effect that no special law for the protection of the slaves under the Bombay presidency was necessary, because no offence, which would be punishable if done against a freeman, is exempted from punishment because done against a slave: that the power of a master to correct his slave has never been admitted by the Bombay code, and the general practice of the magistrates has been against it; at the same time that masters are protected against the misconduct of their slaves by the regulations for the punishment of servants.

In the second letter they state, that only three cases are on record of the regulation against slaves having been put in force (and that in one zillah), and three cases of complaint by slaves against their masters, in one of which the master was fined for putting his slave in the stocks; the other two cases being dismissed for want of proof.

Dated 5 May, 1840.

We

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We abstract some specimens of the varying opinions of the public officers, to illustrate what has been said of the feebleness and uncertainty of the laws which uphold slavery on the Bombay side of India, or, to speak more precisely, of what remains of old law and custom, after the narrowings effected by the changes of 1813, 1819-20 and 1827 above detailed.

NORTHERN PROVINCES—SURAT.

Appendix XVI. Surat, No. 3.

Mr. *Grant*, acting judge and session judge.—Slaves are of two kinds, Gholams and Halees. Gholams are slaves in all respects; either purchased themselves, or the offspring of the purchased. The master has a right to possession of their services, persons and property, and, by Mahomedan and Hindoo law, even to the exacting of prostitution from females;—servitude complete and binding on children;—may be legally sold, given away and devised;—can acquire no property. Halees are rather bondsmen than slaves; persons or their offspring who have sold their labour for an advance of money, bound to serve the lender and his heirs until they are able to repay the sum. Halees' children are bound till the debt be discharged. Halees may acquire property;—cannot be transferred or sold. No records are extant which ascertain or define the rights of masters, the courts and authorities differing so much. In his opinion the magistrate is bound to enforce, in both kinds of slavery, by every means short of violence and cruelty, the master's right to possession and personal services, so long as the master fulfils his obligation to feed, clothe and well-treat.

A master would not be justified in doing any thing to a slave that would be punishable as committed towards any other person, except restraining or confining him;—flagrant ill-usage would be punished, and slave manumitted. All others, as well as Mahomedans and Hindoos, may hold slaves.

Appendix XVI. Surat, No. 14.

Mr. *Vibart*, principal collector.—Halees are hereditary bondsmen, and almost the only kind of slave in these districts. The master's claim is generally founded in expenses incurred in bringing them up from infancy, or for money advanced for marriage expenses;—the individual and his family held in bond until repayment, when they all become free. If one absconds, magistrate is authorized, by a letter from government, 19th April 1822, to apprehend such runaway and return him to his master, provided no ill-treatment appears, and if the complaint be laid within 12 months; but a Halee recusant, nevertheless, can only be punished, though a slave, as an ordinary servant under section 18, Regulation XII. of 1827, by order of Sudder Adawlut, 13th December 1830.

Slavery no justification for any wrong-doing. He would not enforce any claim to slave property, person or service, except as between Mussulman or Hindoo.

Lumsden. Slavery in India, 1838.

The prevailing impression with the natives is, that our government judicially punishes any severe treatment of a slave in the same manner as if he were a freeman, and the general feeling of the character of our government restrains acts of violence towards slaves as well as others. Slaves sometimes run away from their masters, and such cases are brought before the magistrate. Sometimes the master is to blame, and sometimes the servant. Does not explain what is done by the magistrate in either case.

Anderson, ditto.

The property in slaves at present existing, recognized and defined by Hindoo and Mahomedan law. Forbearance, as regards domestic slavery, guaranteed by section 5, Regulation I. 1805.*

Appendix XVI. Broach, No. 4.

Mr. *Richardson*, assistant judge and session judge.—A master has a right to service of his slave; inherits his property if he die; and may take it when he pleases during life.

Relation of master and slave not considered as constituting a ground for mitigation of punishment in case of personal wrong done by the former to the latter. Master punishable for assaulting slave as any one else. Courts only recognize claims of Mussulmans and Hindoos against Mahomedan and Hindoo respectively, in matter of slavery.

Appendix XVI. Broach, No. 15.

Mr. *Kirkland*, acting sub-collector and joint magistrate.—The criminal courts or magistrates would not recognize a legal right of masters over slaves with respect to person or property, or enforce such, but would refer parties to civil action of damages for alleged loss of services. A slave may remain only as long as he pleases with his master; the magistrate will not use force or threat to compel his return.

Relation of master and slave no justification of cruelty or hard usage. If the master molest or maltreat, he will be required to give security for good conduct. The courts or magistrates would not give over any slave's property to his master, unless proved to be the *bonâ fide* owner.

In the town of Broach there are only 62 slaves—two males, the rest females. In the pergunnahs, no slaves among subjects of the British Government; though there may be a few among thakoors (chiefs) and respectable grassias (gentry).

Appendix XVI. Ahmedabad, No. 5.

Mr. *Le Geyt*, acting judge and session judge.—No cases on his civil or criminal records, determining or serving to determine civil rights of masters and slaves, nor any record of complaints from either. The same protection is afforded to both. He considers that British subjects and others amenable to supreme court cannot hold slaves, but all other persons may.

Appendix XVI. Ahmedabad, No. 16.

Mr. *Jackson*, acting magistrate.—In cases of complaint of a criminal nature by slaves against masters, the same measure of justice would be awarded as to any other complainant.

No case on record involving civil rights. If any occurred he would be guided by s. 26, Regulation

* This opinion was given in 1825, before the new code was framed

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Regulation IV. 1827, and by the exposition of the law by the Hindoo or Mahomedan law officer, as the case might be. In case of a Christian being concerned, he would refer to a higher authority.

Mr. *Stubbs*, magistrate.—Finds only one case on record in ten years—that of a master keeping a female slave in irons and beating her. He was convicted, and sentenced to six months' imprisonment. Appendix XVI. Kaira, No. 17.

MIDDLE PROVINCES.

Mr. *W. Simson*, acting magistrate.—Considers the rights of masters over the property of slaves as absolute; but over their persons and services being qualified, ceasing on duress or ill-treatment; very little allowance being made for the sovereign or paternal character of the master. Caste is of no consideration at all in practice. Appendix XVI. Tannah, No. 18.

Mr. *Remington*, assistant to collector of Tannah.—By law and practice the services of persons sold into slavery, and of their wives and descendants for ever, belong of right to purchaser and his heirs. Cites a recent case in point. The magistrate delivered over to their owner some slaves (although sepoys* in Honourable Company's service) who were descendants of absconded slaves of a Hindoo patell, who claimed them. A slave's property is derived from and belongs to his master. Slaves are protected equally with other servants (the relative condition of the two differing only in duration of perpetual servitude) against ill-treatment from any one, even their masters. All castes or religions may hold slaves. Parsees did and probably now do hold slaves, and they would find equal favour with the court as Hindoos and Mussulmans.

Mr. *Coles*, assistant collector.—The persons and properties of slaves belong absolutely to their masters. He would accordingly restore either to a reclaiming owner. He would allow no further power to a master than to any head of a family to keep order. Any ill-usage would be punished as assault under the regulations, and, if repeated, security exacted for good behaviour. Any caste may hold slaves. Appendix XVI. Tulloodga, No. 20. Prant Kulyan part of Tannah collectorate.

Mr. *Davies*, assistant collector.—The persons of slaves are the property of masters only so long as the former choose to obey. But, during 19 years of British rule, no case has occurred to try the question of right. Mahomedan and Hindoo masters would rather give up a claim to a slave than come into court either as plaintiff or defendant with a slave. Appendix XVI. Nusrapoor, No. 21, part of Tannah.

But the slave's property is the master's, whether gained by gift or labour. A slave only enjoys the usufruct of it during life; the master lays claim to it in cases of death or alienation, but, if emancipated, the slave takes the property, unless otherwise especially provided.

How far the servile relation might be pleaded to mitigate or justify acts otherwise culpable has never yet been tried. No case exists among his records.

Slaves have never yet been registered in these districts. He considers the relation of master and slave to be more analogous to a contract rather than a relation of legal right and obligation. The slaves were originally imported and sold by a caste of traders called Lumman, during native rule, when servile rights and obligations were insisted on; but, since the British regime, most of the slaves have freed themselves, owing to the masters' unwillingness to try their right before any competent authority.

Mr. *Glass*, collector and magistrate.—Sections 30, 31 and 32, Regulation XIV. of 1827, recognize slavery and the sale of slaves under certain limitations. He finds no complaints on record on either side, and conceives that the magistrate would only interfere in case of "violent assault" or "unjustifiable treatment." The right to property would follow the law of the master under Regulation IV. of 1827, sec. 26 and 27. Appendix XVI. Rutnagerry, No. 22

The Bombay code makes no difference as to slave or freeman in punishing offences; but he conceives that magistrates would allow full exercise of authority, and such chastisement as would be permitted to the master of a family. He is aware of no distinctions in the regulation as to particular castes holding slaves. However, none but Hindoos and Mussulmans possess slaves within his jurisdiction.

Mr. *Hunter*, acting assistant judge.—Knows of no cases determining civil or criminal rights or liabilities of masters or slaves. Appendix XVI. Rutnagerry, No. 7

Mussulmans and Hindoos only can be allowed to hold slaves, and only when these also are either Hindoos or Mussulmans.

Mr. *Shaw*, judge.—No cases appear on his records, civil or criminal, determining rights of masters. But some rights do exist in the "common or unwritten law" of the country; and, as magistrate, he has formerly given up claimed runaways, male and female, taking precautions against "undue severity," and referring the parties to civil court, if dissatisfied with his decision as magistrate. By unwritten law he means to express, that the laws regarding slaves have accommodated themselves to the feelings of the present government in a great measure, though founded originally in the now impracticable rules of the Koran and Shaster, to which present practice has still some reference, though no written code perhaps is now held in strict and general obedience. Appendix XVI. Conkan—Tannah; No. 6.

Slavery being recognized, but the old codes rejected, circumstances and custom are the rules of decision, and apply equally to Christians as Mussulmans or Hindoos.

Saving

* Probably not regular sepoys, but men enlisted in the police, or police peons, who are commonly called sepoys, in the districts under Bombay.

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Saving the rights recognized by custom of masters over person and property of slaves, and also some small latitude of correction allowed the master, a slave enters court on equal terms with another.

DECCAN OR SOUTHERN PROVINCES.

Appendix XVI. Poonah, No. 8. Mr. *Bell*, judge.—Considers the law of master and apprentice as most applicable to the present relations of master and slave, slavery being mild and entirely domestic. Full protection is afforded against all except the master; all castes may alike hold slaves. R. IV., s. 26, 1827.

Sholapore(Poonah), No. 9. Mr. *Pitt*, assistant judge.—Finds no cases on any of the records since 1823, when the courts were established.

Sholapore(Poonah), No. 24. Mr. *Luard*, sub-collector.—There are no records of any cases to determine rights. Slavery may be said not to exist under the British regime.

Poonah, No. 23. Mr. *Mills*, principal collector.—No case has ever occurred before him to bring the legal rights of master and slave into discussion. If any should arise, he would refer to the law officers, and then decide by general principles of justice and equity. He would protect slaves against harsh and severe measures, but recognizes the master's right to exact duties consistent with the maintenance of domestic authority, and with the caste and religion of parties; saving this, would give full protection to slave.

Appendix XVI. Poonah, No. 25. Mr. *G. Malcolm*, assistant collector.—Knows of no cases or precedents on slave questions. He considers slavery under the Bombay presidency only nominal, and that a slave's remaining with his master depends on his own free will. If a runaway case were brought before him, he would search for and bring up the slave, would inquire into the causes of his absconding and nature of his treatment, and probably persuade but not certainly force him to return. He would consider a master justifiable in fatherly correction of a slave boy; but would not otherwise make any allowance for the relation of master and slave.

A slave has no right to any other return for his services than food and raiment. The courts would not regard the caste of a defendant in any suit for the property of a slave.

Appendix XVI. Poonah, No. 26. Mr. *Malet*, assistant collector.—Is aware of no cases to assist him in determining the question of right. He would take the opinions of the law officers of the caste, if any case occurred, and also those of persons conversant in the usages of the sect. He sees no reason for making any difference between a master's ill-using a slave or any other person. He would not feel himself officially bound to enforce or admit any claim to property, possession or services by a master; but would only endeavour to persuade the parties to abide by the usages of their caste, as explained by persons acquainted with its customs.

Appendix XVI. Kasba Indapore, No. 27. Mr. *Goldsmid*, assistant collector.—Has no cases on record; but would afford to a slave ill-used the same redress against his master as against any other parties; but if the master had thought his relation really gave the right to ill-treat his slave, Mr. Goldsmid would mitigate the punishment for the first offence. If any one of whatever sect or caste laid claim to person, property, or services of another, he would refer such claim to his superiors, before deciding.

Appendix XVI. Ahmednuggur, No. 11. Mr. *Hutt*, acting judge.—It is difficult to ascertain the rights of master and slave. In civil courts, the usages of the country or lawful customs of the parties must be considered, and in criminal also, save the few cases falling under Reg. XIV. of 1827, s. 30, 31 and 32. No case of rights has occurred in his time, civil or criminal, and the records show only such as come under the above-quoted sections. But slavery exists to a great extent in this country. Few Mussulmans or Hindoos who can afford it that have not slaves; and the absence of complaints and cases proves either the mild character of the slavery or the excessive ignorance of the people as to their rights and the disposition of the British Government and laws, or both, most probably. Usage and Mussulman and Hindoo laws give the master full power over the slave's property and over himself by loan, gift or devise—a mode of transfer not noticed or guarded against in the regulations. He would admit the right of correction, as of a father or schoolmaster, which is also the custom of the country and the rule of Mussulman and Hindoo laws, and which, indeed, follows the recognized rights of property in the person of the slave. As the heinousness of offences depends in some measure on the moral and religious feelings of the culprit's class, Mr. Hutt would consider cases "not of very aggravated nature entitled to exemption or mitigation of punishment. All not immediately bound by English law could claim redress against their slaves."

Appendix XVI. Candeish, No. 12. (Ahmednuggur.) Mr. *Birdwood*, assistant judge.—The right of a master to the slave's person and services, from the very nature of slavery being admitted, he is in course entitled to the slave's property also. These rights are recognized so long as the master feeds, clothes and treats well his slave. No case has come before the civil court to enable him to speak more fully. The magistrate does not recognize the relation of master and slave as justifying ill-treatment; and were such complained of, the magistrate would set free the slave altogether. The kusbeens or bawds are the chief purchasers of female children.

Slavery being recognized by the regulations, under defined restrictions, the magistrate must admit claims without regard to caste.

Appendix XVI. Ahmednuggur, Mr. *Harrison*, magistrate.—No cases enable him to determine as to rights. They continue to be exercised as heretofore, without inquiry or interference. As to persons of other castes than Hindoos or Mussulmans holding slaves, he would refer every question upon this point to the judges of the Sudder Adawlut.

Mr.

Mr. *Boyd*, collector.—Slaves acquired lawfully before 1827 are subject to the usages of the country previously in force in respect to their master's rights of selling them and profiting by their labour. The courts would sustain actions for recovery of slaves or their value, unless in the case of proved ill-usage; such would warrant emancipation of the slave or dismissal of the case. The property of slaves dying went to their master, but during life was never taken away, save for misconduct; but when a man belongs himself to another man, his right to hold property is an empty privilege. Since 1827, no slave can be sold but with the sanction of a magistrate, which will be so rarely asked, that he considers the code of 1827 calculated to effect the total suppression of slavery, when taken in connexion with the well-known feelings of the English Government on that question. He knows of only one application to buy since 1827, but knows of many manumissions for irregular sale. He considers the master as having a right to a reasonable portion of labour, and that he may chastise as a father; but exceeding this, he may be punished as any one else. He would only listen to slave claims of Mussulman, Hindoo, and of native-born Jews and Christians; "no European could, of course, possess a slave." He knows only of three complaints of ill-usage in six years. Appendix XVI. Candeish, No. 30.

Mr. *Larken*, assistant collector.—Since 1827 slave sales have been very rare and hazardous. Female slaves more numerous than males. No respectable man will sell his slave. A complaint of ill-usage from male or female is "of the very rarest occurrence." Appendix XVI. Candeish, No. 30.

Mr. *Simson*, judge.—Unless when compelled by the regulations, there is less and less disposition in the British authorities to listen to rights of slave-holders, which would have been admitted by the previous rulers of these countries. No court would ever deliver over a slave, especially a female, to a claimant who ill-used her. Yet some right of property in the person of the slave exists beyond doubt, and it is highly expedient that it should be recognized for the present; for how could we support otherwise the reciprocal obligation of maintaining the helpless slave in age, sickness and famine, when the master could be absolved, and the suffering slave abandoned, but on the ground and claim of previous servitude? Nominal emancipation would be a serious injury to many; setting up theory at the expense of practical benefit is as grasping the shadow to lose the substance. He would view leniently a master's moderate assault for remissness, but by no means would allow of cruelty or hard usage, and in case of either he would, in a civil action, think himself justified in reducing the damages from a runaway bondsman to a very diminutive sum. He would consider a slave, when a party in court, as "in all respects a freeman," save where his own acts had rendered him amenable to his master in purse or person. Appendix XVI. Dharwar, No. 13.

"Slaves retain entire their civil rights, except where they have mortgaged them in part to their immediate masters." He considers all castes on a level as to the right of holding slaves, and would recognize claims from all, admitting and enforcing these where the person claimed had bound himself in a manner an apprentice for value received, and the claimant had faithfully abided by his part of the engagement.

Mr. *Dunlop*, principal collector.—Only two slave cases within his experience have been brought before the magistrate. One, of certain girls purchased by dancing women before the province became British, so that no punishment could follow; the girls were set at liberty, of which, however, it is probable they did not avail themselves. The other case was an illegal sale of a girl for prostitution; all the parties, ten in number, were convicted, and more or less punished. Runaway cases occur not unfrequently among domestic slaves; they are not compelled to return, but are usually reconciled and pacified. Appendix XVI. Dharwar, No. 32

3.—*Actual State of Slavery.*

It is when reporting on the actual state of slavery and the condition of the slaves under a distant presidency that we feel most strongly the absence of personal and local inquiry, the insufficiency of mere written opinions from a single class, the public functionaries, and the deficiency of minute information in the only evidence of this description available to us.

On the details of slave treatment with reference to age, sickness, health, infancy, youth, marriage, pregnancy, concubinage, sale and separation of families, food, lodging, raiment, labour, punishment, valuations, &c., &c., on these points so essential to a due understanding of the slave's real condition in relation to his master, we have little information to help us towards describing things as they are.

Of the papers already described to which we have resorted for information, we shall under this head refer chiefly to the reports, from 1819 to 1822, of Commissioners Elphinstone and Chaplin, and their subordinates, upon the Deccan districts, and to the answers to the queries of the commission which were received in 1836; the former may be considered as giving a general review of the state of slavery as it was when the country had just passed under the rule of the British Government from that of the peishwa, while the latter may be taken to exhibit the effect produced by British rule and intercourse during the interval from 1819 to 1836; the conclusion deducible from this juxta-position and comparison of periods is satisfactory. The area, it is true, covered by the Deccan reports is only a portion (about one half) of that comprehended in the returns of 1836; but, after perusal of the whole, we are of opinion, that the progress of social improvement in the northern and middle provinces has been considerable, as well as in the south; and that slavery is daily becoming milder, and is in fact tending gradually to extinction.

We proceed to extract from the several documents in question the substance of the opinions and facts which they contain.

1819–22. Private debtors are seldom put in prison, and it is only in rare cases, and when such Honourable Mr. Elphinstone's

Report on Deccan, 1819. Vol. 4, Judicial Selections, p. 193.

such condition may have been expressed in the bond, that they are made to serve their creditors till the amount of nominal wages earned equals the original debt.

The lower classes often paid, by labour, debts which they had no other means of discharging.

Ib. p. 212; and Captain Grant, Sattarah, p. 229.

Debtors who gave bond so to do, obliged to serve their creditors. Debtors' families frequently kept as hostages for debts.

Captain Briggs, Candeish, p. 249.

Debtors obliged to serve their creditors. In extreme cases children and families kept as "hostages." Parents had a right to sell children under age.

p. 255. Mr. Chaplin, Dharwar, or Southern Mahratta, p. 269.

From debtors of low degree unable to pay, personal services sometimes exacted, the creditor subsisting his bondsman the while; children and families sometimes taken as hostages, but not frequently.

Captain Pottinger, Ahmednuggur, p. 298.

Debtors sometimes obliged to serve their creditors, the usage not confined to a particular class. The creditor receives half the wages stipulated as the equivalent for debtor's labour. Parents' authority over children very absolute, even to sell them; the government would not interfere for any act of a parent towards his child; guardians, husbands, heads of families had the same power as parents.

Mr. Chaplin's Report in the Deccan, for 1822. Selections, vol. 4, p. 503.

Domestic slavery in the Deccan requires regulating by some legal sanction, to prevent oppression and check the traffic. It would be injustice to interfere, as far as prohibition of sale, to the injury of private property in a hitherto marketable commodity. Slavery in the Deccan is very prevalent; it is recognized by Hindoo laws and by custom time immemorial. But it is a very mild and mitigated sort of servitude, rather than absolute slavery, and differs essentially in many particulars from the foreign slave trade now discontinued by British subjects. Slaves are treated by Hindoos with great indulgence, rather as hereditary servants than menials; domesticated in the houses of the upper classes; are treated with affection, and allowed to intermarry with female slaves; the offspring, though deemed base-born, if males, are often considered free; if females, remain slaves. Marriage almost amounts to emancipation, as a married slave is rather an incumbrance. Many respectable Brahmins have one or more slave-girls as servants. In a Mahomedan household of any consequence they are indispensable. A female slave is called a Loundee; her offspring by a Brahmin, Sindee; these do not acquire the character of pure Mahratta blood till the second generation, though they call themselves such; a Loundee's child by a Mahratta takes the father's family name; but the stain of blood is not wiped out till three generations. A slave girl could not quit her master without consent, but he is obliged to feed and clothe her, and provide for the children she might bear him. He might chastise moderately, but if death ensued, might be severely punished by fine or otherwise at pleasure of the government. He could sell his slave; but this was not thought reputable among the upper classes. Mahratta adulteresses were sometimes condemned to slavery. Debtors sometimes become slaves to creditors. But most slaves have been sold as children in famines, to save their own lives and keep their parents from starvation. Of late years many such have been imported in this way; beyond doubt scarcities are alleviated by thus disposing of starving offspring; but the evil arose thence of kidnapping them to sell in distant countries, a common practice with Lumans and Brinjarahs. This may be stopped by prohibiting all sales of children unless the mode of procuring such slave have been satisfactorily explained to the local authorities. Mr. Chaplin doubts the policy of entirely prohibiting the traffic, and quotes Mr. Thackeray, his successor in charge of the southern Mahratta division, or Dharwar, who says, funds must first be provided for relieving starving children. Mr. Chaplin quotes all his collectors as concurring that it is contrary to usage to emancipate the slaves, and that they doubt of its being acceptable to the present slaves, while they think it would be certainly "unpopular among the people." The sale of slaves now stands prohibited by order of government of 18th December 1819; but this has increased the price without putting a stop to the traffic."

Judicial Selections, vol. 4, p. 504.

As Mr. Chaplin's report is much in the nature of a compilation out of those rendered to him by his subordinates, we shall compress these last, and only give a few prominent facts or opinions.

Capt. H. D. Robertson, Poonah, p. 589.

Slavery is entirely domestic, originating in sales by parents or kidnappings by thieves. Few slaves know their connexions. A debtor is lawfully a slave to his creditor; but this is rarely enforced, save by Brahmins against Koonbee ryots. Public feeling makes this a dead letter. He knows of only three instances, and they occurred in the late peishwa's time. Slaves are well treated. No cruelty. Public opinion being against it, Captain Robertson has himself caused cruelly-treated and over-worked slaves to be emancipated.

Ditto, page 589.

Slaves are chiefly of the Koonbee and Dhangur castes. Males are not unfrequently manumitted on attaining manhood; females never, and the children of those are slaves also. To abolish slavery or emancipate by a law would be unpopular. The relief to one famishing province by the sale of its starving children to another district more fortunate greatly counterbalances the loss of freedom under a system of slavery so light. A female slave growing up from childhood knows not what freedom is, attaches herself to a family or some member of it, and would derive more pain than pleasure from being set free. Instances have come to his knowledge of manumission refused by a slave, even when preferring complaints of ill-usage against one member of a family; the fear was strong of being turned adrift to live by her own exertions.

Slavery in India, p. 460.

In a later report we find it stated by this officer, that it is considered by masters, and is also consonant with the general sense of the community, in opposition both to common reason and the natural liberty of man, that if an adequate price is offered by a slave, or by any person for his emancipation, it is not incumbent on the master to accept it, or to take any sum short of that he may voluntarily demand.

The

The Sattarah district, in the political settlement, at the close of the war in 1817–19, became the apanage of the liberated Ram rajah, the successor of Sewajee and chief of the Mahrattas, but whose office had long been reduced to a nominal sovereignty by the usurpations of the peishwa Sattarah, for a number of years after the peace, was administered as one of the divisions under the Deccan commission; but has since been handed over to the government of the rajah on attaining his majority. It is no longer, strictly speaking, within the purview of this report; but as the customs and laws of the people assimilate to those of the other Mahrattas, we have thought it well to notice any remarkable points in the report of Captain Grant to Mr. Chaplin for 1822. Grant, Duff, Sattarah. Judicial Selections, vol. 4, p. 670.

Domestic slavery is considerable. Males, when grown up or born of slave mothers, are often turned away, to provide for themselves after marrying, as they become a burthen; girls cannot be liberated. Almost every respectable Brahmin has one or more slave girls as servants; and a Mahratta is not respectable without them. In general treated with kindness.

A tax of 12½ per cent. of the value is levied on the sale of slaves by private bargain. No famines have occurred of late; therefore the import of slaves is slack, and depends solely on kidnapping. This may be remedied without outraging the feelings of the country on the delicate subject of domestic slavery, by making every seller give strict account how he came by a child before it is allowed to be sold. Mahratta women become Loundees by adultery with inferior castes. A Loundee's child by a Brahmin is called a Sindeea, and requires three generations to purify the blood.

Slavery depends much on the state of the neighbouring districts. In the famine of fuslee 1229, from 150 to 200 were imported. Slavery is adopted and recognized every where. Slaves are bought from Brinjarahs and others as children. If they turn out well, they are adopted and treated well by the upper classes; if they prove vicious, they are turned off. The lower classes treat them equally well with their domestics or children, but not unfrequently sell them again. Sometimes these marry their slave women, but the offspring continues impure until the third generation. Children born of slaves, however, are not considered slaves. It would be inconsistent with usage to emancipate purchased children on attaining majority, when their services are beginning to compensate those who purchased them in infancy. Briggs, Candeish, p. 710.

Besides children bought from parents or kidnapped, a very numerous class of slaves voluntarily follow Brinjarahs to preserve life in famines, on stipulated agreement to be sold to offering purchasers. Some are bought when young by dancing-masters, to be brought up to that profession, and all become prostitutes. Slavery is not very prevalent; it is chiefly in large towns. The chief slave-owners are Brahmins, Mussulmans, and some Potails, and a few only of the Koonbees (cultivators). The price used to range from 500 to 25 rupees, according to the circumstances of the moment or recommendatory qualities of the subject. Females were always dearest, in proportion to good looks and youth. These are usually not only servants of the family, but also concubines of the master. Where male and female slaves were kept and allowed to intermarry, the offspring are not slaves. Slavery is fully recognized by local usage; there is no foreign slavery such as that in Europe, but slaves of all ages and sexes have been brought from foreign territories and sold, and perhaps also similarly exported, but it does not form a source of trade. No rules are requisite for checking sales of children in famine (if allowed), except giving a discretion to the civil authority under particular circumstances to emancipate any who apply. In 1819, a number of all ages and sexes of grown slaves were brought voluntarily from Nizam's country, when famine prevailed, by Brinjarahs. On arriving, and finding support as hired labourers, they then refused to be sold, and complained of having been used as Coolies. It was notified that all who purchased these must do so at their own risk of loss, as such traffic could not be countenanced, nor runaways restored. On this the Brinjarahs let them all go, as none would purchase them. So at Nassick, many children were brought for sale; Mr. Wilkins was instructed to forbid the sale, and the children were put out to respectable landholders, promising to feed, clothe and treat them humanely, and they were to be free where they pleased. Since then few applications have been heard of concerning slaves. Slavery is falling into disuse, the people assuming the British Government to view it with disfavour. This notion, and the want of any great inclination to keep slaves, has sufficed to check the practice without formal prohibition. The only complaints of late have been from Naikeens, or female chiefs of dancing establishments, from whom girls eloped. In these Captain Pottinger was guided by circumstances; if the lover was willing to pay the original price paid by the Naikeen, the arrangement was sanctioned; or even if the girl showed that she had earned more for the mistress than all she ever cost her, no steps were taken to compel her to return to service. The system thus followed in regard to slavery ensures the best treatment, though this advantage is but negative, inasmuch as slaves appear always to have been cherished rather as members of families. It would not be consistent with usage to emancipate a young slave on attaining majority. Pottinger, Ahmednuggur, p. 761.

The people know our sentiments, and soon there will be no slaves. No purchases are to be heard of now, save by some of the Naikeens or a rich Brahmin; and in both cases it is confined to females. Such girls may be considered fortunate, if we except the morality of their lives, as they are sure to be well fed and treated with the utmost kindness.

A tax is levied in this district, among other thulmore (or duties on imports), called "nukkas," on the sale of living things, men as well as cattle; its object was alleged to be that of preventing disputes and roguery, by the publicity it gave to the transactions. Judicial Selections, vol. 4, p. 772.

Slavery is not very common in this country, and it is very mild; formerly it was very uncommon, Appendix XVI.

Thackeray, Dharwar, p. 806. Southern Mahratta country.

uncommon, but increased in the late peishwa's time; slaves may be emancipated. Women committing fornication or theft were sometimes made slaves either of the state or of private persons to whom they were sold. In famines, female children were sometimes sold by their parents; this practice prevails much north of Meritch. Slaves could not leave their masters without consent, and could be sold to any one. The master was obliged to feed and clothe any children he had by a slave, and also to perform their marriage ceremonies; the sons of slave girls became domestics—the girls, if not married, slaves or prostitutes. A son was heir to the mother, and, failing him, the master, excepting always property acquired by prostitution, which the mother might bequeath to her daughter. "A master was allowed to beat his slave and her son if they did not conduct themselves with propriety, but was fined heavily if death ensued from his maltreatment. Slavery is recognized by Mahomedan and Hindoo law, and by the custom of the country. The toleration of it saves many lives during famine, and does not appear to shake the affection of parents or encourage oppression. Bondsmen here are rather hereditary servants than slaves, and he doubts whether they would feel grateful for a law which should emancipate them. By restrictions of slavery we raise its price, and with it the price of life in a famine. If government should abolish it, they should provide a fund for starving children." Slaves are very seldom imported; most of the few in the Dooab were either born slaves or sold in famine. The usages were the same as to foreign or native slaves; the Mahratta government never interfered. Parties made their own arrangements in communication with the heads of villages. A child sold, and having partaken of food with her purchaser, if of lower caste than the seller, becomes irredeemable. "It has happened that Johallies (who usually suffer most in times of scarcity) have repurchased their children after having sold them five or six years. If married, the child could not be restored to the caste in which it was born."

The above report was noticed in 1825 by Mr. Baber, who succeeded Mr. Thackeray as principal collector of the southern Mahratta country, with the observation that it referred rather to what the practice had been during the late government than to what it then was.

Slavery in India, 1838, p. 437.

Mr. Baber himself reported at the same time as follows:—"There are a few persons who are held in a state of bondage, but they may be considered more in the light of hired domestics than as absolute slaves. These may be formed into three classes; 1st, those who were deprived of their personal freedom as a penalty for crimes, and acts whereby they forfeited their castes during the late government; 2d, those who were born in their masters' houses, or purchased of their parents in time of famine and scarcity; and 3d, those who subjected themselves to voluntary slavery for life or a limited period in liquidation of debts. There are no returns of the number of these several descriptions of slaves; but from inquiry and observation I should not suppose that the aggregate exceeded a few hundred in the Company's part of the Dooab. They are more numerous in the territories of the Kolapore rajah and of the jaghiredars, but chiefly confined to the houses of those chieftains and of their dependents under the designation of Scindya Battakee. The same gentleman in his answers to the queries of the Board of Control, printed in the Appendix to the Report of the Select Committee of the House of Commons, 1832, stated, that in the Dooab, or southern Mahratta country, including Kolapore, the number of domestic slaves was computed at 15,000, rather more than three quarters per cent., reckoning the population at about 2,000,000. All jaghiredars, deshwars, zemindars, principal Brahmins and soucars, he said, retained slaves on their domestic establishments.

No. 1, Public.

In fact, in every Mahratta household of consequence they are, both male and female, especially the latter, to be found, and are, in fact, considered indispensable.

Baber, letter B. para. 1, Answers.

In all the countries enumerated by him, comprising the western provinces south of the Kishna, and on the Malabar coast to Cape Comorin, the varieties and sources of domestic slavery, he stated, are very numerous, namely, the offspring and descendants of free persons captured during war, outcast Hindoos who had been sold into slavery under or by former governments, kidnapped persons brought by Brinjarahs, and other travelling merchants from distant inland states, and sold into slavery; persons imported from the ports in the Persian Gulf and Red Sea, or from the African coast; persons sold when children by their own parents in times of famine or great dearth; the offspring of illegitimate connexions, that is, of cohabitation between low caste Hindoo men and Brahmin women, and generally between Hindoos of different castes, or within the prohibited degrees of kindred; persons who, in consideration of a sum of money or discharge of security for the payment of a debt, have bound themselves by a voluntary contract to servitude either for life or a limited period; all which have in former times, or do now prevail more or less wherever domestic slavery is found, but chiefly in the southern Mahratta country, both in the Company's and the Jaghir portions of it, and in the Kolapore rajah's dominions, also in those of Koorg and Mysore.

Ditto, para. 2, Answers.

With regard to Mr. Baber's testimony touching domestic slavery, which does still greatly prevail, though in a mild form, that gentleman's description of the classes and varieties composing the slave population corresponds almost exactly with the like details in the Deccan reports, and is in turn corroborated by the Bombay returns in 1836.

Appendix XVI. Bombay Sudder Adawlut Returns, 1 to 29.

We proceed to give from the late returns a brief analysis of the mass so as to bring together certain points of treatment upon which all are agreed, and certain other points in which the majority acquiesce; subjoining abstracts of the contents of a few separately which

which appear to require distinct attention, whether from singularities in matter or greater copiousness of detail.

I. All the returns agree upon the following points:—

1. That the master is bound by usage at least to supply "sufficient maintenance," by which all seem to understand customary food, raiment and lodging for life, during sickness or health.

2. That the master advances in like manner marriage and other ritual expenses, which, in the case of debtor-bondsmen, become added to the amount of original debt which has to be worked out.

3. That the master is now obliged to treat his slaves well, so far as not to over-task their powers beyond reason and custom.

4. That the master is bound to abstain from all cruelty, and from severity of correction beyond the parental or apprentice limit, on pain of punishment by the magistrate as if he assaulted a freeman, or of liberation to the slave, or both, in extreme cases.

5. The complaints of ill-usage are very rare, few such having ever come to the knowledge of local officers; equally rare are actions for damages or reclamations civil or criminal, whether on the part of masters or slaves, although the leaning of the government and its officers against slavery is generally known.

6. That full legal recognition and consequent protection are afforded to the slave as to any freeman in respect of any other party than the master.

7. That the steady disfavour with which the British Government and public are known to view the system of slavery, co-operating with the regulation of 1827, a marked effect has been and continues to be produced by both together, tending to the gradual extinction of slavery.

To these points of general agreement may perhaps be added, that such of the returns as allude to European colonial slavery distinctly assert, that the mild servitude of the Bombay provinces has few or no features of resemblance in common with that of the Americas.

II. On the following points most of the returns are agreed:—

1. That domestic slavery, particularly that of females, is very general, in families of respectable degree, who have hardly any other servants for the interior of their establishments, particularly among the higher Mahrattas. Appendix XVI. Dunlop, Dharwar, Return No. 32.

2. That the treatment of these domestics is generally humane, often producing a considerable degree of mutual attachment. Hutt, Ahmednuggur, No. 11.

3. That it is not deemed respectable to sell a slave, or to come into court to try questions of any kind with one.

4. That sales of girls to procuresses, and of both sexes for dancing and music sets, the chief slave market under the old government, have much diminished, especially since Regulation XIV. of 1827, which renders such sales and purchases highly penal. Appendix XVI. Larken, Candeish No. 31.

5. That runaways are not forced by the authorities to return to their masters, although frequently through the mediation of the magistrate reconciled; the master urged by his wish to retain useful services, the slave by fear of losing a refuge in age or sickness.

6. That the transfer of children by their parents in times of famine for trifling prices paid, or for mere food to save their lives, recognized under limitations by the slave law of 1827, has prevailed in seasons of dearth, frequent in Western India, and that it is questionable whether the practice ought to be stopped, if that were possible.

7. That the relation now subsisting between master and slave may be considered as closely approaching that of master and apprentice or servant, or even that of parent and child in respect of power and coercion.

8. That slaves purchased, or born such, as distinguished from debtor-bondsmen, can hold no property but by sufferance of their owners.

III. The following extracts are taken singly from some of the most prominent of the returns:—

Mr. Grant, speaking of the Halees, or agricultural debtor-bondsmen, of Surat, says, that the master is bound to give them a piece of ground to cultivate on their own account. Appendix XVI. Grant, Surat, Return No. 3.

Some slaves are allowed as an indulgence to work at handicraft on their own account, to amass property, and so pay for manumission. Remington (Conkan), No. 19.

Mr. Vibart, another of the few, who also touches on field-slavery, says, that almost the only slaves in "these districts" are Halees, "hereditary predial bondsmen." Probably he does not mean to include the city of Surat, an ancient and large Mussulman town and port, which we must suppose to swarm with domestic slaves or Gholams. Vibart, Surat, No. 14.

Since the British rule the greater number of slaves have emancipated themselves without opposition from their masters, who shun appearing in courts in such cases. Mr. Davies considers the servile relation as if a mere implied temporary contract, which cannot be enforced, admitting of no legal right on the part of the master, nor obligation on the slave. But this view of the relation is considered somewhat too lax by Mr. Simson, the superior of Mr. Davies. Yet he also considers the real power of the master limited to the absolute possession of the slave's property; but very qualified over person or services. Mr. Davies goes on to state that transfer or alienation of slaves by a master is rare; the descendants of slaves originally purchased are found still to remain in the families of the original purchasers, and are evidently well treated. Appendix XVI. Nusrapore, No. 12.

Mr. Davies's return is one of the very few which even touches on the statistics of slavery.

In Kygur talook, 75 slaves, chiefly Africans. In Rajpoora district, 18 slaves. Sankse, 28. In Talooka Salsette and Oorun, 32. Appendix Report Select Committee House of Commons, 1832, p. 422.

He gives the total slaves in his districts at 153, out of a population of 200,000, or about one slave to 1,307 free, a ratio so singularly low as to induce doubts of its accuracy. Mr. Baber's estimate of these proportions in the Dooab is three-fourths per cent., and greatly as this exceeds the proportion stated for the part of North Conkan, in which Mr. Davies was employed, even Mr. Baber's is of small amount compared with the slave ratio in Assam and several other older provinces under the Bengal and Madras presidencies.

Appendix XVI. Broach, No. 15.

Mr. Kirkland's statement for Broach gives a ratio of slaves to free about thrice as great as Mr. Davies's, yet insignificant in positive amount, namely 60 (of whom only two are males), for the city of Broach; that is, assuming the population of the town to be only 32,000, as in 1812, about one slave to 515 free, or not one-fifth per cent. This statement is said not to include the adjacent pergunnah, in which there are no slaves held by natives under British rule, and only a very few by the thakoors of Ahmode and Khurwarra, and other respectable grassias (landholders), yet it is difficult to account for so small a number as 60 domestic slaves in a tow . census of a considerable place like Broach.

Appendix XVI. Poonah, No. 8.

Mr. *Bell.*—Conceives, from personal observation and experience, the clamour elsewhere raised, whether well-founded or not, against slavery in other parts of the world, not to apply "in the slightest degree to the state of persons so designated in this country, either within the British territories or those of other powers." They form part of the family, and are treated with the greatest possible kindness.

"This proceeds not from selfish notions, but, if it did, that very circumstance ought certainly to be considered as the strongest guarantee of protection to what is termed the enslaved party." Under the above view of the case the law of master and apprentice may be considered the most applicable in all its bearings.

Appendix XVI. Poonah, No. 9.

Mr. *Pitt.*—"Perhaps in no civilized country has there been so small a portion of slaves as in India. No part of the field labour is carried on by slaves, though they are made use of for domestic purposes, yet the number of persons is very limited in proportion to population. The soil in the country is cultivated by a caste both numerous and respectable, and it is the system of caste which is one of the causes of exemption, and also slaves being usually prisoners of war, and the Hindoo caste of cultivators being of a sacred order, therefore they could not possibly associate, and hence those prisoners were not detained as slaves."

We have here given Mr. Pitt's evidence regarding Sholapoor slavery (Poonah division) complete and *verbatim*, because he declares field slavery to be unknown in his district, and for reasons which he discerns in the difference of caste between the mass of cultivators and slaves brought from without. By the mass of cultivators, we presume, he means the Koonbees (or Mahratta cultivators), yet we do not observe that other authorities consider them as a "sacred order." It does not very clearly appear whether the same objection exists against "detaining prisoners of war as slaves" for domestic purposes; but the natural inference seems, that the difference of caste should operate against domesticating the impure servant, even more than against his association in field labours.

Appendix XVI. Candeish, No. 30.

Mr. *Boyd.*—Domestic slaves are costly, and will rarely be purchased now, as all the inhabitants of rank and wealth are aware of the British opinions regarding slavery.

Candeish, No. 31.

Mr. *Larken.*—Sales of slaves are rare since 1827. The great majority are females, purchased as children, brought up in the family, and treated as humble relations.

Their condition is not to be lamented; they are, in fact, better off than free citizens of many other states; the slave is found in almost every instance to cling to a decayed family, though he might profit by the fallen fortunes of the master to go free; instead of which he continues faithfully to serve, not only from gratitude, but from the feeling that "his affection and home are theirs." The feeling is reciprocal; no respectable person ever sells a slave. As the slave girls purchased grow up, there is no doubt that personal attractions are not without effect in saving them from the more laborious parts of household drudgery. Whether this be an enviable condition or not depends on circumstances.

The abominable slavery of male and female dancing sets is very different. They were usually recruited, anterior to our rule, by purchases of children, and this class of performers furnished an ever ready market to the slave dealer. But since our time, the practice has obviously decreased, being absolutely illegal, and as this is now generally well known, the abominable traffic will rapidly cease altogether.

Appendix XVI. Dharwar, No. 13.

Mr. *Simson.*—Considers compulsory slavery virtually at an end; persons enslaved as children are only voluntary servants because illegally enslaved: he would not recognize any right of a master to exceed the power he might exercise over a voluntary bondsman.

Dharwar, No. 32.

Mr. *Dunlop.*—There is much domestic slavery in respectable families in his division, as also among the jaghiredars and petty states under the political agent. The Mahrattas have hardly any other servants. They are chiefly female domestics performing household drudgery, such as fetching water, plastering floors and walls with cow-dung, cleaning the house, grinding the corn, &c. "It has not unfrequently happened that these persons have fled from their owners (or, more properly, masters) generally in consequence of real or fancied ill-treatment." They have not been forced back, but reconciled by mediation. The progeny usually continue nominally slaves, but really the most trustworthy and well-treated of dependents. Under our laws and known sentiments, he is of opinion that any treatment severe enough to make slaves forego the benefits of their situation, and break the other ties that bind them to their master's service, would be followed by desertion. Against this the master has no remedy, as service cannot be compelled. The old sources from which slaves used to be obtained are now entirely closed up, and the class of domestic slaves must die out with the present generation.

ARABIAN AND AFRICAN SLAVE TRADE.

Arabian and African Slave Trade.

WE proceed to consider the Arabian and African slave trade with India, upon which subject we have found pretty full information in the collection of papers printed by order of the House of Commons in 1838.

To India and Arabia, as to many other parts of the world, Africa has long been the great source of supply for foreign labour,—the hive from which slaves have been driven forth in swarms, and exported to distant countries for the benefit of others. Of those carried away to India and eastern countries, the greater part are employed as domestics, hardly ever, it would seem, as agriculturists, and the chief species of hard work in which they appear to be engaged is on board ships, and in the fisheries, where they work in common with freemen, and even with their masters. Even those so employed are found to rise to command and trust; while the domestics in families appear to be generally well-treated, often with favour. Slavery in India, 1838, p. 89. Ibid.

The eastern coast of Africa, from Delagoa Bay to Mussowa and Suakim, is of course that which has supplied slaves to the Red Sea, Arabia, Persia and India, besides those which were heretofore, if they are not still, sent to the French islands, and besides numbers which are no doubt to this day supplied to North and South America and the West Indies.

The port of Muscat appears to have been the principal mart into which the slaves carried from the East African ports were imported, and thence passed on to the Arabian and the Persian ports and to the north-west of India. With a view to prevent this importation of slaves, the Bombay government, in 1831, placed the Katiawar and Kutch coasts under naval surveillance; and we observe from a despatch of Commodore Brucks, that the Portuguese settlement of Diu, Porebunder, and Mangalore in Katiawar, were then the principal ports of import whence the slaves were distributed.*

We proceed to notice what has been effected by negotiation with the neighbouring Mahomedan powers for the suppression of the importation of slaves by sea on the western side of India. No treaty or agreement on the subject of the slave trade or slavery appears ever to have been made with Persia, the Turkish or Egyptian authorities, among all of whom the trade has almost immemorially been carried on to a large extent.

On the 8th January 1820, a treaty was concluded with four Arab chieftains of the Persian Gulf, Hasan Bin Ramah, sheikh of Abuthabee, formerly of Rasul Khymah; Karreeb in Ahmud, sheikh of Jomal-al-Kamra; Shakboot, sheikh of Aboo Dabay; Hasanbin Ali, sheikh of Zyah; by Major-General Sir W. Grant Keir, commanding the expedition sent by the Bombay government against the Ben-i-boo Ali and other piratical chiefs. Ibid.

The sheikh of Bahrein appears to have also acceded to this treaty, and it is that which is now officially declared as the general treaty.

The 9th article of this treaty refers especially to the slave trade, at that time rife and almost unchecked. The article declares that the "carrying off slaves, men, women or children, from the coast of Africa, or elsewhere, and the transporting them in vessels, is plunder and piracy, and the friendly Arabs shall do nothing of the kind."

Whatever might have been the intention of the original parties to the framing of this treaty, or this particular article, the authorities of Bombay appear to have restricted its interpretation to the primary act of enslaving Africans by force, thus excluding any general dealings in slaves; for they instructed the resident in the gulf to construe the somewhat ambiguous article as evidently alluding only to descents made on the coast of Africa for the purpose of making slaves, observing that this is justly declared to be plunder and piracy, terms which it would have been an abuse of language to apply to any trade, however detestable, as long as it was peaceably conducted. "In this sense (they add) must the 9th article be understood; but every infringement of it, where clearly established, must be resented exactly as a case of piracy would be." Ibid. p. 222 and 89. Ibid. p. 89, 90, 222.

The powerful and independent chief of Muscat, besides his own proper country on the Arabian peninsula, holds considerable possessions along the eastern coast of Africa, and at Zanzibar in particular, one of the greatest and most pestilent slave marts. With this prince a treaty was effected in August 1822, by Captain Moresby, of his Majesty's ship Menai, thereto commissioned by the governor of Mauritius, who found his endeavours to put an end to the slave trade in that island baffled by French vessels resorting for a ready supply to the abundant markets of Zanzibar and the east coast of Africa. Ibid. p. 89.

In 1821 the honourable Court of Directors had taken up the question of the Muscat and Zanzibar slave trade in a despatch to the Governor in Council of Bombay (11th April), giving cover to a memorial from the president and directors of the African institution on the subject, and the court had urged on their governor the exceeding desirableness of using the strongest persuasive influence to prevail on his highness the imaum to put an end to the traffic. A letter was accordingly addressed to his highness, setting forth the detestable nature of the traffic, and requesting his co-operation in its suppression. Ibid. p. 91.

In October of the same year also the supreme government communicated to that of Bombay

* This measure was repeated by the Bombay government, at the close of 1835, in regard to the coast of Kutch and Katiawar, on the occasion of the detention at Porebunder of 74 slaves taken out of vessels from the Persian Gulf, to which we have elsewhere alluded.—(Slavery in India Papers, 1838, p. 120.) But the order was, in January 1836, cancelled for the present, in consequence of the opinion of the advocate-general, that the government could not legally detain vessels having on board slaves not belonging to British subjects or residents in British territory.—(Ibid. p. 105.)

Slavery in India, 1838, p. 92.

bay two despatches from the governor of Mauritius, which, after adverting to the progress made in effecting the annihilation of the slave trade at that island, under the operation of the treaty concluded with the king of Madagascar, noticed, as a consequence of that measure, the resort of the French ships engaged in that traffic to the east coast of Africa, and particularly to the port of Zanzibar belonging to the imaum of Muscat.

The Bombay government having in the meantime received a complaint from the imaum regarding two of his ships with slave cargoes, which had been detained by English cruisers, took the occasion, while disclaiming all intentional interference with his highness's independent rights, to represent forcibly the gratification which he would afford to the British Government as well as the whole nation if he would stop the slave trade within his dominions altogether, or, at the least, that carried on with Europeans.

In December 1821, his highness accordingly agreed to prevent any British dependents from carrying on the trade in his dominions, and he issued orders to his governor at Zanzibar to forbid the selling of slaves to any European; but it appears that his highness declined to prohibit the trade among his own subjects. The resident in the Persian Gulf was advised of these proceedings forthwith, and instructed to endeavour earnestly to accomplish the desired object of effectually checking the nefarious traffic, if it could not be suppressed altogether, through explanations and arrangement with his highness. By a communication from the governor of Zanzibar which the imaum forwarded to Bombay, it appeared that slave cargoes had already been refused to some French ships, and for this a letter of thanks with suitable presents was sent to the hakim from the Governor of Bombay.

On the 29th August 1822, Captain Moresby finally effected the treaty with the imaum of Muscat, and communicated it in person to the Bombay government. By this important instrument, that prince declared the trade in slaves with European nations for ever prohibited, and authorized the seizure of all vessels with slaves, whether of his subjects or under his own flag, which should be found to the east of a line drawn from Cape Delgado on the coast of Africa to 60 miles east of Socotra, and thence to Diu Head, in Guzzerat.

This restricted the portion of slave trade that was still to remain undisturbed in the hands of his own subjects and those of all other powers, not Christian, within narrower limits, and, in particular, it must have been a considerable protection to all the western coast of India up to Diu Head, from much of its liability to the visitations of the boldest and most active slavers of the east, who could no longer hover off the coasts in their own vessels, watching opportunity to run their cargoes.

Ibid.

In 1825, the imaum appears (by despatches from the resident in the gulf, which are not before us) to have complained, through that officer, of certain interferences with his people by British agents on the coast of Africa, and to have set up a claim, of which we do not gather in the evidence the foundation, to the assistance of the British Government against all his enemies.

Ibid.

In a consequent interview with his highness's agents, the honourable Governor Elphinstone had taken occasion to observe, that such interferences arose solely out of the anxiety of the British Government to put a stop to the slave trade in which his highness was supposed to be so much engaged, which belief much interfered with the esteem in which his highness would otherwise be held by all Englishmen; for which reason, as well as for humanity's sake, the Governor was most anxious that some means should be devised to put a stop to the traffic throughout the entire dominions of his highness, who was therefore requested to suggest whether any, and what, compensation would induce his highness to abandon it altogether.

In consequence, the imaum made through his agents what Mr. Elphinstone considered an inadmissible proposal. But his highness's letter, containing the proposed terms of compensation, deserves attention, because it distinctly sets forth the difficulties of the imaum's position in reference to the embarrassing question of slave trade abolition.

"We now write this in reply to the proposition for the entire suppression of the slave-trade made through you by the honourable the Governor.

"You are well acquainted with the fact, that the chief revenue and advantage derived from Zanzibar arose from the sale of blacks; but that notwithstanding this, on Captain Moresby's coming here (to Muscat) some time ago, and on his requesting us to come to some agreement on this point (the abolition of the slave trade as respected Europeans), we put up with a very great loss, and consented to Captain Moresby's proposition, in order that we might satisfy and please the British Government. At the present moment they appear to desire this prohibition to be universally extended, *i. e.*, to Asiatics and Mussulmans as well as to Europeans. You know well what a weighty matter this is with Mussulmans, and that to them it appeared a very harsh measure. Should such a measure be adopted, the whole (Mahomedan) world will become our enemies, some overtly and some secretly; and the case of one who becomes viewed as an universal enemy is very difficult; notwithstanding which, by reason of the friendship I entertain for the English nation and the alliance I hold with them, I would not mind incurring any risk.

"This matter might accordingly be arranged on either of the following conditions:—

"1st. That the British Government bind themselves to defend me against either mine own or their enemies both by land and by sea.

"2dly. Or if they consider the above proposition inexpedient, then let them give me the country of the Portuguese (Mozambique, &c.) according to Captain Owen's promise to me.

"3dly. Or if this also be impracticable, let them (the British Government) make a provision

vision (in money) for me, that we may then go to Zanzibar and reside there, and give up our native country."

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In 1828, the imaum, reverting to the subject, directed his agent to obtain from the Bombay government its sentiments with regard to the traffic of slaves carried on at Mozambique.

Slavery in India, 1838, p. 93.

The acknowledgments of government were conveyed to his highness for the sincere interest he took in the abolition of this detestable traffic in human flesh, but he was informed that, as far as regarded the Portuguese settlement of Mozambique, the government of Bombay could neither authorize nor advise any interference.

The first of the imaum's proposals seems to have been declined, as involving the government too closely in Arabian politics; the second, as being one which could only be entertained as a national question by the Ministers of the Crown; and the third, for reasons which we gather from a despatch addressed to the Bombay government by the honourable Court of Directors in the following year, 1827, written in reply to detailed expositions of the views of that government (which do not appear in the papers before us) as to the construction of all the Arab treaties, and the imaum's position with reference to the slave trade, and to the negotiations regarding that question. The honourable court concurred generally in the views of their government, and, in particular, expressed an opinion in accordance with that of the honourable Governor Elphinstone and the majority of his council (Mr. Warden dissenting), that the concessions made by the imaum in abolishing the slave trade with Christian nations, and permitting seizure of his own vessels within the limits, were substantial, and as much as could possibly have been expected from a prince in his circumstances, involving, as they did, a sacrifice of revenue from this trade as well as from the general commerce of his ports arising out of it; the concession, too, according to Captain Moresby, who negotiated it, being an unpopular one, in a country and among a people where power depends on popularity, and slavery is permitted by law and custom. The honourable court therefore considered his objections to take any further steps without compensation reasonable.

17 October 1827, 19 April 1826, 7 June 1826, Return, p. 12.

But with regard to the three alternative proposals of his highness detailed above, the court approved of their having been declined for the reasons assigned by the majority of the Bombay council, and they concurred in the opinion, that if the imaum, as he proposed, were to retire from Muscat on a pecuniary provision, such an event would be "a serious evil in very many points of view," adverting to all that his highness has done, and desired to do, under the circumstances of his position.

The honourable court in this despatch go on to declare their belief, that the suppression of the European eastern slave trade depends mainly on the "faithful fulfilment of our existing treaties with the imaum of Muscat, and his cordial co-operation," and they add, "the African and Arabian slave trade in the ports of the pacha of Egypt and imaum of Senna would flourish, and counterbalance greatly the advantages to be derived even from the abolition of Mahomedan slavery by the ruler of Muscat. But under any circumstances they consider it essential to the ultimate attainment of the desired end, that nothing should be done to diminish his authority and influence as a Mahomedan prince, or to place him in a position of hostility with the people of Arabia, against whom, in justice, he must be defended by our government, if we have forced on him measures endangering his safety. For these reasons the Bombay government is instructed not to press the imaum further on this point of the general abolition of slave trading, but to return his highness the most cordial acknowledgments of the Court of Directors for the concessions he has already made of such obvious tendency towards the suppression of the European slave-trade, and to assure him of the high value they attach to the co-operation he has hitherto shown, and which they trust he will continue to manifest in the prosecution of this great object."

Slavery in India, 1838, p. 13.

At a subsequent period, the honourable the Court of Directors thus expressed their expectations on the subject to the Bombay government: "By the judicious exercise of influence you will no doubt in time be able to accomplish another object of importance to civilization,—the suppression of the slave trade, which is still carried on, though to a limited extent, between the coast of Africa and the Arab ports, not excepting Muscat."

Ibid. p. 15.

"In the papers now submitted to us," the court go on to say, "various indications occur that the Arab states in the gulf would not be averse to our assuming that general protectorship over them which would be implied in our prohibiting wars, and becoming the arbitrators of all their disputes. We entirely concur with you, however, in considering the assumption of such a power, and indeed any more intimate connexion with those states than at present exists, to be wholly unadvisable."

The subject was but little agitated between 1828 and 1838, but in the latter year very satisfactory and final arrangements were effected both with the imaum of Muscat and the Arab chiefs in the Persian Gulf, who were parties to Sir W. Grant Keir's treaty of 1820, by which, combined with the internal precautionary measures we shall detail in the sequel, the coast of India was entirely freed from apprehension of slaves being imported from Africa or elsewhere.

It appears that Captain Hennell, officiating resident in the Persian Gulf, who is vested with the conduct of all the relations of the British Government with the states in that quarter, received towards the end of 1837 a complaint from a person named Ubdullah-ben-Ivvuz, stating that some Joasmee boats had carried off a large number of girls (233) from the coast of Barbarah, under pretence of marriage, and had disposed of them as slaves at Ras-ul-khyma, one of the Joasmee ports. The chief of the Joasmees, sultan Bin Suggur, when called to account for this, denied the fact as to the enticing away these girls, but admitted that some had

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had been purchased from tribes who held them as prisoners of war, and contended that such traffic was not contrary to the 9th article of the treaty.

Captain Hennell took advantage of the warmth with which the Joasmee chief denied his participation in these alleged outrages, and asserted his willingness to aid in putting them down, to obtain his signature upon the spot to an agreement, that he, sultan Bin Suggur, sheikh of the Joasmee tribe, in the event of vessels connected with his ports, or belonging to his subjects, coming under the suspicion of being employed in the carrying off (literally stealing) and embarkation of slaves, men, women or children, agreed to their being detained and searched whenever and wherever they may be fallen in with on the seas by the cruisers of the British Government; and further, on its being ascertained that the crews had carried off (literally stolen) and embarked slaves, their vessels should be liable to seizure and confiscation by the cruisers. A similar agreement was at the same time signed by sheikh Rashid Bin Hummud, chief of Amulgaveen, sheikh Mukhtoom, chief of Debaye, and sheikh Khuleefa Ben Shukboot, chief of Aboothabee. The resident in his letter handing up this document remarked, that this agreement did not in any degree pledge the government to any specific line of policy with reference to the slave-trade.

11th July, 1838. 6th August 1838.

The government of Bombay entirely approved of these engagements, as did the government of India.

Before the close of the year 1839, Captain Hennell had concluded with the Arab chiefs and the imaum of Muscat formal treaties to the above effect, but more precise in defining the limits within which the right of search was to be exercised.

Treaty executed in July 1839 by sheikh Khuleefa, of Aboothabee; sheikh Mukhtoom, of Debaye; sheikh Abdullah, of Amulgaveen; sheikh sultan Bin Suggur, of Ras-ul-khymah:—

"I do hereby declare, that I bind and pledge myself to the British Government in the following engagement:

"1st. That the government cruisers, whenever they may meet any vessel belonging to myself or my subjects, beyond a direct line drawn from Cape Delgado, passing two degrees seaward of the island of Socotra, and ending at Cape Guadel, and shall suspect that such vessel is engaged in the slave trade, the said cruisers are permitted to detain and search it.

"2d. Should it on examination be proved that any vessel belonging to myself or my subjects is carrying slaves, whether men, women or children for sale, beyond the aforesaid line, then the government cruisers shall seize and confiscate such vessel and her cargo. But if the aforesaid vessel shall pass beyond the aforesaid line, owing to stress of weather or other case of necessity not under control, then she shall not be seized.

"3d. As the selling of males and females, whether grown up or young, who are hoor, or free, is contrary to the Mahomedan religion; and whereas the Soomalee tribe is included in the hoor, or free, I do hereby agree, that the sale of males and females, whether young or old, of the Soomalee tribe, shall be considered as piracy, and that after four months from this date all those of my people convicted of being concerned in such an act shall be punished the same as pirates."

Treaty executed by his highness Saeed Bin Sultan, imaum of Muscat, dated 10th Shawal 1255, or A.D. 1839, 17th December:—

"I agree that the following articles be added to the above treaty, concluded by Captain Moresby on the aforesaid date:

"1st. That the government cruisers, whenever they may meet any vessel belonging to my subjects beyond a direct line drawn from Cape Delgado, passing two degrees seaward of the island of Socotra, and ending at Pussein, and shall suspect that such vessel is engaged in the slave trade, the said cruisers are permitted to detain and search it.

"2d. Should it, on examination, be found that any vessel belonging to my subjects is carrying slaves, whether men, women or children, for sale, beyond the aforesaid line, then the government cruisers shall seize and confiscate such vessel and her cargo; but if the said vessel shall pass beyond the aforesaid line owing to stress of weather, or other case of necessity not under control, then she shall not be seized.

"3d. As the selling of males and females, whether grown up or young, who are hoor, or free, is contrary to the Mahomedan religion; and whereas the Soomalees are included in the hoor, or free, I do hereby agree that the sale of males and females, whether young or old, of the Soomalee tribe, shall be considered as piracy; and that, four months from this date, all those of my people convicted of being concerned in such an act shall be punished as pirates."

The only difference between the treaties with the imaum and the Arab chiefs is, that the imaum would not agree to the boundary line being fixed further west than Pussein, on the Mukran coast, which is 70 miles east of Cape Guadel, the point agreed to by the Arabs, the reason assigned being, that Pussein was the easternmost boundary of his highness's territory on the Mukran coast; and that its provisions do not appear to apply to his highness's own vessels, probably in deference to his dignity as a sovereign prince and to his close alliance with us. But there is an essential variation between this treaty with the Joasmees and that concluded with them by Captain Hennell, as reported in his letter of 28th April 1838; for in the former one there was no mention whatever of any particular limit within which their vessels should not be liable to seizure, and we draw attention to this fact, because no explanation of the cause of less stringent terms having been required from these tribes in the treaty last executed is on record.

Whilst these efficient measures were pursued against the external traffic in slaves in the Arabian sea, the government of Bombay was engaged in negotiations with its allies on the

continent

continent of India, for the purpose of inducing them to prohibit the importation of slaves into their territories by sea. Arabian and African Slave Trade.

So long ago as December 1835, Sir A. Burnes reported that the râo of Kutch had given his ready assent to the wishes of government on this head, by issuing a proclamation against importation. In the same month the principal chieftains of Kathiawar, the peninsula between the gulfs of Kutch and Cambay, declared their adhesion to a general league prohibiting the Indian traffic in slaves.

The râo of Kutch formally acceded to this, and the gaikawar, on whose part we exercise the paramount rule in Kathiawar, was also understood to have consented to the measure.

With regard to the actual state of the trade in slaves, we are without any evidence to show any diminution in the extent of the East African branch of it. The treaties lately concluded are of too recent a date to admit of any just calculations being drawn from them, besides that they are calculated solely to keep the traffic away from the shores of India, and do not in any way interfere with that carried on in the gulfs. Even up to this time, there is no agreement with any of the states in the Red Sea or with the coast of Arabia, nor any restriction on their voyages; and it appears they carried on a considerable slave trade with the north-west coast of India, till it was put an end to by the Bombay government prevailing on its dependent allies in that quarter to prohibit all importation and dealing in slaves.

To render the preventive system ample and effectual, the concurrence of all the Arabian, Turkish, Egyptian, and Persian powers is requisite to a treaty on the principle of those above noticed. The authorities seem to agree in thinking this concurrence cannot be obtained, or, if obtained, is only to be upheld by a vast increase in the number of the ships of war maintained by the British Government in the gulfs, since the interest of those states is deeply involved in keeping up a traffic that is allowable by their law, and brings them in a large revenue. Hennell. Court of Directors.

It is stated by Captain Hennell, that the imaum of Muscat alone is said to have lost 100,000 crowns already by assenting to the treaty we effected with him in 1822. But if the coast blockade agreed to by our allies in Kutch and Kathiawar be enforced with good faith and vigour, the importation of slaves must soon dwindle to an amount so low as will induce the remaining Arab powers to listen to reason on the subject.

The principle of compensation we observe was strenuously opposed by Captain Hennell, and was decidedly objected to by the Bombay government for reasons given in a correspondence we have inserted in the Appendix. Captain Hennell indeed stated his conviction that granting compensation to the Arab chiefs would only throw the trade into the hands of the inhabitants of the Persian and Turkish ports in the gulf.

In the list of papers, intituled "Slavery in India," will be found a very ample account of the extent of the gulf slave trade at the date of 1831, being an account by Colonel D. Wilson, at that period resident at Bushire, in the Persian Gulf, in a report to the government of Bombay, embracing as well the states under the treaties effected by Captain Moresby and Sir W. G. Keir as those states with which we have no treaty.

Colonel Wilson concludes his interesting details with a strong expression of opinion, which is worthy of notice as coming from a person of so much local experience and general ability, that "if the states in that quarter could be induced to abandon entirely the traffic in slaves, few single acts could contribute so much towards their progress to civilization, and the ameliorating extension of their peaceful commerce and intercourse with India and elsewhere, to the infinite benefit of their neighbours as well as of themselves."

There is reason to believe that the practice of seizing and carrying off slaves from the coast of Africa still continues, in spite of the strenuous exertions of the government of Bombay to suppress it. In a preceding part of this report we have noticed indications of this practice, to which the resident at Bushire called the attention of the Bombay government.

The acting resident, Captain Hennell, as already stated, called upon the chief of the Joasmee tribe to answer for carrying off slaves; and although he laid it upon other tribes, the resident declared his belief, that acts of violence were perpetrated by Arab vessels in the manner alleged. During Captain Hennell's temporary absence from Bushire, his assistant, Dr. Mackenzie, having received answers from the agents at Muscat and Shargah relative to the alleged outrage, reported to the Bombay government, that although it was not brought home to the Joasmees, a disgraceful traffic in slaves was carried on, not only by them, but by every port of consequence in the gulf; and he instanced one act committed by the subjects of the chief of Rowah, who had carried off persons of a low tribe, the Soomalees, into slavery.

The resident, in reporting on his assistant's letter, stated that the traffic alluded to did exist, but that the subjects of it were for the most part females, with a few negroes and Abyssinians, procured by purchase, and were by the Mahomedan faith legitimate bondswomen. We presume this to mean that Pagans and Christians, not being of the faithful, are lawful slaves when taken prisoners in war. He added, that instances had taken place of Soomalees also being brought for sale, but rarely, not one in a hundred being of that tribe; that they would, if the fact were known to the authorities, be immediately set free; that the sheikh of Rowah was not a party to the general treaty, and called himself a subject of the Turkish government, but would be required to account for carrying off the seven Soomalee girls from Barbarah. The government of Bombay thought it highly improbable that the protection secured to the negroes of the coast of Barbarah by Sir W. Grant Keir's treaty, excluded the Abyssinians, many of whom are Christians, and have the strongest claim to the protection of the British Government; and the resident was directed not to lose sight of the case of these people, nor of the African children. 3d Sept. 1838.

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The importance and value of the arrangements lately concluded with the dependent or semi-dependent states in Kutch, Kathiawar, &c. for prohibiting the trade and seizing slave vessels and cargoes, may be appreciated in some degree from the recent evidence of Captain Brucks, Indian navy, commodore at Surat, of Mr. Secretary Willoughby, late political resident in Kathiawar, and of Lieut.-colonel Sir A. Burnes, acting resident in Kutch.

The first-mentioned officer reports (Jan. 1836) on his return to Surat from inspecting the Kathiawar coast, that from Porebunder five boats used annually to resort to Zanzibar and the coast of Africa, for purposes of ordinary commerce, each of which would bring back six or eight slaves as a private venture of the nacoda in command, and his crew, who would pass them off, if necessary, as servants. That a considerable commerce is carried on from the same place by Arab vessels with Africa and both gulfs, all the vessels engaged in which openly or in the manner above stated import slaves. These importations used to reach Porebunder at two periods, just before the S. W. monsoon commences, and just after it is over. The slaves were sometimes landed at Nowabunder, and other ports of the rana, and many found their way to Bombay in this manner.

Mangalore, he adds, sends one or two boats every year to Zanzibar, and has some trade with the gulfs; and the same remarks apply to it as to Porebunder.

Verawul, a very large town belonging to the Joonagurh nawab, carries on a large commerce with Zanzibar and the gulfs, and numbers of slaves are thus introduced here and into other ports of the nawab in the very same way. A town called Puttun, near it, is a place where slaves may be, and he believes are, landed. Between the Portuguese settlements of Diu and Mozambique, a regular commerce is well known to be maintained.

About five or six brigs are thus employed every year, and sometimes each brings from 10 to 20 slaves back. Some are taken into the adjacent districts, some to Goa, others smuggled "by one and two at a time," as a part of the crew or servants, into Bombay and Surat.

Captain Brucks believes all the ports and places on the west coast, from Diu to Tulajiya, as also the coast of Okamundul and the various places in the gulf of Kutch, participate in the slave trade, as also that Mandavie in particular has much traffic in slaves, many of whom find their way into the British territory.

Sir A. Burnes in December 1835, in reporting the ready acquiescence of the râo of Kutch in the wishes of government for prohibiting and effectually stopping the slave trade, states by special desire of the râo, that there are no slaves imported into his country except about 400 or 500 negroes from Zanzibar, to which the resident adds, a few from Muscat, as he has seen "about 40 of these poor creatures" sold publicly in the bazar so lately as in June 1833, and is told that such was "a daily and common occurrence." On behalf of the râo, the resident is desired to add, that in our sense of the word as applied to West India slaves (in his highness's own words), the situation of the Zanzibar slaves in his country is quite different, they being received as members of the families to which they are admitted, and treated with great kindness, some of the females being even married: some are sent to Scinde, his highness further says, and others married to the Seedhees or negroes settled in Kutch, a numerous, and the resident adds, "I may say a happy community."

Returns, p. 106.

The râo goes on to express a wish most reasonable and acceded to accordingly by government, that sufficient time should be given for the return of vessels already departed for the African coast ignorant of offence or of the impending change, and who will undoubtedly bring negroes along with them to Mandavie.

In February 1836, the same officer, Sir A. Burnes, reports the issuing of the râo's penal proclamation, and further progress towards suppression of the trade.

Returns, p. 151

He takes occasion to draw the attention of government, for the second time, to the extent of the Muscat slave trade and the imaum's encouragement of it, which, he asserts, has the effect of intimidating the râo, lest the commercial prosperity of Kutch should be injured by the imaum's taking umbrage. A recent case is instanced of six negroes admitting themselves to be slaves, who ran from an Arab vessel at Mandavie, and took refuge at Bhooj, complaining of starvation and ill-treatment. The râo declared them free, and allowed them to live in his household, "at which they were delighted." But shortly after, the navigator of their vessel appeared, and claimed the slaves as belonging to a near relation of the imaum of Muscat, when the râo immediately gave them up. Sir A. Burnes reports the case in proof that the râo's interests forced him to act contrary to his humane and benevolent wishes, and emphatically adds, "if the slave trade is abolished in Muscat, it will cease in Kutch."

Returns, p. 15,107.

Mr. Secretary Willoughby reports (1st December 1835) that, when political resident at Rajcote (Kathiawar), he found that much trade in slaves was carried on at all the ports of Kathiawar, and even more in those of Kutch. Inspection of the Porebunder custom-house books and accounts of duties levied verified his suspicions. The slaves are imported chiefly from Muscat and various ports in Arabia and Scinde, and also brought into Kathiawar from Kutch. The trade is conducted chiefly by the Budalla and Curwa castes, who frequent the ports and contract to navigate vessels for shipowners (who drive a trade with Arabia, the Persian Gulf and coast of Africa) at a fixed rate for the voyage, together with a portion of private tonnage. By this means they were enabled to import slaves, for whom a ready market is always found among the chiefs, Rajpoot, Mussulman and Katty. The places to which they chiefly resort for slaves are Mokha, Judda, Maculla, Sohal, &c.

The majority of slaves are males. Stout, healthy boys of eight or nine sell for about 40 rupees, increasing to a certain age and then diminishing. A youth of 20 is not so easily disposed of, being less likely to submit to the yoke of slavery, but prone to escape. At Rajcote, tractable, fine youths fetch from 80 to 100 rupees; those of average quality about 60.

Females

Females are dearer, being sought as wives by the poorer classes of Scindees and other Mahomedans, as cheaper than wives of their own caste. Arabian and African Slave Trade.

The demand for African boys in Kutch is very great, Mr. Willoughby assures us, as "they are taught mechanical arts, and become most useful members of the community." At Mandavie there are 800 houses belonging to the above-mentioned Budalla and Curwa castes. The importation from Arabia thither is on a great scale, and they are thence brought into Kathiawar, whence slave-dealers clandestinely transport them to Guzzerat and all parts of Hindoostan. African slaves are highly prized in Kathiawar, and always employed in domestic servitude, never in agriculture.

The slave trade is also carried on with the port of Diu, in Kathiawar, belonging to the Portuguese, where a great number of African boys are to be seen. Returns, p. 108.

Of two modes by which the Kathiawar trade might be checked, viz. prohibition by the paramount British Government, or enlisting the chiefs in the good cause, Mr. Resident Willoughby considered the latter most prudent and practicable; and by judicious addresses to the principal chiefs, viz. the nawab of Joonagurh, the jam of Nowanugger, the rana of Porebunder, the thakoor of Bhownuggur, the chief of Mangrole and the authorities at Jafferabad, obtained their adhesion to the general league for abolishing the Indian traffic in slaves, to which the râo of Kutch also adhered in February 1836. Returns, p. 151.

In consequence, as it would seem, of these exertions and the successful addresses of Mr. Willoughby to the different chiefs, a number of slaves appear to have been shortly after seized by the Porebunder authorities on the requisition of British officers on the spot. These amounted to 79 in all, imported on three Arab ships bound with goods to Bombay from Maculla, which had put into Porebunder on pretence to wood and water, but, it would seem, really to dispose of these slaves, which they were afraid to take to Bombay. These were seized at the same time and place, but after some detention seem to have been allowed to proceed to Bombay, through the connivance of the rana, who, not without reason, as it appeared, was afraid of reprisals on the part of the Arab states. The slaves were sent up to Bombay under British charge, and placed under the care of the chief magistrate of police until the law authorities should decide as to their final disposal.

Two grave questions arose on this occasion. 1st. Whether the ships could be detained, and proceedings had in the supreme court against the ships, commanders or crews. 2d. How the slaves were to be dealt with at Bombay, being all of tender age, having been seized and liberated by foreign authorities at Porebunder. The British Government was willing to support them, and proposed apprenticing the males to the Indian navy or other occupations, and the females as private servants or to charitable institutions.

These points were referred to the legal advisers of government; and to the 1st question, Mr. Advocate-general Le Messurier replied decidedly in the negative upon all the points. If the vessels or crews, he said, being foreign, belonged to nations with whom the government had any treaties concerning the trade in slaves, then according to such treaties only could they be dealt with, but not under the British slave trade abolition laws, which affect only the subjects of his Majesty, or persons residing or being within the United Kingdom, or any of the dominions, &c. belonging to his Majesty, or in his possession, or under the government of the Honourable East India Company, and can have no force over foreigners, least of all in a case of seizure, like that in question, in a foreign port (Porebunder). Returns, p. 132. 51 Geo. 3, cap. 23. 4 Geo. 4, cap. 113.

The advocate-general justly adverted to the slow progress and great difficulties environing the slave trade abolition questions from 1787 up to the present day, and to the statutory recognition of slavery in India so late as the last India Charter Act. He added, that these slaves thus brought to Bombay could not properly be paid for by the British Government or by the rana, lest it should encourage other importers, notwithstanding the willingness of the rana to do so, or to restore them to their owners, because of his fears of reprisals from the Arabs, damage to his people, and injury to the revenue and commerce of his port on account of this transaction. 3 & 4 Gul. 4, c. 85, s. 88.

The advocate-general, in fine, counselled the utmost caution and delicacy in meddling with the slave system and traffic of the wild and lawless Arabs, and advised that the slaves should be sent to the government to which their owners belonged, though not without a strong remonstrance on the inhumanity of this traffic, and a recommendation that the individuals should be set free.

To the 2d question, regarding the lawful disposal of the young slaves, Mr. Acting Advocate-general Roper answered, that, in strict law, the government could not stand *in loco parentis* to the children, nor legally apprentice them out, neither could the slaves effectually bind themselves and masters (as in England might be done), because of doubts how far the apprentice law might be of validity in India, or justices of peace possessed of the enforcing jurisdiction given by that code. The acting advocate-general did not conceive that there could be any objection to the boys entering the Indian navy. He, however, advised the greatest caution, to satisfy them that they were perfectly free agents in the matter. He advised, however, that the government should so far take on itself the parental function, as to place the children of both sexes with individuals of known respectability and humanity, who should enter into regular engagements as to their treatment, instruction and ultimate liberation, or hire as servants. This course was ultimately followed. The government put the children, in the first instance, on a small stipend for each, under the humane charge of a benevolent individual, Mr. Acting-secretary Townsend, who volunteered his good offices until they could be gradually and advantageously placed out; and many of them subsequently were so placed. Slavery in India, 1838, p. 100. Ib. p. 107. Ib. p. 138.

Returns, p. 17. Two other parties of young slaves, in all amounting to 18, of all ages from 6 to 17, were similarly rescued shortly after, in Kathiawar, all of whom, we gather, were similarly disposed of, under charge of Mr. Townsend. His enlightened views in regard to their education and treatment, in modification of the condition at first required by government (that all these liberated young people should be brought up as Christians), we think it right to record, in justice to that excellent person and to his superiors, who judiciously acquiesced in those views.

"Of the name (of religion) I would say nothing," Mr. Townsend writes; "with their manner of food and clothing, I would not interfere. I would have them put in schools where they would be well taught and kindly treated, and instructed in a manner which might eventually lead to their embracing Christianity. The object would be to enlighten their minds, to make them acquainted with our sacred books, and to give them such a course of education as would enable them hereafter to earn their bread."

Both of these last parties of young slaves appear to have been originally Kutch importations, and to have been thence carried into Kathiawar. The first consisting of ten, by a Turk under a forged pass, purporting to be from the râo and Colonel Pottinger, the resident; the second by a sahookar of Mandavie, who freighted a vessel for slaves from Bate, in Guzzerat, direct to the coast of Abyssinia, which returned with its cargo after a ten months' voyage.

Returns, p. 181, 182. The fears of the rana of Porebunder, lest the seizure of the vessels and slaves at Porebunder should bring upon him reprisals and damage, turned out to be well founded. Indeed, considerable embarrassment to the Indian government arose out of this transaction, and at one time it appeared likely to terminate in hostilities with some of the minor independent chiefs on the southern coast of Arabia.

Returns, p. 162. The sultan of Wadi, the principal inland town of the Maharra Bedouins, whose sea-port, Haswail, carries on a brisk slave trade with the Sawahel or East African coast, on learning the detention of his ships at Porebunder and Bombay, and the liberation of the slaves, seized, in February 1836, a buggalow laden with goods belonging to a Hindoo British subject of Bombay, the cargo of which appears to have been valued at 13,500 and the vessel at 4,000 rupees. This act was avowedly committed in retaliation for the seizures at Porebunder in November preceding, and the government of Bombay, at first, on receiving the complaints of the suffering parties, prepared to obtain restitution by sending over an armed force in the event of the Arabs refusing to yield to the remonstrances of Captain Haines, of the Indian navy, then in the neighbourhood, and commissioned to demand reparation. The supreme government, however, on being consulted, seem to have recommended a conciliatory course, for which indeed there was substantial reason, inasmuch as the Arab vessels at Porebunder appeared to have had no sufficient warning that their accustomed slave traffic with the ports of our allied dependents was about to be visited with confiscation. The papers before us do not enable us to trace the precise manner in which this embarrassing affair terminated, nor, in particular, whether the Bombay merchants ever recovered their goods, or indemnity for them from their own government, or from the Arab chief, who professed his willingness to restore the vessel, but excused himself as to the cargo, which he averred to have been plundered and dissipated by the mob beyond recovery before he could interfere.

Returns, p. 173. Ib. p. 162, 16, 166. Ib. p. 179, 182, 183. Returns, p. 162. Ib. p. 174, 179.

Slavery in India, 1838, p. 1. March 1837. It appears, however, that the Bombay government despatched a vessel of war to Wadi, of which the commander was authorized to offer moderate compensation for the slaves seized, and directed to require restitution of vessel and cargo. On failure thereof, he was to intimate coercive measures would be adopted. The result, as just stated, does not appear.

We do not find any evidence of further attempts, subsequent to those now given, at importing African slaves or others from that quarter into the Bombay or allied territories. But, in the papers and returns already largely quoted, we find mention of a former curious case of alleged slave-trading, which seems worthy of notice, as some important discussions thence arose connected with the execution in India of the British statutes affecting the trade in slaves.

In March 1827, a British colonial brig, L'Espérance, which cleared out at Mauritius for Bombay, put into Mangalore owing to sickness on board, and there buried one of her mates. The master then claimed the protection of the magistrate (Mr. Babington), as a justice of the peace, against three Portuguese and a Frenchman on board, whom he declared to have threatened his life, and to have endeavoured to seize the vessel and to compel him to run into Mozambique for slaves, and who were still meditating to force him into Goa, whence with fresh Portuguese papers they were to proceed on their slaving voyage.

Mr. Babington thereupon seized the ship, papers and crew, under the statute 6 Geo. 4, cap. 110, and sent them up to Bombay, there to be disposed of by the vice-admiralty court. But on the vessel arriving at that presidency, Mr. Advocate-general Norton reported, that, after argument before the chief justice, the learned judge intimated his opinion that he had no jurisdiction to hold a vice-admiralty court, because the powers to that effect vested in the recorder's court appeared not to have been renewed when that tribunal was succeeded by the present supreme court. The advocate-general went on to say, that although the seizure certainly was legal, and the prisoners parties engaged in a felonious transaction, yet it did not follow that there was any person entitled to seize under the strict interpretation of the Act, which contemplated and empowered only governors, collectors and other officers directly holding commissions under the Crown, and not any such functionaries of the East India Company. Mr. Babington, therefore, Mr. Norton maintained, could not seize, still less could Lieutenant Macdonald of the Indian navy, who brought up the brig to Bombay by order

Slavery in India, p. 201. Ib. p. 196, 200.

order of Mr. Babington. But it seemed competent to Captain Furneaux, of the Royal navy, commanding the Hinde sloop of war, then in Bombay harbour, to seize and prosecute in any vice-admiralty court. This officer, however, after having taken possession of the Espérance, in pursuance of the advocate-general's opinion, abandoned his capture, apparently from doubts as to the sufficiency of the evidence, and the probability of condemnation by any other competent court to which the vessel must have sailed at certain expense and risk.

The advocate-general considered that he himself might have prosecuted *ex officio* in the supreme court, though not on the Admiralty side, but without probability of success, under the strict rules of evidence required in such case, and in a matter depending so much on production and examination of ship's papers and parties. The prisoners, who had been committed for felony, were eventually released by *habeas corpus* without opposition, and the vessel was restored.

In this case the ends of justice were defeated by the want of a vice-admiralty commission. The supreme court at Bombay, like those at Calcutta and Madras, has admiralty jurisdiction, but it appears from this case that the statute in question gives the jurisdiction only to courts of vice-admiralty, and this is certainly so with respect to the statute 5 Geo. 4, c. 113, with which we are more immediately concerned.

It would seem that since the eslablishment of the supreme court at Bombay, no vice-admiralty commission has been sent out to that presidency, and since the late demise of the Crown none has been sent out to Calcutta or to Madras.

In regard to the legal difficulties as to qualified and duly commissioned seizers, we observe that the general question was not raised only on this occasion of detaining the brig Espérance, but had already occupied the attention of the government and law authorities of Bombay, in consequence of a correspondence of which we gather imperfectly the substance, but the final result not at all from this volume of returns.

In a despatch from the Court of Directors to the Bombay government, dated 27th September 1826, in answer to a reference of November 1824, the honourable court appear to have transmitted, for information and guidance, copies of a correspondence between the Board of Control, Earl Bathurst and the Lords of the Admiralty, relative to the execution of the 5th Geo. 4; and we infer that the home authorities had deemed it competent to the Indian government to seize and to commission their officers so to do under the provisions of the slave trading laws. Returns, p. 19, 25, 26. 1826. 1827.

This despatch was probably received about March or April of the following year, when the attention of government and of the law authorities at that presidency was already alive to the seizure question in the matter of the brig Espérance; and it appears that the advocate-general was then called on to advise the Governor in Council as to the forms proper to be observed in issuing the required commissions to captains of the Company's cruisers. In his reply, Mr. Norton, after supplying the form which he considered best adapted to the case, expressed very strong doubts as to the interpretation which had been given by the high authorities in England to the provisions of the statute, regarding persons qualified to seize or to issue commissions. 21 April. 25 April. Returns, p. 221.

About the same time also, a despatch from the supreme government of 29th November communicated the particulars of the Espérance case, and the difficulties arising out of the want of a competent vice-admiralty jurisdiction at Bombay. The reply to Bombay of the honourable Court of Directors bears date 10th December 1828, and states briefly that the questions submitted were then under consideration of their law officers; a reply to the same effect of the 23d September 1829 appears to have been sent to the Bengal reference, and we are unable to gather, from information before us, whether any further progress has since been made in the resolution of the difficulties that had occurred. 1829.

But, so late as 1837, it would seem by a correspondence between the government of Bombay and its advocate-general, Le Messurier, which has been referred to us by the government of India, that the questions regarding the right of the Company's authorities in India to seize slaves and slavers under the British Acts of Parliament remained in the same doubtful position. Captain Rogers, of the Indian navy, in 1837, being at Judda, and in command of the Euphrates cruiser, took three slave boys out of two ships, sailing under British colours and registers, the Francis Warden and Fuzzul Kurreem. The boys were slaves beyond doubt, bought to be sold again. They were brought to Bombay and dealt with as the government had humanely disposed of so many others. Captain Rogers reported that he had abstained from detaining the slavers as well as the slaves at Judda, only because he doubted whether his government would wish to prosecute the matter further by seizing the ships; but as he was about to proceed on a cruise to the Persian Gulf, where he was likely to fall in with English vessels having slaves on board, the captain very properly solicited, through Admiral Malcolm, superintendent of the navy, distinct instructions as to the line of conduct he was to pursue in regard to seizures of any kind under the slave trade laws. Appendix XVIII.

The advocate-general, referring to the draft of a proposed Act which he had prepared for the legislative council of India, and which specifically conferred the power of seizing on the Indian navy, replied, in substance, that until the Act in question should be passed, and the desired power distinctly conferred, he could only recommend Captain Rogers not to interfere. Here again, under the actual system of our Indian colonial empire, we have high authority pronouncing it illegal for one class of the public naval force to do that which another branch of the same force is bound to do in furtherance of national designs and objects known to the whole world.

Arabian and African Slave Trade.

The last circumstance that we find deserving of notice is a complaint on a charge that was preferred towards the close of A.D. 1838 against the government of Bombay, by a M. Fontanier, French vice-consul at Bussora, but then residing in Bombay, conveyed in a letter to the captain of a French man-of-war then in the harbour, to the effect—

That the slave trade was carried on at Bombay with the knowledge of the authorities, who tolerated it.

That the slave trade was in full activity in the Persian Gulf, though it would be easy for the Indian authorities to prevent it, if they wished to do so.

That the navigation regulations in India were not in harmony with British law in this point, for they allowed it to take place under the British flag.

The Governor, to whom the letters containing these assertions had been handed by the French officer, took the opportunity of recording a minute, in which M. Fontanier was shown to be in error; and a summary of all the later proceedings of the government towards putting down slavery was drawn up and sent to the home authorities and the government of India, as the readiest mode of refuting the injurious aspersions cast on the Bombay government.

The correspondence on this subject will be found in our Appendix.

Since the preceding pages of this Report were sent to the press, some papers, which will be found in the Appendix, were received from the government of India, conveying two interpretations by the Sudder Foujdary Adawlut, of Bombay, of section 30, Reg. XIV. of 1827, quoted by us at page 161.

The first arose out of a case wherein a man, having obtained the magistrate's permission to export a slave into a foreign territory under pledge not to sell the slave, subsequently broke the pledge by disposing of the slave, and was put upon trial for the offence. The court held that the regulation in question did not provide for this case; but, having consulted their Hindoo and Mahomedan law officers, decided that a Hindoo or Mahomedan would be liable to punishment, not for sale of the slave, but for disobedience to the sircar.

The second was that of a man who had carried off a free child from British territory and sold it into slavery in foreign territory. The case had been viewed as one connected with the law against sale of slaves, and the prisoner, under the interpretations we have just quoted, was acquitted, but upon its being discovered that the child was free born, an indictment for child-stealing had been preferred against him; the result of the trial is not yet known.

We believe that the recommendations we shall have to propose in the sequel will fully meet the want of legislative sanction felt in treating the former of these two cases.

PAST LEGISLATION.

Past Legislation.

We now proceed to show the course of past legislation in the presidency of Bengal.

The first legislative measure regarding slavery in Bengal which has come to our knowledge was adopted in 1774. On the 17th May of that year, the Governor (Warren Hastings) in Council passed certain regulations for the police of the town of Calcutta, of which the 9th and 10th are as follows:—

9th. That every person who shall forcibly detain or sell any man, woman or child, as a slave, without a cawbowla, or deed, attested in the usual manner by the cauzee of the place where the slave was purchased by the proprietor, or who shall decoy away or steal any children from their families or places of abode, shall be punished as the law to which he is amenable shall direct.

10th. That from the 1st day of July 1774, answering to the 21st day of Rebbee-oos-Sanee, or the 11th Assar, Bengal style, no person shall be allowed to buy or sell a slave who is not such already by former legal purchase; and any cauzee who shall grant any cawbowla after that date, for the sale of any slave whatever, shall be dismissed from his employment, and such cawbowla shall be invalid.

On the 14th of the following month a copy of these two regulations was circulated by order of government to the committee of revenue at Calcutta, and to the several provincial councils established at Burdwan, Moorshedabad, Dacca,* Dinagepore and Patna, with directions to "see the same effectually carried into execution in their divisions;" and on examining the official records of those bodies, with the exception of those of the Dinagepore council, which are imperfect, we find the following notices of the receipt of this order, and of the manner in which it was executed:—

The letter was read by the committee of revenue at Calcutta on the 20th June, and on the 28th of the same month they ordered a publication to be issued in Bengallee and Persian to the effect of the regulations.

The volume containing the proceedings of the Burdwan provincial council for this period cannot be found; we learn, however, from the index book, that the letter was read on the 20th June, but no order is mentioned as having been passed in consequence.

By the Moorshedabad council, the letter was read on the 23d June, and a reply was made on the same date in these terms: "It shall be our care to enforce your injunctions on the head of purchasing and selling slaves;" but no order was then recorded for the publication of them.

The

* The districts of Tipperah and Chittagong were at this time under the management of a chief.

The Dacca council replied on the 20th June, that they would "immediately publish the resolutions;" but they at the same time submitted a question which we shall notice presently.

The Patna council, on the 27th June, passed this order: "That this regulation respecting slaves be entered in the book of standing orders for the Adawlut cutcherry, and that it be immediately made public throughout this division, and that a Persian copy be given to the cauzee of the sudder, with directions to circulate it to the several cauzees in the pergunnahs."

The following minute was recorded by government respecting these regulations on the date on which they were passed:—

"It is necessary to remark upon the two preceding regulations, that the practice of stealing children from their parents, and selling them for slaves, has long prevailed in this country, and has greatly increased since the establishment of the English Government in it. The influence derived from the English name to every man whose birth, language, or even habit, entitles him to assume a share in its privileges, and the neglect of the judicious precautions established by the ancient law of the country, which requires that no slave shall be sold without a cawbowla, or deed, attested by the cauzee, signifying the place of the child's abode (if in the first purchase, its parents' names, the names of the seller and purchaser, and a minute description of the persons of both), having greatly facilitated this savage commerce, by which numbers of children are conveyed out of the country on the Dutch and especially the French vessels, and many lives of infants destroyed by the attempts to secrete them from the notice of the magistrate. There appears no probable way of remedying this calamitous evil but that of striking at the root of it, and abolishing the right of slavery altogether, excepting such cases to which the authority of government cannot reach; such, for example, as laws in being have allowed, and where slaves have become a just property by purchase antecedent to the proposed prohibition. The opinions of the most creditable of the Mussulman and Hindoo inhabitants have been taken upon this subject, and they condemn the authorized usage of selling slaves as repugnant to the particular precepts both of the Koran and Shaster, oppressive to the people, and injurious to the general welfare of the country."

This minute, and the regulations to which it relates, are not very accurately worded. But upon the whole, it seems, that the first of the two regulations is merely declaratory of the old law, that no free person could be sold into slavery without a cawbowla from the cauzee, and that the second renders invalid the sale of any free person after the 1st July 1774. It is remarkable, however, that the only persons whom this regulation permits to be sold are slaves who are "such already by former legal purchase," as if no one could be born a slave.

A question immediately arose upon this point, which is thus stated by the provincial council of revenue at Dacca: "As it is an established custom throughout the Dacca districts to keep in bondage all the offspring and descendants of persons who have once become slaves, we request to be favoured with your orders whether the benefit of your second regulation is to be extended to the children of slaves born subsequent to the period mentioned in that regulation."

The answer of the government was in the nature of a rescript. They added it to the above-mentioned regulations, and promulgated it in the following circular to the Calcutta committee of revenue and the provincial councils:—

"In consequence of a reference made to us by the provincial council of revenue at Dacca, we have lately had under our consideration the subject of the rights of masters over the offspring of their slaves. In those districts where slavery is in general usage, or any way connected with, or is likely to have any influence on the cultivation or revenue, which we are informed is the case in the frontier parts of Bengal, we must desire you particularly to advise us what is the usage and every circumstance connected with it, and we shall then give such directions as we may judge to be necessary; but, considering the reference in the meantime in the light of a general proposition, we are of the opinion, that the right of the masters to the children of the slaves, already their property, cannot legally be taken from them in the first generation; but we think that this right cannot and ought not to extend further, and direct that you do make publication accordingly."

This circular is dated 12th July 1774, and we trace the following particulars respecting it on the official records of government, and of the bodies to which it was addressed, whose proceedings we have examined for this purpose to the close of the year 1774.

Being read by the committee of revenue at Calcutta on the 20th July, it was ordered, "That the dewan be furnished with a translation of the purport of the former part of the letter to report on, and that the latter part be published accordingly."

The letter was read by the Burdwan council on the 18th July, and on the 1st August they addressed a letter to government, of which the following is an extract:—

"Enclosed, we have the honour to transmit you the reports of the dewan and the several naibs of our division, in answer to the reference we made to them on the subject of slaves, in consequence of your orders of the 12th ultimo.

"Slavery is very little the custom in this country, and there is no danger of the revenue being affected by any regulations you may think proper to make regarding it. The slaves of talookdars do not appear to be sold with the lands. The report of Pudlochun, the naib of Beerboom, is particularly explicit on this point, and, we believe, very just."

"Oodey Narrain. Received 27th July 1774.—I have received your perwanna regarding slaves, and have been informed by the most experienced men of Midnapore and Jellasore, that a master supports his slave as long as he is able, and when he is no longer possessed of

Past Legislation.

of the means, he gives him his dismission, and the slave has recourse to some work for his subsistence. He is not sold together with a zemindarry or talookdarry."

"Dewan Bowanny Miter's report of the custom of Burdwan with regard to slaves.—Any child, whether male or female, which is born of a slave, is supposed to belong to the house, and serves the master. He receives no wages, but only clothing and what is required for his necessary expenses. The children born as above cannot be sold either by the parents or by the master. A slave is to do whatever his master orders him, and he receives no extraordinary wages for cultivating the land."

"Joyaram Chowdry, aumen of Bishenpore. Received 31st July 1774.—When any person has purchased a slave, it is customary here for the slave to serve him, and also for any child which the slave may have. Since it is ordered that the grandchild shall be free, I will publish the order that it may be observed in future. There are no talookdarries in this district."

"Ram Chunder Bose, suzawal of Pacheat. Received 31st July 1774.—Uses the same words."

"Pud Lochun, naib of Beerbhoom. Received 30th July 1774.—I have received your perwanna, and inquired of all the men in this district who are most capable of giving me information respecting slaves. The law does not permit the absolute purchase of slaves, but, their father and mother being willing, they may give a written contract to serve a man for the term of 50 or 60 years, in consideration of a sum of money. The master may within the time limited employ them in cultivation, or order them to execute any business. In case of the sale of a talookdarry, the slave is not considered as a part of the purchase, but continues to serve his old master. If the master is in debt and has no other means of paying, he may make over the service of the slave to the creditor till the term limited in the contract is expired, he being considered as part of the effects belonging to the house. After the expiration of the time limited in the contract, it is at his option either to leave his master or stay with him. Force must not be used to detain him. I have published the hookumnama which you have enclosed."

By the Moorshedabad council the circular was read on the 21st July, when it was—"Ordered, that the secretary do publish an extract as far as relates to the prohibition of retaining the children of slaves after the first generation, and that the dewan be directed to make inquiry into such particulars as are pointed out for investigation." And on the 28th of the same month they informed the government thus: "Your subsequent orders regarding the sons of slaves have been published, and shall be duly enforced."

The letter addressed to the Dacca council was read by them on the 21st July, when it was "Agreed it lay for consideration."

By the Patna council it was read on the 25th July, and it was—"Ordered that the board's regulation prohibiting the right of masters over the children of their slaves to extend further than the first generation, be made public, and that we procure as particular an account as possible of the laws and usages which have heretofore obtained in this province."

On the 4th August, "having made inquiry into the usage of slaves in this province," they thus address the government: "We have published your commands of the 12th ultimo, that the right of masters over their slaves should not extend beyond the first generation;" and after stating the result of their inquiry regarding the state of slavery within their division, they observe in conclusion: "On the whole we do not imagine that alterations in the usage of slaves will be attended with any consequences of moment to the cultivation or revenue of this province."

The government of Bengal reported their proceedings on this subject to the honourable the Court of Directors in a despatch, dated the 18th October 1774, in which they remark: "We cannot doubt that the motives of policy and humanity which influenced this regulation will meet with your approval; but we would wish also to be favoured with your sentiments and orders on the subject, to regulate our conduct, when we shall receive the reports called for from the provincial councils of the state of slavery throughout their districts; some of those have been already received, others are still expected."

We have not been able to discover, either that any instructions were received from the Court of Directors in reply to this despatch, or that any subsequent resolutions were taken by the government of Bengal on the subject.

Supposing, then, these regulations never to have been repealed (and we have found no trace of a repeal), as soon as the generation of slaves existing in 1774, and the generation next to that, have passed away, slavery is legally extinct throughout the provinces of Bengal and Behar, with the exception of those districts where slavery was in general usage, or any way connected with, or was likely to have any influence on the cultivation or revenue. And throughout Bengal and Behar, including those districts, the sale of free persons into slavery has been illegal ever since the 1st July 1774.

It is difficult to say in what light the courts would now regard these regulations. We collect that it is extensively believed that slavery has been abolished by the British Government, and the coincidence of this belief with the actual continuance of slavery has nothing in it extraordinary when the manner of the abolition is known. There may be a few slaves still living who were born before 1774. There may be many still living who are the children of such slaves. It is probable, moreover, that the particular provisions of these regulations would be forgotten before any person was born free by virtue of those provisions, and therefore that no person has ever *de facto* been exempt from slavery in consequence of their enactment.

There is distinct evidence that these regulations were considered to be in force 11 years after the date of them. Mr. Day, the collector of Dacca, in a letter dated the 2d March

1785,

1785, conveying to the committee of revenue information of a trade which had lately been established between the low caste Portuguese at that place and those of Calcutta, Chinsurah and other foreign settlements, consisting in the purchase of children for the purpose of exportation, proposed that orders should be issued to the custom masters to secure all boats laden with children, as it might be the means of "tracing the concern to the principal, who, as acting in open defiance of the public and long-established orders of government, might be brought to justice." He stated also that he had placed in confinement, until the receipt of the committee's orders, certain persons with whom he had discovered 42 children for sale. On the 14th of the same month the committee submitted to government the measures they had judged it "expedient to recommend to Mr. Day for the apprehension and prosecution of the persons guilty of so flagrant a contempt and violation of the orders of government." These were approved by government on the 9th September following, who directed that "in future the utmost diligence should be used to prevent the trade of children being carried on."

It is worthy of mention, also, that Sir W. Jones, in his charge to the grand jury of Calcutta, in June 1785, recognizes the existence of this law: "Many of you, I presume, have seen large boats filled with such children, coming down the river for open sale at Calcutta; nor can you be ignorant that most of them were stolen from their parents, or bought, perhaps, for a measure of rice in a time of scarcity, and that the sale itself is a defiance of this government, by violating one of its positive orders, which was made some years ago, after a consultation of the most reputable Hindoos in Calcutta, who condemned such a traffic as repugnant to their sastra."

Four years later we find Lord Cornwallis writing to the Court of Directors on the subject of mitigating or abolishing slavery. The 30th and 31st paragraphs of his letter, which is dated 2d August 1789, are as follows:—

"There are many obstacles in the way against abolishing slavery entirely in the Company's dominions, as the number of slaves is considerable, and the practice is sanctioned both by the Mahomedan and Hindoo laws.

"I have, however, a plan under consideration, which I hope to be able to execute without doing much injury to the private interests, or offering great violence to the feelings, of the natives, and which has for its object the abolition of the practice under certain limitations, and the establishing some rules and regulations to alleviate as much as may be possible the misery of those unfortunate people during the time that they may be retained in that wretched situation."

And in a despatch from the Governor-general in Council to the Court of Directors, dated eight days subsequently (10 August), informing them of the issue of a proclamation against the purchase or collection of natives for the purpose of exporting them as slaves, it is stated (paragraph 100), "Further regulations against slavery in the internal parts of Bengal and Behar have been devised, with the consent and approbation of the judges of the supreme court; but we have thought it necessary, previous to adopting them, to transmit a copy thereof to Mahomed Reza Cawn, the naib nizam, that we may receive his opinion on a point of much importance, whether they militate in any respect with the laws and licensed usages of the country."

In the collection of papers from which we are quoting, it is said, that no further notice of the plan here adverted to by his lordship has been traced upon the records of the Bengal government.

No further legislation took place upon the subject of slavery till the year 1811, except the provisions already referred to, in p. 82 of the digest of Bengal Slavery, which annul the exemption from kissas or retaliation sanctioned by the Mahomedan law in certain cases of wilful murder of a slave.

By the 2d and 3d sections of Regulation X. of 1811, "the importation of slaves, whether by land or by sea, into the places immediately dependent on the presidency of Fort William," was prohibited and made penal. But the generality of these expressions was considerably restrained by a construction which the court of Nizamut Adawlut put upon them within a year after the regulation passed. The correctness of the view taken by the Nizamut Adawlut on this subject has been questioned both by government and the home authorities, though, by reference to the records of government, it appears to be in accordance with the intention of those who framed the law. The history of the construction is as follows:—

It was first put forth in a letter from the register of the court to the acting magistrate of zillah Agra. "The court adverting," says the register, "to the title and preamble of the regulation in question, and to the bond required by section 5, understand the provisions in it to be applicable only to the importation of slaves, for the purpose of being sold, given away, or otherwise disposed of." It appears by an extract from the Bengal Judicial Consultations of the 16th May 1812, that the Governor-general in Council concurred in the construction thus given by the court. In October 1814 the letter containing the construction was made a circular order by the Nizamut Adawlut.

In the interval, however, between the date of the letter containing the construction and the date of its promulgation in the shape of a circular order, the government seems to have changed its opinion on the point. For in the course of a correspondence with Sir C. Metcalfe, relative to a proclamation of his, making punishable any person who should "import and sell slaves," Mr. Dowdeswell, chief secretary to government, writes thus on the 6th March 1813 (paras. 3 and 4). "On recurring to the terms of that publication (the resident's proclamation), the Governor-general in Council observes, that the prohibition against the

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purchase and sale of slaves is absolute. The prohibition regarding the importation of slaves is much less so, it being stated, that if any person 'shall import and sell,' &c. The offence of importing would not therefore be complete, nor consequently liable to punishment, unless a sale took place of the imported slaves. In both these respects, therefore, the tenor of your proclamation differs from the provisions contained in Regulation X. of 1811, which prohibits the importation of slaves into the British territories in the most general and comprehensive manner possible, but is silent as to the sale of slaves." And again in para. 8: "It will still remain to modify the tenor of the proclamation issued by you under date the 4th of September last, so as to render the prohibition of* the importation of slaves into places subject to your control absolute, as is done with respect to the other parts of the British territories, by section 2, Regulation X. of 1811." And accordingly in the amended proclamation it is not importation and sale, nor importation for the purpose of sale, but importation simply which is made penal.

In September 1815, Mr. W. Leycester, in a report dated the 18th of that month, argues against the construction of the Nizamut Adawlut, and cites cases to show that the practice had not been in conformity with it. The court of Nizamut Adawlut in their remarks upon this report on the 12th June 1816, say (para. 49), "The court do not think it proper to offer any opinion upon the particular cases stated by Mr. Leycester, without having the proceedings before them, but observe, that in any cases brought before the courts of circuit, wherein it may appear that the magistrates have not correctly understood the provisions of Regulation X. of 1811, as construed by the Nizamut Adawlut, it is their duty to inform and instruct the magistrates."

In the proceedings of government, dated the 14th February 1817, "the Governor-general in Council," it is said, "is disposed to think that the circular orders of the Nizamut Adawlut, under date the 23d of April 1812, have narrowed the proper construction of Regulation X. of 1811; and he concurs with Mr. Leycester in the general reasoning on which he has founded his opinion, that the intent of the enactment was to prohibit the importation of slaves altogether, and not merely the importation of slaves 'for the purpose of being sold, given away or otherwise disposed of.'"

The Court of Directors, in a letter to the Governor-general in Council in the judicial department, dated 26th April 1820, express themselves thus (para. 57): "It appears, then, that on the 6th of August 1811, a regulation, absolutely and strictly prohibiting the importation of slaves, was enacted by your government; that on the 23d of April 1812, a circular order of the Nizamut Adawlut, restricting the prohibition to importation for sale, was submitted to your government and distributed to the provincial courts; that this circular order was known and acted on in some districts, while only the original regulation was known and acted on in others; that the original regulation was as usual transmitted to us, but that we were left in total ignorance of the circular order; that though the circular order was submitted to your government, it does not seem, notwithstanding its discrepancy with the regulation, and with your intention in enacting it, and notwithstanding the very great importance of the subject, to have been in any manner adverted to by you till your attention was called to it by one of the judges of circuit; and that from the 23d April 1812 to the 14th February 1817, a period of nearly five years, a circular order of this vital importance, superseding a regulation and possessing all the authority of a regulation, which you would not have enacted, and which we should not have approved, was allowed to remain in force without notice on your part, and consequently was never brought to our knowledge."

The circular order of the Nizamut Adawlut was, however, never rescinded, and five years later we find the government directing one of its officers to act upon it. The occasion of this direction was an application to government made by Mr. D. Scott, commissioner at Rungpore, on the 3d July 1825, to be informed whether certain slaves brought from Assam to Rungpore, and intended *bonâ fide* for domestic service, were within the provisions of the Regulation X. of 1811. The commissioner appears not to have heard of the circular order, or else to have thought it was no longer in force, as he does not allude to it. The only difficulty he felt was, whether Assam was or was not to be considered a foreign territory. The answer of the chief secretary to government, dated 21st July 1825,† is as follows: "I am directed by the Right honourable the Governor-general in Council to acknowledge the receipt of your letter of the 5th instant. The construction which has been given by the court of Nizamut Adawlut to the provisions of Regulation X. of 1811, and which was communicated to the several courts of justice in a circular letter dated the 5th October 1814, seems sufficient to meet the difficulties adverted to in your letter, and to render it unnecessary that government should at present determine whether Assam is or is not to be considered as a foreign territory. A copy of the circular order in question is enclosed in this letter."

The next legislative measure on this subject is the proclamation of Sir Charles Metcalfe, when resident at Delhi, issued in 1812. We have already had occasion to allude to this proclamation in discussing the construction of Regulation X. of 1811. The proclamation, as we have already stated, prohibits the importation of slaves for any purpose (except when authorized by the resident); and in so doing, it was thought by the government to be in accordance with Regulation X. of 1811. It is at variance, however, with the construction of the Nizamut Adawlut, and with the subsequent Regulation III. of 1832 (to be presently noticed),

* The words "the prohibition of" are not in the printed copy of Mr. Dowdeswell's letter; but the sense evidently requires them, or something equivalent.

† 1815, by mistake, in the printed copy.

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noticed), which was intended by its framers to be in accordance with Regulation X. of 1811. Sir Charles Metcalfe's proclamation also prohibits and makes penal the sale and purchase of slaves in the territory of Delhi. The law regarding slavery became, therefore, by force of this proclamation, different in that territory from what it is in any other part of British India.

From the 2d vol. of Slavery in India, pp. 37–43, it appears, that in several cases slaves who had made their escape from the palace at Delhi have been liberated by the judicial authorities under this proclamation, and that in two cases which were brought to the notice of government and the Court of Directors, that course has received the sanction of those authorities. The two last of these cases occurred in the year 1828. Since that period the terms of the proclamation seem to have been forgotten. But the practice of the courts has not on that account relapsed into what it was before the proclamation. On the contrary, it has gone much beyond the terms of that instrument. For the local judicial functionaries believe, and act upon the belief, that Sir C. Metcalfe altogether abolished slavery in the Delhi territory.

The next legislative measure, and the last which has been enacted on the subject, is the Regulation No. III. of 1832. This law, as appears by its preamble, was passed "in consequence of the extension of the possessions held under the presidency of Fort William, subsequent to the enactment of Regulation X. of 1811;" and because "a doubt had arisen whether the provisions of that regulation could be held to apply to cases of slaves removed from any part of the British possessions, acquired subsequently to the passing of that regulation, into any part of those then held under the said presidency;" and also, as the preamble goes on to say, "with a view to the entire prohibition of the removal of slaves for purposes of traffic from one part of the British territories to another." Accordingly, in the enacting part, all slaves who, subsequently to the enactment of Regulation X. of 1811, have been or may hereafter be removed by sea or land for purposes of traffic from any country, &c. into any province now dependent, or that may hereafter become dependent, on the presidency of Fort William, &c. or may have been or may be so removed from one province thot now is or may hereafter become dependent, &c. are declared free. And any person concerned in the sale or purchase of a slave, knowing him to have been so removed, is made liable to six months' imprisonment, and a fine not exceeding 200 rupees.

Except in the territory of Delhi, therefore, the law is such as, according to the Court of Directors, the government would not have enacted in 1811, and such as the court would not have approved. Except in the territory of Delhi, slaves may be imported into this presidency by land, for any purpose except that of traffic.

The orders of a legislative kind affecting slavery in the Saugur and Nerbuda territories, Kumaon, Assam, and Prince of Wales' Island, are sufficiently described in the parts of the digest relating to those places: (pp. 91. 94–96. 100, 101. 108, 109, 110.)

With respect to the presidency of Madras, it has been already stated in the digest, that it was proposed by the Governor-general in Council, that a regulation containing provisions corresponding to those of the Bengal Regulation X. of 1811, should be passed there, but that this suggestion was not adopted. We have only to add, that there is no regulation in the Madras code which contains any provisions on the subject of slavery, except Regulation VIII. of 1802, in which is prescribed a modification of the Mahomedan law, corresponding with that previously prescribed by the Bengal code, rendering a master liable to capital punishment for the murder of his slave, notwithstanding that kissas is barred by the relation between them, under that law, and Regulation VI. of 1829, which overrules certain personal exceptions to witnesses and prosecutors recognized by the Mahomedan law, among others, the exception to servants or slaves of the prosecutor.

We have noted that Regulation II. of 1812 of the Madras code, contained a clause prohibiting, under a penalty, the exportation of slaves from Malabar by sea, which was rescinded by Regulation II. of 1826, as unnecessary and inconsistent with the Act 51 Geo. 3, c. 23. The preamble of this regulation, we have also remarked, declares generally that the said Act "contains provisions for the punishment of the offence of carrying away or removing from any country or place whatsoever, any person or persons as a slave or slaves, or for the purpose of being sold or dealt with as a slave or slaves;" but it is not followed by any enactment authorizing the district and provincial courts to give effect to them.

The course of legislation on the subject of slavery in the Bombay presidency, we have found it convenient to trace in the digest, and we have nothing to add to the relation there given.

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ACCORDING to our plan, we should now present a view of what appear to us, generally, to be the distinguishing features of the slavery of this country, and point out the evils which belong to it, and the remedies required to remove or alleviate them.

But unfortunately we are not unanimous in our sentiments on these points; and we have expended so much time in the vain endeavour to reconcile our differences, that, to avoid further delay, we are induced to send up the sequel of our Report in a form which is unusual, and which is not that which we should have adopted had we foreseen what has occurred.

In the arrangements we made for the preparation of the Report, the portion which follows fell to one of our members, who is in the minority upon the subjects on which we differ. His draft, therefore, contains the views which, after much anxious discussion with their colleagues, appear to the minority just and correct.

Instead of re-casting this part of the Report so as to make it express the views of the majority, we prefer, at this late period, to send it up to government as it now stands, and to subjoin to it a statement of the points on which the majority dissent from Mr. Cameron and Mr. Millett, and of the recommendations which they deem it proper to offer on the points of difference.

We will now endeavour to point out the distinguishing features of Indian slavery, and the evils which belong to it. For this purpose, it should be compared with, and distinguished from, those conditions of the human race which in other countries have been called by the same name.

It may be distinguished by very remarkable differences from both of the well-known types of slavery; that is to say, the slavery of the ancients, and the modern slavery of the West Indies and of North America.

There have been two principal and steadily operating causes of those frightful abuses of power which have made the very name of slavery hateful.

The first of these causes seems to have operated more generally in modern than in ancient slavery, and more powerfully in the West Indies than in the southern states of North America.

The West Indian slave was, the American slave still is, part of his master's agricultural stock, bought or bred like a horse or an ox, for the purpose of pecuniary profit. As such, a slave has no motive but the fear of punishment to yield his assistance in the endeavour to extract a surplus produce from the soil; it is necessary, to the accomplishment of that object, that the fear of punishment should be kept in a state of great intensity by the actual application of it.

Hence have resulted occasional acts of dreadful cruelty, and generally a most undesirable relation between the class of employers and that of labourers; these acts of cruelty, it is true, have been the acts of only a few individuals, but the guilt of them has always in some degree been spread over the whole body of slave-owners, because that body, feeling that its pecuniary interests are at stake, has always been disposed to palliate offences against slaves, and to screen the offenders from punishment; the same cause has disposed the slave-owners to resist every legislative limitation of their power; they have looked upon every such limitation as tending to endanger the amount of their profits.

The motive then for becoming a slave-owner was pecuniary gain; motive for becoming a slave there was absolutely none at all; the African was brought into the condition by mere fraud or violence, or by a combination of both. It is true that the above description does not altogether apply to domestic slavery; but the object which gave rise to West Indian and American slavery was the desire of making fortunes, first by mining operations in the Spanish colonies, and afterwards by the extraction of a surplus produce from the soil in our own. Had it not been for that object the slavery of the west would never have come into existence. The domestic portion of it was a mere offset from the agricultural.

This is the first of the two causes above mentioned, and it seems to have acted with greater force in the British West Indies than in the United States; the reason of the difference appears to be, that the estates in the islands were generally managed by hired agents, those on the continent by the owners themselves; the agent comes from his own country to make a fortune and return with it; the owner is a country gentleman living on his estate, and in him the desire of gain is comparatively weak.

In the ancient world this cause must have operated less generally, because so much larger a portion of the slave population was kept for purposes having no immediate connexion with pecuniary profit.

Dr. Taylor, in his Elements of the Civil Law, after mentioning some instances of the great number of slaves possessed by individuals, adds, "More surprising still is the account in Athenæus, that several private people in Rome had slaves to the number of 10,000 or 20,000 of their own, and some a greater number still; and to obviate an objection he was aware of, he subjoins that they were not stock in trade, but retained for state and luxury."

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In the agricultural and manufacturing enterprises, however, which were carried on among the ancients by means of slave labour, the constant motive to severity must have been in full operation.

The effect of this constant motive to severity on the part of the master has been aggravated, in these instances, by the want of motive to exertion on the part of the slave. With respect to the negro, it has been said that he is constitutionally idle. This may possibly be true; but we believe that the transatlantic negro would have been idle whatever might have been his constitutional tendency; for he never felt the stimulus of actual or apprehended want. As far as he could see, subsistence for himself and his family was always to be easily obtained from the soil, and there can have been no reason why he should ever have looked upon his *status* of slavery as something for the preservation of which it was worth his while to make painful exertions.

To this feature of slavery, scarcely any resemblance can be perceived in the *status* which is here called by that name.

There are, it is true, in Malabar and in the Tamil country, a great number of slaves employed in agriculture; and there are a few so employed in other parts of India. But the object of the proprietor is, in the present state of society, to maintain himself, his family and his slaves by the produce of the land, not to accumulate a fortune out of the surplus. And in the greater part of India, it is not production at all which induces men of property to acquire and to retain a troop of slaves. They like to have slaves because they like to have hereditary domestics and dependents. The possession of them is a mark of affluence and station in society. A large retinue of slaves is part of the pomp with which the great men of the country delight to surround themselves. They have great reluctance to sell their slaves; the same sort of reluctance which a man has to sell his family estate. They often retain them after their maintenance has become a burthen. The name and form of slavery, too, is kept up after the substance has passed away. The master very seldom emancipates his slave, but rather desires him to seek his own livelihood, discharging him from all duty except that of attending upon occasions of ceremony.

Nor on the part of the slaves is there any general desire for freedom. On the contrary, the advantages, such as they are, which belong to the condition of a slave, seem to be too highly appreciated by the servile classes.

There is nothing, indeed, in the *status* called slavery in this country more remarkable or more characteristic than the fact, that it has so frequently a voluntary origin.

Mr. Bentham, in the chapter upon slavery in his "Principles of the Civil Code," makes the following observations, which are very just in themselves, and which will illustrate by contrast this portion of our subject:—

"It is absurd to reason on the happiness of men, otherwise than with a reference to their own desires and feelings. It is absurd to seek to prove by calculation, that a man ought to be happy when he finds himself miserable; and that a condition into which no one is willing to enter, and which every one desires to leave, is in itself a pleasant condition, and suited to human nature. I can easily believe that the difference between liberty and slavery is not so great as it appears to be to some ardent and prepossessed minds. Being accustomed to the evil, and, much more, never having experienced the better condition, the interval which separates these two conditions, which at first sight appear so opposed, is greatly diminished. But all reasonings upon probabilities are superfluous, since we have proofs of the fact, that this condition is never embraced from choice, but, on the contrary, that it is always an object of aversion."

Now, the condition which in India passes under the name of slavery is not always an object of aversion, and it is frequently embraced from choice. The people who sell themselves or their children into slavery may make a false calculation, they may act upon a mistaken view, but there is no question that they do act upon their own view of the interests of themselves or their children. It may be right to prohibit such transactions; but a law for that purpose must be supported by very different reasons from those which called for the abolition of the African slave trade. Such a measure would be much more analogous in its principle to the laws against usury, or the law which makes the contracts of a minor voidable, than to the statute abolishing the African trade. It would be a measure to protect people against the imprudence of themselves or their natural guardians, not against the fraud or violence of strangers.

The voluntary or quasi-voluntary origin of slavery, as defined by Hindoo law, stamps a character of mildness upon the institution.* Men do not give up their children and whole posterity,

* Sir W. Blackstone, giving an account of the various ways in which slavery might originate by the Roman law, has these words: "But, secondly, it is said that slavery may begin, *jure civili*, when one man sells himself to another." And, if the notion which this statement is calculated to convey were a correct one, it would, considering the extreme severity of Roman slavery, go far to invalidate the argument in the text. But the truth is, at least so far as we have been able to ascertain it from the books within our reach, that one man did not, *jure civili*, become the slave of another in the performance of a contract of self-sale. Such a contract would have been of no effect.

"Nec si volens scripsisses, servum te esse, non liberum, præjudicium juri tuo aliquod comparasses; quanto nunc magis quum eam scripturam dare compulsum te esse testaris?"—Cod. 7, 16, 6.

Again: "Liberos privatis pactis vel actu quocumque administrationis non posse mutatâ conditione servos fieri, certi juris est."—Ib. 7, 16, 10.

But the transaction which really did sometimes take place among the Romans, and which Blackstone alluded to in the above misleading expression, was a fraudulent and a very remarkable one. A freeman, representing himself as a slave, conspired with another who represented himself as the master, the object being

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posterity, still less do they give up themselves, to a condition of hopeless oppression. It is true that the origin of legal Mahomedan slavery is violent. The infidel taken in battle and his progeny are the only lawful slaves, according to the law of the followers of Mahomed. But slavery derived from that origin is probably of very limited extent, if it exists at all. The slavery which has sprung up since the conquest among the Mussulmans of this country, is slavery originating in modes sanctioned by Hindoo law or by custom, but not by Mahomedan law.

It is true, also, that among the modes in which slavery may originate according to the Hindoo law, captivity in battle is one. But it is curious to observe that, even in this, the only legal Hindoo origin of slavery which is tainted with violence, the formal consent of the conquered party was necessary to his becoming a slave. The captive of a Hindoo did not become *ipso facto* the slave of his conqueror, as in the Roman and Mahomedan law.

"Jure gentium," say the Pandects after Marcian, "servi nostri sunt qui ab hostibus capiuntur."

"In the opinion of the generality of lawyers," says the Mahomedan law officer cited by Mr. Macnaghten in his work on Mahomedan law, "mankind becomes a subject of property solely by reason of infidelity and residence in a hostile country, joined to the fact of subjugation."

The language of the Hindoo law is somewhat different. Menu having enumerated among his seven sorts of slaves, "one made captive under a standard," Jaganatha thus comments: "As in the chapter concerning Virat (in the Mahabaratta), Bhimasena thus bespoke a king, called Suseema, vanquished during the war which arose from the seizure of a cow on the south of Virat: Fool! if thou desirest life, hear from me the conditions; thou must declare before a select assembly and before the multitude—'I am a slave.' On these terms will I grant thee life; this is a settled rule for him who is conquered in battle." "Consequently," the commentator continues, "since Bheema requires his declared acquiescence, one who agrees to it becomes a slave; not every person conquered in battle."

The difference no doubt is little more than a formal one, since few would refuse to declare their acquiescence under such circumstances. Yet that the law should require the formality of an express consent in a transaction substantially based on violence, appears to us to illustrate strongly the Hindoo notion of slavery. The right of the master in this case depends upon consent under duress (not an illegal duress however), but still upon consent as its efficient cause. In all the other modes in which free persons become slaves according to strict Hindoo law, the right of the master springs from the consent without duress of the slave.

It is the common opinion that the parent, in selling his child, is generally seeking what he in good faith supposes to be its interest. In the third volume of Harington's Analysis there are some observations of Mr. H. T. Colebrooke which confirm this opinion. "During a famine or a dearth," he says, "parents have been known to sell their children for prices so very inconsiderable, and little more than nominal, that they may in frequent instances have credit for a better motive than that of momentarily relieving their own necessities, namely, the saving of their children's lives by interesting in their preservation persons able to provide nourishment for them. The same feeling is often the motive for selling children when particular circumstances of distress, instead of a general dearth, disable the parent from supporting them. There is no reason to believe that they are ever sold from mere avarice and want of natural affection in the parent; the known character of the people, and proved disposition in all the domestic relations, must exempt them from the suspicion of such conduct; but the pressure of want alone compels the sale, whether the immediate impulse be consideration for the child, or desire of personal relief."

That the condition is not an object of aversion has been very lately shown by the remarkable experiment of emancipating the slaves who came into the possession of our government upon the deposition of the rajah of Coorg. We have given an account of this experiment in a former part of this Report (p. 149, *et seq.*). It has there been shown, that of 1,115 slaves who were emancipated by government, a great majority have re-entered the service of their former masters, or have attached themselves to ryots as domestic servants; that they are maintained very nearly if not precisely on the same footing as they formerly were; that they live with the slaves of the establishment to which they belong, are allowed the same rations, and are required to work the same number of hours; that some have stipulated for a payment in money of from two to four rupees a year instead of clothing, but that the greater number receive the same allowances, and are otherwise treated exactly as if they continued slaves; that it is said that many have destroyed their certificates of freedom, and have bound themselves to continue for life in the service of their masters on condition of being maintained, as slaves are, in their old age, or when unable to work from illness; and that others have done the same in order to procure the means of getting married, or to obtain the consent of masters to their marrying female slaves of their establishment.

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being to defraud the purchaser, and divide the price between them. To punish and repress this kind of fraud, it was provided, by a *Senatus Consultum*, that the person pretending to be a slave should really become one.

The kind of sale in question is thus shortly described in the Institutes as an instance of the modes in which a man might become a slave *jure civili*: "Cum liber homo major viginti annis ad pretium participandum sese venundari passus est."—Inst. 1, 3, 3.

Heineccius, in his Antiquities of the Roman Law, expresses himself as follows: "Ast hic miræ fraudes. Solebant enim adolescentes male feriati seipsos aliis vendendos dare, pretii participandi causâ, ac deinde proclamare ad libertatem. . . . . Quare S. Co. demum cautum est ut qui essent majorannes, seque pretii participandi causâ, venundari sivissent, in servitute manerent."—Vol. ii. 96.

See the same writer in his Recitationes, 56, and Vinnius in his Commentary on the Institutes, 28.

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We believe, then, that there is a motive operating extensively upon the lower classes in India, inducing them to enter into the condition of slavery, and to continue in it from choice; and in this respect the slavery of India is much more analogous to pauperism than to the slavery of the ancients or of the western world. In one respect it is a less pernicious institution than pauperism had become in England before the late reform. Before that reform, the pauper set a high value upon his *status*, but he had a legal right to it of which nothing could divest him. The parish could not, like the slave-owner, cast off its burthen by an act of emancipation. The pauper, therefore, did not exert himself for the sake of earning the good-will of the parochial authorities, as the Indian slave does for the sake of earning the good-will of his master. Again, the parish could scarcely ever be reduced to absolute ruin, and even if it were, the paupers, by rates in aid, might be quartered upon other more fortunate parishes. The pauper, therefore, did not exert himself to keep his parish in a flourishing condition. But the Indian slave, knowing that his master's income, which is the fund he looks to for the support of himself and his family, is dependent upon the industry of himself and his fellows, and knowing that there is no rate in aid to supply the deficiencies of that fund, may be expected to labour, and it is said really does labour, like one interested in the result.

The moderate demand, then, which the master makes upon the sweat of his slave's brow, and the interest which the slave feels in complying with that moderate demand, exclude the necessity of the cart-whip, and no such instrument is ever carried into the fields to remind the slaves why it is worth their while to work.

The other steadily operating cause of oppression is fear of the slaves. The Romans felt very intensely the dread of a servile war: "Totidem esse hostes quot servos," is an expression of Seneca; and much of the treatment of their slaves corresponded with that view of the case.

But in the slave-holding states of North America there is not only the dread of a servile insurrection, but the dread of a civil war of the most ferocious kind, if slavery should be abolished.

The chapter in M. de Tocqueville's excellent work on Democracy in America, entitled, "Position occupied by the Black Race; dangers with which its presence threatens the Whites," is very instructive upon this subject.

"We must carefully distinguish," he says, "two things; slavery in itself, and its consequences."

"The immediate evils produced by slavery were nearly the same among the ancients as they are among the moderns; but the consequences of these evils were different. Among the ancients, the slave belonged to the same race as his master, and was often better educated and more enlightened. Nothing but liberty separated them; liberty being given, they readily mixed together."

"The ancients, then, had a very simple mode of delivering themselves from slavery and its consequences; this mode was emancipation, and as soon as they made a general use of it they succeeded."

"It is true, that in antiquity the traces of servitude subsisted for a time after servitude was destroyed."

"There is a natural prejudice which induces a man to despise one who has been his inferior for a long time even after he has become his equal; to the real inequality produced by fortune or by law, there succeeds always an imaginary inequality which has its root in manners; but among the ancients this secondary effect of slavery had a limit; the enfranchised slave so strongly resembled men of free origin, that it soon became impossible to distinguish him in the midst of them."

"What was most difficult with the ancients was to modify the law; with the moderns, it is to change the manners, and the real difficulty for us begins where it ended in ancient times."

"The cause of this is, that among the moderns the immaterial and fugitive fact of slavery is combined in the most unfortunate manner with the material and permanent fact of difference of race. The remembrance of slavery dishonours the race, and the race perpetuates the remembrance of slavery."

"No African has come freely to the shores of the New World; whence it follows, that all who are now there are either slaves or freedmen. Thus the negro, together with existence, transmits to all his descendants the external sign of his ignominy. The law can destroy servitude; but only God can cause the trace of it to disappear."

"The modern slave differs from his master not only by liberty but by origin. You may set the negro free; but you can never place him, in relation to the European, in any other position than that of a stranger."—Vol. 2, pp. 349–50.

M. de Tocqueville then goes on to show, that in those states of the union which have abolished slavery, the negro is, through the hostility of the white population, excluded practically from the privileges to which he is entitled by law. He thinks that the white and black races can never form one people, and he informs us that this is also the opinion of the whites in the slave states.

To this opinion of the whites, and to the feelings which accompany it, is to be attributed, according to M. de Tocqueville, the miserably debased condition of their slaves.

"The legislation of the states of the south in respect to the slaves, presents, in our days, an unheard-of species of atrocity, which of itself makes manifest some profound disturbance in the laws of humanity. It is sufficient to read the legislation of the southern states in order to judge of the hopeless position of the two races who inhabit them."

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"It is not that the Americans of this part of the union have, strictly speaking, increased the rigour of servitude; on the contrary, they have mitigated the material condition of the slaves. The ancients knew no other resource for the maintenance of slavery than chains and death; the Americans of the south of the union have discovered more intellectual guarantees for the continuance of their power. They have, if I may so express myself, spiritualized despotism and violence. In ancient times, the object was to prevent the slave from breaking his chains; in our days, they have undertaken to eradicate from his mind the desire of doing so."

"The ancients fettered the body of the slave, but they left his mind free, and permitted him to instruct himself. In this they were consistent with themselves; there was then a natural outlet from servitude. The slave might any day become free, and the equal of his master."

"The Americans of the south, thinking that the negroes can never form one people with themselves, have forbidden, under severe penalties, that they should be taught to read and write. Being determined not to raise them to their own level, they keep them as nearly as possible in the condition of the brutes."*—Vol. 2, pp. 389–90.

The cause which has produced this frightful state of things has absolutely no existence in this country. It may be safely said, that no Indian master ever harboured a fear that his slaves would assert their liberty by force, or that, if they were emancipated, they would form a hostile community in the midst of their former masters, prepared to contest with them the possession of the country.

It is true, indeed, that the Indian slaves are in a state of profound ignorance; but their ignorance belongs to them, not as slaves, but as poor men, and as men of low caste. They are no otherwise excluded from the acquisition of knowledge than the free people who are engaged in servile occupations.

In respect of marriage, there is a marked superiority in the condition of the slave of this country over both the West Indian and the Roman slave. He does not live, as the former did, until the public opinion of the mother country produced a reform, in a state of mere concubinage; nor is his union with the other sex contemptuously distinguished by name from that which takes place among free people, like the contubernium of the Roman law. He is married, as all our witnesses agree, with the same rites as a freeman. So far, indeed, is there from being any disability in a slave to be married with as much ceremony as any other man, that one motive which induces free persons to sell themselves into slavery is that they may be enabled to marry. This is not because the people are provident enough to think much about their means of maintaining a family, but because it is the custom among all ranks in this country to expend, upon the occasion of a marriage, a sum which, according to European ideas, is very disproportioned to their means. This expense, in the case of the marriage of slaves, is always paid by the master, who, as our witnesses state, considers himself as much bound to provide suitably for the marriage of his slaves as of his children.

Another topic very illustrative of the distinction to which we are directing attention, is the admissibility of slave evidence.

By the Roman law, it seems that the testimony of a slave was only to be received when no other means of discovering the truth were available. "Servi responso tunc credendum est quum alia probatio ad eruendam veritatem non est."—Dig. xxii.; De Testibus, vii. And that it was not to be received without the supposed safeguard of torture. "Si ea rei conditio sit uti arenarium testem vel similem personam admittere cogamur, sine tormentis testimonio ejus credendum non est."—Dig. xxii. 5; De Testibus, xxi., sec. 2.

In the West Indies, it was thought necessary for the protection of the master that the evidence of the slave should not be received against him.

We have not the means of knowing all the different restrictions which the jealousy of West Indian masters imposed upon the admission of slave testimony; but we find in a printed official letter from the commissioners of correspondence of the Bahama Islands to George Chalmers, Esq., colonial agent, a statement of the effect which, in the opinion of those commissioners, would have resulted from admitting slaves as witnesses in courts of justice against their owners; and this statement, coming from persons who were themselves slave-holders, and from a colony in which slavery was generally thought to bear a peculiarly mild character, is perhaps more illustrative of the unhappy opposition of interests which resulted from that institution as it existed in our western possessions, than any account of the various laws respecting slave evidence to which that opposition gave rise.

This letter was written in the year 1823, when the West Indians were apprehending some great measure in favour of their slaves, partly in consequence of a speech made by Mr. Wilberforce in Parliament, and of a pamphlet published by him. After having remarked that Mr. Wilberforce "talks, but not always very intelligibly, of the want of an executory principle in all our laws for the benefit of the slaves," the commissioners say, "Seriously, then, if by this same executory principle is meant, that, in order to give effect to the laws in question, slaves are to be admitted as witnesses in courts of justice against their owners, we have only to say, that by such a measure the colonies would very soon cease to require any laws to regulate the relations of master and servant. In less than 12 months there would be no slavery to ameliorate, not a single slave to enfranchise, within the range of the West Indies."

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* In the West Indies, also, there was much unwillingness to educate the slaves; but measures for that purpose were forced on them, like the emancipation itself, by the mother country.

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Afterwards, they observe, "that setting aside all objections on the score of religion, there are motives of necessary policy quite sufficient in the West Indies to prevent the life or property of a white man from being at any time jeopardized at will by the information or evidence of a slave."

Further on the commissioners say, "There is a peculiarity in that state of society in which slavery forms an essential ingredient, which renders it impossible to put the master in any manner legitimately at the mercy of his servants, without shivering one main link in the chain of subordination, on which altogether depends the integrity of the social bond."

Now, the change which these West India gentlemen represented as equivalent to the abolition of slavery, and destructive of "the integrity of the social bond," has taken place here, not only without the slightest disturbance of social order, but without the slightest apprehension of any such disturbance.

The Mahomedan law excludes the evidence of slaves where freemen are concerned. The Hindoo law excludes it unless better cannot be obtained; but in our courts, both civil and criminal, the evidence of a slave is received exactly as if he were a freeman.

The constant oppression, then, which resulted from slavery in the ancient world, in the West Indies, and in the United States of America, is little known in India. It may even be said, that slavery here, so long as it is confined within its legal limits, or within the limits which custom, sanctioned by public opinion, has assigned to it, produces nothing which is felt as oppressive by the abject spirit of the servile classes; and that nearly all the evils (some of them of great magnitude) which have their origin in the existence of slavery, are illegal and abusive acts perpetrated under colour of doing those things which the *status* of slavery permits; if these abuses cannot be prevented otherwise than by abolishing slavery, we should say slavery must be abolished; but if means can be found for putting a stop to these abuses, and at the same time leaving untouched the lawful and nearly innocuous *status* of slavery, then we should recommend the adoption of those means rather than the sudden annihilation of an institution which, though it bear an odious name, and could not exist where there is a high-spirited lower class, is really congenial to the habits and feelings both of masters and slaves, and which will decay and perish of itself whenever it ceases to be so.

Before, however, we proceed to point out the mischiefs which arise out of slavery as it actually exists, we wish to call the attention of government to the probability under existing circumstances of a different class of mischiefs springing up. For although the hardships and oppressions endured by the West Indian and American slaves have, generally speaking, no existence in India, it appears to us, that now the country is open to the enterprise of European capitalists, if they are permitted to purchase and hold slaves, a system may gradually grow up not very dissimilar from that, the abolition of which has cost the mother country so much money and so much trouble in the other hemisphere.

A set of white masters working gangs of black slaves for profit is an object which, after looking through the history of slavery in the west, we cannot contemplate without the strongest repugnance; and in proportion to that feeling is the earnestness with which we would urge the government to prevent, by timely interposition, the possibility of such an object being realized.

Mr. MacCulloch, a high authority upon all economical questions, seems to think, that the apprehension of such slavery in this country is visionary. In an elaborate essay in the Edinburgh Review, upon the value of colonial possessions, he thus expresses himself: "It is said, however, that slavery exists in Hindoostan as well as in Jamaica, and that by reducing the duties on East India sugar, and facilitating its cultivation by allowing Europeans to purchase and farm land, we should not get rid of the evil of slavery, but would be merely substituting the produce of one species of slave labour for another. Now, admitting for a moment that this statement is well founded, still it is certain, from the cheapness of free labour in Hindoostan, that no slaves ever have been, or ever can be, imported into that country; and hence it is obvious, that by substituting the sugars of the east for those of the west, we should neither add to the number, nor deteriorate the condition of the existing slave population in our dominions."

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"But it is much worse than idle to pretend to say, that East India sugar should not be imported because it is raised by slaves, as well as that which is imported from our colonies in the West Indies; there is in fact no room for a comparison between the state of the slaves in Hindoostan and Jamaica; the former may justly be said to be freemen when compared with the latter. Our readers are already sufficiently acquainted with the condition of the slaves in the West Indies; and the following extract from a work of Sir (Mr.) Henry Colebrooke, one of the ablest of the East India Company's servants, will serve to make them acquainted with the condition of the slaves of Hindoostan. 'Slavery,' says Sir Henry, 'is not unknown in Bengal; throughout some districts the labours of husbandry are executed chiefly by bond servants. In certain districts the ploughmen are mostly slaves of the peasants for whom they labour; but treated by their masters more like hereditary servants, or like emancipated hinds, than like purchased slaves; they labour with cheerful diligence and unforced zeal. In some places, also, the landholders have a claim to the servitude of thousands among the inhabitants of their estates; this claim, which is seldom enforced, and which in many cases is become quite obsolete, is founded on some traditional rights acquired many generations ago, in a state of society different from the present; and slaves of this description do in fact enjoy every privilege of a freeman except the name, or at most they must be considered as villeins attached to the glebe, rather than as bondsmen labouring for the sole benefit of their owners; indeed, throughout India, the relation of master and slave appears

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appears to impose the duty of protection and cherishment on the master, as much as that of fidelity and obedience on the slave; and their mutual conduct is consistent with the sense of such an obligation, since it is marked with gentleness and indulgence on the one side, and with zeal and loyalty on the other!' Those (continues Mr. MacCulloch) who can find any thing in this description similar to the condition of the slaves in the West Indies, or who can found on it any argument against allowing East India sugar to be imported on the same terms as that of our western possessions, must certainly be endowed with very peculiar means of perception, and very extraordinary logical powers."

But it surely does not follow, because a form of slavery very different from the West Indian form has resulted in this country from causes very different from those which have been in operation in the West Indies,—it surely does not follow, that if we permit the introduction of similar causes, we are not to expect similar effects.

The Hindoo or Mussulman slave under his Hindoo or Mussulman master may perhaps be said, without too violent a figure, to be a freeman, as compared with a negro on the sugar plantation of a European master; but place the Hindoo or Mussulman slave on the sugar plantation of a European master, and we do not see what security he would have for the continuance of that comparative freedom.

There is in Malabar an English gentleman cultivating a pepper plantation with a gang of slaves; he may be a very humane man, as there were very humane men among the planters of Jamaica and Demerara,—indeed we have evidence that Mr. Brown (for that is his name) has used every exertion for the improvement of his slaves,—but it seems clear to us, that if there should ever be in India a great number of European capitalists cultivating the soil or carrying on a manufacture with slaves, we may look for a repetition of those scenes which have disgraced our western colonies. We do not forget that an oppressed slave would have greater facilities of escape from a European than from a native master, on account of the sympathy of the surrounding population; and of course, as far as this goes, it would present a motive to the master to abstain from cruelty; this motive would not, however, we think be sufficient to counteract those of an opposite tendency, and its force would become weaker and weaker as the number of European slave-owners increased.

We think, therefore, notwithstanding what has been said by Mr. MacCulloch, that the condition of the existing slave population would be deteriorated by suffering them to pass under the dominion of European masters.* For these reasons we shall recommend, in the proper place, that it shall be made unlawful for any person not of oriental race to purchase or hold a slave.

It may be said, perhaps, that by the law as it now stands, Europeans are disabled from purchasing or holding slaves. Some obscurity hangs over this subject, which cannot, we fear, be dispelled, if at all, without a long legal disquisition.

This question depends partly upon the more general question, What is the *lex loci* of British India? That is to say (speaking practically), What is the law to be administered to all persons who are neither Hindoos nor Mahomedans? We have investigated that question to the best of our ability, in a report upon the petition of the East Indians, sent up to government on the 31st of October last, to which we here beg leave to refer. It will there be seen, that there is some ground for arguing that, according to the spirit of the principles which have been laid down by English jurists, as soon as any place in India became a British factory, English law became the *lex loci* in that place, and that as soon as any portion of Indian territory became the dominion of the British crown, English law became the *lex loci* of that territory. It is certainly true, nevertheless, that this doctrine is inconsistent with the letter of some of the leading propositions in which English jurists have embodied their principles; for, according to the letter of those propositions, the Mahomedan or the Hindoo law would be the *lex loci* of any given portion of British India, according as one or other of those laws obtained in that portion at the time of its coming into our possession. It may perhaps be thought that, as the Mofussil courts decide according to equity and good conscience in all cases where the parties are not Hindoos or Mahomedans, they will not recognize the right of any other person to hold a slave because it is contrary to equity and good conscience. But that is very questionable doctrine. If the law authorize a European to hold a slave, it can hardly be permitted to any court to say that the doing so is against equity and good conscience. A court of equity may say, that a particular exercise of a legal right is unconscientious, but it can never be permitted to say that the right itself, and consequently every exercise of it, is unconscientious.

But even if we assume upon the present occasion, for the sake of argument, that English law is the *lex loci* of British India, there will still remain a question which is not quite free from difficulty; viz. how far a person living under English law is prevented by that law from having any right to the services of a slave.

The generally received opinion, no doubt, is, that a person living under English law cannot be the owner of a slave. But if we put to sleep for the moment our benevolent feelings, and examine the question as a mere dry question of law, the generally received opinion seems not to rest upon any very solid foundation.

Before

* It is curious to observe, that the laudable object of procuring an equalization of the duties on sugar seems, in some degree, to have coloured the opinions of those who have treated of Indian slavery: in a paper, art. 3 of No. IX. of the quarterly series of the Friend of India, it is broadly laid down, that "Slavery is now entirely prohibited by the British Government here as really as in Britain itself;" "that in consequence of this, whatever of this nature exists at present, is conducted wholly in secret, like all other acts of injustice, robbery and iniquity;" and that "no native dares openly avow here that he holds a fellow-creature in slavery."

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Before the decision in the case of the negro, Somersett (State Trials, vol. xx. p. 1), the general understanding was, that an Englishman might hold a slave any where. Lord Talbot and Lord Hardwicke, when attorney and solicitor-general, gave it as their opinion, that a slave coming from the West Indies, either with or without his master, doth not become free, and that his master's property or right in him is not thereby determined or varied; and they were also of opinion that the master might legally compel him to return to the plantations. And this opinion was recognized by Lord Hardwicke, sitting as Chancellor, on the 19th October 1749. "This judgment," says Lord Stowell, in the case of the slave, Grace (2 Haggard, 105), "so pronounced in full confidence, and, without a doubt, upon a practice which had endured universally in the colonies, and (as appears by those opinions) in Great Britain, was, in no more than 22 years afterwards, reversed by Lord Mansfield. The personal traffic in slaves resident in England had been as public and as authorized in London as in any of our West India islands. They were sold on the Exchange, and other places of public resort, by parties themselves resident in London, and with as little reserve as they would have been in any of our West India possessions. Such a state of things continued without impeachment from a very early period up to nearly the end of the last century."

It appears that, at the time when Somersett's case was decided, viz. in 1771, there were as many as 14,000 slaves in London. Lord Stowell calls Lord Mansfield's doctrine "his new doctrine;" and there is no doubt, we think, that Somersett's case was really, *de facto*, introductory of new law. Of course, however, it must, *de jure*, be taken to have been merely a declaration of the old law. But the whole effect of it is, that no man can in England exercise over another the rights with which the *status* of slavery invests the master over the slave.

Lord Mansfield thus expresses himself: "The return states, that the slave departed and refused to serve, whereupon he was kept to be sold abroad. So high an act of dominion must be recognized by the law of the country where it is used. The power of a master over his slave has been extremely different in different countries. The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons, occasion and time itself from whence it was created are erased from memory. It is so odious that nothing can be suffered to support it but positive law. Whatever inconvenience therefore may follow from the decision, I cannot say this case is allowed or approved by the law of England, and therefore the black must be discharged."

Some of these expressions do appear to go further than what we have stated to be the effect of the decision. But we have Lord Stowell's authority for our statement, fortified by that of the Scotch judges who decided a similar case in 1778. Lord Stowell says, "The Scotch judges have well expressed their opinions of the extent of the judgment of Lord Mansfield, in the case of Knight *v.* Wedderburn, in 1778, a case argued with great ability, in which they determined the extent of this judgment to be, that the dominion assumed over the negroes by the law of Jamaica could not be supported in this country." And he afterwards says, "All that the judges, in the different cases I have adverted to, have determined, is, that slaves coming into England are free there, and that they cannot be sent out of the country by any process to be there executed." p. 118. Moreover in another place, p. 107, Lord Stowell shows, that what Lord Mansfield says about the necessity of positive law for the introduction of slavery amounts to very little, when it is understood that custom is one of the grounds of positive law. "Far from me be the presumption," he says, "of questioning any *obiter dictum* that fell from that great man upon that occasion; but I trust that I do not depart from the modesty that belongs to my situation, and I hope to my character, when I observe, that ancient custom is generally recognized as a just foundation of all law; that villeinage of both kinds, which is said by some to be the prototype of slavery, had no other origin than ancient custom; that a great part of the common law itself, in all its relations, has little other foundation than the same custom; and that the practice of slavery, as it exists in Antigua and several other of our colonies, though regulated by law, has been in many instances founded upon a similar authority."

Now, it is this instance of Antigua, and of other colonies similarly situated, which seems to us to furnish direct authority, and that of the highest kind, against the generally received opinion. The authority we mean is that of the British Legislature sanctioning, both by tacit sufferance and by express recognition (not by enactment), the legality of the slavery of those colonies.

The law of Antigua is the common law of England, so far as it stands unaltered by any written law of that island. The slavery of Antigua, Lord Stowell says, "never was the creature of law, but of that custom which operates with the force of law." It is a most important circumstance that this slavery was not created either by imperial or local legislation, but grew up by the side of the English common law, and that it grew up legally cannot be denied, for it is affirmed by Acts of Parliament.

In the West Indies, then, Englishmen lawfully held slaves, having themselves introduced the *status* of slavery into countries where English law was the *lex loci*, and where no other law existed at all. How then can it be contended, that in the East Indies, where Englishmen found the *status* of slavery already existing, they may not hold slaves because English law is the *lex loci?*

It was not illegal till it was made so by statute, for an Englishman living under English law to buy a slave from a Mussulman in Africa, carry him to an English colony, where English law, and that only, was established, and keep him there in slavery; *a fortiori*, it cannot be illegal (seeing that no Act of Parliament or of the local legislature has yet made

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it so) for an Englishman to buy a slave from a Mussulman in India, and keep him as a slave in that country where he has always been one.

There are two cases in which the *dicta* of the judges carry the law in favour of liberty further than it is carried by the cases of Somersett, and of Knight *v.* Wedderburn. It is to be observed, that the *dicta* we allude to were not necessary to the decision of the point before the court in either of those cases. Though in the latter case it is true, that the very profound lawyer, whose judgment we shall quote, chose to rest his decision upon the broad ground, which, as we have said, extends beyond the cases of Somersett and of Knight *v.* Wedderburn.

The first of the two cases is that of Williams *v.* Brown, 3 Bos. and Pull. 69, and Mr. Justice Rooke there says, speaking of the defendant, who was a slave in Granada, but who had made a contract in England, "though he might enter into a contract to go to any other place but to Granada, yet he could not engage to go there without danger of being detained," which expression certainly implies, that the slavery of the party could be enforced nowhere but within the island of Granada.

The second case is that of Forbes *v.* Cochrane, 2 Barn. and Cress. 448. Mr. Justice Holroyd there says, "Put the case of an uninhabited island discovered and colonized by subjects of this country; the inhabitants would be protected and governed by the laws of this country. In the case of a conquered country, indeed, the old laws would prevail until altered by the King in Council; but in the case of the newly-discovered country, freedom would be as much the inheritance of the inhabitants and their children as if they were treading on the soil of England. Now, suppose a person who had been a slave in one of our West India settlements escaped to such a country, he would thereby become as much a freeman as if he had come into England."

If this be so, the first negroes who were carried from Africa to Antigua, St. Christopher's or Barbadoes, must have become freemen, for no statute had made them slaves. But it is notorious that they did not become freemen, and that the legality of their slavery has been recognized by the British Legislature. Their slavery was not indeed created by the common law of England. But it was thought to be perfectly compatible with the common law of England, which was the law of those colonies whither they were carried.

In 1689, ten judges, with Lord Chief Justice Holt at their head, humbly certified their opinions to be, "that negroes are merchandize," and consequently that it was against the Navigation Act to give liberty to any alien to export them from his Majesty's plantations.

It appears from Stoke's view of the Constitution of the British Colonies, that even after the colonies had got legislatures, and had made local laws for the regulation of property in slaves, still negroes, on their first arrival from Guinea, and as long as they remained in what was called the Guinea Yard, were not considered to be under the law of the particular colony in which they were landed, but were "absolutely personal estate," whatever might be the law of the particular colony in that respect. It was not till they were sold and taken out of the Guinea Yard that they became subject to the *lex loci*, and were considered as real, or personal, or mixed estate, according to the provisions of that law, whatever they might be. (p. 417.)

We think, then, that these *dicta* of Mr. Justice Rooke and Mr. Justice Holroyd go beyond the law in favour of freedom. But even assuming that they are to be taken as law, they still will not reach the case of British India.

It will conduce to a clear understanding of the subject, to distinguish between the disability of the person claiming to hold a slave, and the privilege of the person claimed as a slave. As it is admitted that there are persons in British India whose *status* is slavery, the question, where one of these persons is concerned, must be, whether the person who claims him is disabled from having a slave.

Now, it will be observed, that every one of the cases which are authorities in favour of freedom, turn upon the privilege of the person claimed as a slave. Somersett's case and the case of Knight *v.* Wedderburn show, that a slave is privileged in England and Scotland. The *dicta* in the cases of Williams *v.* Brown, and Forbes *v.* Cochrane, supposing them to be law, show, that a slave coming into any country where there is no law but English law, is privileged. But there is no authority whatever for saying, that a man who is living under English law may not become the owner of a slave in a country where there are persons whose lawful *status* is slavery.

The common law still permits a man to be the owner of a villein in England, only there are no villeins to be found. The common law permitted a man to be the owner of a slave in Antigua and Barbadoes till the statute law made all the slaves there free. Why will not the common law permit a man to be the owner of a slave in British India, where no statute has made the slaves free?

The question has never been decided, as far as we are informed, in any of the supreme courts.

The chief justice, Sir Edward Ryan, has been so obliging as to cause a search to be made through the notes of cases which have been made by different judges of the supreme court at this presidency, and the only case in which the question has been raised occurred in 1796.

"1796."

"The case was an indictment against a British subject and a Mussulman woman, for assaulting, wounding, and false imprisonment of two slave-girls."

"Mr. Strettell, counsel for the British subject, contends, that by the Mahomedan law slavery is permitted, and severe punishment of the slaves only short of life and limb; that whether

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whether this country belongs to us by treaty or by conquest, the former law remains in force excepting as to those parts in which it has been expressly altered by authority of the King of the British Parliament; and with respect to this subject, it has not been so altered in the provinces at large,* whatever may be the law in Calcutta."

"(N. B. Lord Cornwallis's proclamation as to slaves, and the regulations of the Adawluts.")

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"Mr. Macnaghten, 2d counsel for the British subject."

"Supposing slavery still to exist here under the Mussulman law, Mr. H. cannot be punished. This is now under the dominion of Great Britain, in which Acts of Parliament have given countenance to slavery."

"It follows, that slavery is not necessarily abolished by this country, having come into the hands of Great Britain."

"A reference is made to the 21st Geo. 3, cap. 70, sec. 18."

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"Mr. Shaw, counsel for the prosecution, in reply."

"As to the Mussulman law, the court will inform you, that Mr. H. is only subject to the law of England; and the woman, if subject to the jurisdiction, is also subject to the law of England, at least as to this fact."

The note contains no expression of any opinion by the court upon the point of law. But both the defendants were found guilty and sentenced.

As Sir William Jones has adverted to the subject in his charge to the grand jury in 1785, it will be proper to quote what he says.

"It is needless to expatiate on the law (if it be law) of private slavery; but I make no scruple to declare my own opinion, that absolute unconditional slavery, by which one human creature becomes the property of another, like a horse or an ox, is happily unknown to the laws of England,and that no human law could give it a just sanction; yet, though I hate the word, the continuance of it, properly explained, can produce little mischief. I consider slaves as servants under a contract, express or implied, and made either by themselves or by such persons as are authorized by nature or law to contract for them, until they attain a due age to cancel or confirm any compact that may be disadvantageous to them. I have slaves whom I rescued from death or misery, but consider them as other servants; and shall certainly tell them so when they are old enough to comprehend the difference of the terms. Slaves, then, if so we must call them, ought not to be treated more severely than servants by the year or by the month, and the correction of them should ever be proportioned to their offence; that it should never be wanton or unjust, all must agree."

The sum of this seems to be, that, in Sir William Jones's opinion, the English law does not admit of one man having a property in another, but does admit of one man having, by contract, a right to the perpetual services of another, and of his exacting them by moderate correction. Much legal weight, however, cannot be attached to these observations, notwithstanding the eminence of their author. They were made (being part of a charge to the grand jury) upon a question which had not been argued, and were not even called for by any case in the calendar. He was calling the attention of the grand jury to the oppressions exercised upon slaves in general in Calcutta, and so took occasion to give his opinion upon the law. He does not argue the question at all himself, nor cite any authorities.

In the year 1813, the right of a British subject to hold a slave in India was discussed by Mr. Anstruther, then advocate-general at Madras.

The question seems to have attracted the attention of the Madras government, in consequence of certain disputes between Mr. Baber, at that time magistrate of North Malabar, and Mr. Brown, the father of the gentleman to whom we have already alluded as the owner *de facto* of a considerable number of slaves.

The advocate-general, after speaking of a supposed complaint against a Mahomedan master, thus proceeds: "But if a similar complaint were preferred against Mr. Brown for violence against his slaves in Malabar, I am confident that he could not justify it. But the civil right to the perpetual service of the persons held by him in slavery may possibly be distinguished from the right of punishment of them as slaves, and I think the question of right may be well tried, and ought to be tried in that shape. If any one of the persons now working upon the estate of Mr. Brown as slaves, be advised to instruct the attorney for paupers to bring an action against Mr. Brown for false imprisonment, in detaining him upon his plantation, the admission of the fact by Mr. Brown will bring before the court the simple question of the capacity of a British subject to have a slave in India. I by no means wish to be understood to say that it is a clear point, but I think it very proper to be settled."

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"From the importance of the point being settled, I should also propose that, by mutual consent, whatever might be the decision, it should be carried before the King in Council, as otherwise different decisions might be given at the different presidencies, and the question be set afloat, instead of being finally settled."

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* The crimes were committed in the Mofussil.

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It does not appear that this course was ever adopted. We also think that the point is very proper to be settled. But the legislature is, in our opinion, the most proper organ for settling doubtful law, and the only proper organ for correcting unjust law.

Indeed, from what follows, the advocate-general seems to have recommended that the question should be brought before the supreme court at Madras, and ultimately before the King in Council, principally because there was at that time no legislature in the country which was competent to bind the supreme courts.

For he goes on to say: "Supposing it to be ascertained, by the highest judicial authority, that British subjects can have property in slaves in India, it remains to be considered whether the law ought to be left in that state; or, rather, if the Government shall think it ought not, a regulation of Government may, as to the provinces, remove the necessity of any trial or inquiry as to what is now the law on the subject, by prohibiting the practice in future.

When we compare the ease with which the mischief we have been adverting to may be prevented from taking root, with the difficulty of eradicating it at a future period, we are disposed very strongly to recommend the enactment of a law to accomplish the former object. Such a measure appears to be wholly free from objection. It will interfere with no existing property. There is, we believe, only one European slave-holder in British India, and his rights, whatever they may be, will not be affected by the new law. And short of the entire abolition of slavery, there is perhaps no measure by which the British Government can so strongly mark to its native subjects the dislike with which it regards this institution, as one which prevents the whole European race from taking any part in it.

Perhaps it may be thought that, as we recommend in the sequel the entire abolition of the master's power to punish his slave, the cruelty of which we have been expressing our apprehension, will, by that measure, be as completely prevented as it can be by law, and therefore that our present recommendation becomes superfluous if our subsequent one is adopted. But whoever pays close attention to the nature of the two proposed laws will perceive, that although either of them would produce the desired effect, if complete obedience could be ensured, the chances of ensuring complete obedience are very different in the two cases.

In a country so vast as this, and so inadequately supplied with courts of justice, slaves will be beaten by their masters in spite of legislative prohibitions. But capital will not be invested by Europeans in the purchase of slaves, when the legislature has declared that no legal right shall arise out of such purchase.

It is proper to observe, that this measure may perhaps be an impediment in the way of colonization in those districts where free labour cannot be obtained. But we have no fear that this consideration should be thought sufficient to prevent the adoption of our recommendation.

We proceed to the mischiefs which actually exist, and the suggestion of remedies for them.

We have already said, that if the abuses which slavery gives rise to in this country cannot be prevented otherwise than by its abolition, then slavery ought to be abolished. But we think that the abuses can be otherwise prevented, with such a degree of certainty as to justify us in not advising the emancipation of the slaves, which would, in the present circumstances of India, be an unnecessary and very unpopular interference with the interests, as understood by themselves, both of masters and slaves.

On the other hand, we shall be careful not to recommend any measure by which the rights and obligations arising out of slavery can be strengthened, or any measure under which any person who is not a slave according to strict law can possibly be treated as such by public authority. We hope, that if our recommendations are adopted, no further legislation on the subject will be necessary.

The first of the actually existing mischiefs which we shall notice is the abuse of the power of punishment, and in considering this, we shall answer the questions put to us in Mr. Officiating-secretary Grant's letter of the 27th May 1839. We have said, that in the actual circumstances of this country, there is no constantly-operating stimulus to cruelty; but excited passion does of course give rise to occasional violence. This happens in all countries, even in the relation of master and pupil, and master and apprentice. But the instances are rare in these relations, because in them the tender age of the subject-party leads as well to ready submission on his part as to forbearance on the other part. The social condition too of the pupil is often superior, that of the apprentice generally equal, to that of his master. And thus the master is restrained from violence by the fear of censure from those classes upon whose opinion his reputation depends, and whose sympathies are sure to be on the side of the sufferer. Now, if we bear in mind that in the case of master and slave none of these restraints exist, we must conclude that the power of punishment is likely to be abused in such a degree as to overbalance any advantage resulting from it.

Again: the difference between moderate and immoderate correction is a difference in degree, and consequently the lawful is not divided from the unlawful by any line which is discernible even to the eye of calm reason, much less to the eye of inflamed anger. On the other hand, the difference between stripes and no stripes is as well marked as any difference can be; and whoever transgresses a law founded upon it must do so with a distinct consciousness of wrong. Neither a law prohibiting immoderate correction, nor one prohibiting all correction, is likely to be constantly obeyed. But a law of the latter kind has incomparably the best chance

chance of being obeyed. For these reasons, we mean to recommend that the master shall be prohibited from striking his slave.* Observations.

This change, or rather a much greater change than this, has, as will be seen from Captain Bogle's evidence, been already brought about in Assam, where slavery abounds, and where the treatment of slaves, and indeed of all low people, by their superiors, was peculiarly unjust and severe. "Since we have had the country," says Captain Bogle, "we have never permitted the masters to punish their slaves more severely than a father may punish his child."

It will be seen, however, by what follows, that Captain Bogle does not consider even this most moderate degree of correction to be now lawful in Assam.

"When I first went to Assam, many of the principal people kept stocks in their houses, and used to put their slaves, or any poor person who offended, into them."

"Since we have been in possession, these stocks are no longer permitted."

"The real motive which now induces the slave to do his work is the fear of losing the advantages of his situation."

"Cases of oppression were every now and then occurring while I was in the country; but we have always punished the oppressors whenever complaints have been substantiated."

"I do not consider that by law the master has any power of punishing his slave by beating; but no doubt, if a slave complained, and it turned out that his master had only given him a slap, the court would scarcely think the case worth noticing."

"I think that an Act abolishing the power of punishment altogether would make no change in the law of Assam."

We do not think that this is to put an end to slavery.

After this measure is passed, there will still remain all that is good in slavery, or, more properly, all which a wise government would not choose violently to destroy, so long as both of the classes concerned desired its continuance. We admit that such a measure as this would have put an end to negro slavery. But if we have correctly distinguished between that form of servitude and the one prevailing in this country, nothing can be inferred from that admission as to the effect of the same measure here. Bodily pain, and the terror of it, were the vivifying principles of that system. The interest of the slave is the vivifying principle of this.† We do not propose to interfere with the substantive legal rights of the master; he will have in law the same dominion over the slave, and over every thing that is earned by the slave's labour, as he had before; but he will not have the power of enforcing his right with his own hand. It must not be concluded that his right will be ineffectual. A slave who is well treated has no temptation to leave his master, or to neglect his duties; at least no temptation sufficient to overbalance the fear of forfeiting his right to protection and subsistence.

In announcing this recommendation, we have answered the first question addressed to us in Mr. Officiating-secretary Grant's letter of the 27th May 1839; but as various matters are suggested to us by government in that letter as fit to be weighed in deciding the question, whether the master's power of punishment should be negatived by an express law, we now proceed to the consideration of those matters.

"It is also to be considered," says Mr. Officiating-secretary Grant, "as the regulations for the punishment of servants do not appear to be applicable to slaves, whether, regarding such benefits as the slave may derive from his situation, it is proper that he should be placed in a much more independent condition than a servant, and be exempted from punishment of every kind and on whatever occasion."

To this we must answer, first, that we think the regulations for the punishment of servants are not good regulations. Upon this subject we adhere to the opinion expressed by the law commission in note P. to the penal code. If the penal code is adopted, those regulations will be repealed; but however that may be, as we think them not good in principle, we cannot think that the omission to repeal them is a sufficient reason for keeping up a power over slaves which, for the sake of this argument, must be admitted to be, in itself, objectionable.

Secondly, the benefits which the slave may derive from his situation seem to be regarded in Mr. Grant's letter as a reason why he should, at least, be as much subject to punishment as a servant. Now, in our view of the matter, it is because the slave derives benefits from his situation, that it is unnecessary to make him liable to punishment for conduct by which he would forfeit those benefits; by how much the loss of his situation would be a greater evil to the slave than to the servant, by so much is it the less necessary to present to him, in the shape of punishment, any additional motive for performing the duty which he owes to his master.

It is further observed in Mr. Grant's letter, that "it may deserve inquiry whether an objection applies to any special law regulating the conduct of masters towards their slaves (especially

* This subject is treated more fully in Mr. Cameron's minute which accompanied our report of the 1st February 1839, to which we beg to refer.

† As I was one of the law commissioners who signed the draft of the penal code sent up to government, I am desirous of explaining in what respect the view I now take of the master's power to punish differs from that which we took in note B., appended to that draft.

I still entirely agree in the doctrine of that note, but I now think it less applicable to the case of Indian slavery than I then did. I still think that where the fear of punishment is the motive which induces the slave to work, to take away from the master the power of punishment is to abolish slavery; but our inquiries, since the subject of slavery was referred to us, have satisfied me that the fear of punishment is not the motive which induces the Indian slave to work.—*F. Millett.*

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(especially if it be thought proper that the law should contain provisions for enforcing, by a magistrate, the obedience of slaves, in like manner as servants) as implying a recognition of a state of slavery, towards the absolute extinction of which, by the mere force of time, of civilization, and of the lenient and well-understood principles and practice of British administration, great advances are in progress."

If what is here intended is a recognition in general of the *status* of slavery in India, it appears to us that it is now a great deal too late to shrink from such a recognition. A prohibition to remove slaves into another province for purposes of traffic is surely as distinct a recognition of slavery as a prohibition to punish slaves; yet a law to this effect was passed in 1832. Indeed, the very statute under which we are now recommending measures for the mitigation of slavery contains a distinct recognition of that *status* in this country.

But if the meaning is, that the "enforcing by the magistrate of the obedience of slaves, in like manner as servants," would occasion the recognition, by public officers, of slavery as the *status* of specific persons, we fully admit that this would be a decisive objection to a law containing a provision for enforcing in that manner the obedience of slaves.

It is hardly necessary to say, that we contemplate no such law; it would offend against both of the principles which we laid down a few pages back as governing our recommendations. Such a law would both strengthen rights and obligations arising out of slavery, and cause many persons who are not slaves, according to strict law, to be treated as such by public authorities.

The investigation before a magistrate must necessarily be of a much more summary kind than that by which the question of ownership would be decided in a civil court; the consequence would be, that men might be forced back into the service of those whose slaves they are not. There is, besides, just reason to apprehend that a decision of this kind would have the effect of fixing the *status* of slavery indelibly upon the individual concerned. It would be easy, no doubt, to provide in the law that such a decision by the magistrate should not prejudice the party's title to freedom in a civil action; but it would be very difficult, if not impossible, to make the slave comprehend this provision, especially as it would be the interest of masters that the slave should not comprehend it.

A law transferring coercive power from the master to the magistrate, including, as it does, the power of compelling the return of a runaway slave, would be a step in a direction not only opposite to that in which our own principles impel us to move, but also to that followed by the Governor-general in Council in 1836, with regard to the provinces not subject to the regulations; and even to the direction which we are commanded by the Imperial Legislature to pursue.

The views of the Governor-general in Council to which we are alluding may be seen at page 162, and also in the latter part of this Report. With regard to the Imperial Legislature, we are commanded by the Charter Act to devise means for the extinction or mitigation of slavery; we think such a measure as the one under consideration would not be in accordance with those commands of the Legislature.

It may, perhaps, be thought, that although the provision in question, considered by itself, would be a step in the wrong direction, it is otherwise when coupled with the abolition of the master's right to coerce his slave; three considerations, however, will show that this view is not correct.

First, admitting, for the sake of argument, that the measure is a mere transfer of power from the master to the magistrate, it is a transfer unfavourable to the slave; for, although as regards the power to punish for idleness and misbehaviour a slave whom the master has got in his possession, the transfer to the magistrate would no doubt be, in one point of view, a mitigation of slavery; the pursuit, apprehension and restoration of a fugitive slave is quite a different thing. The magistrate, with his police, is an incomparably more efficacious instrument for this purpose than the master.

Secondly, we have already remarked, that the investigation before a magistrate must necessarily be of a much more summary kind than that by which the question of ownership would be decided in a civil court. And this is true, whether the investigation takes place upon a demand of the master to have a disobedient slave punished, or a fugitive restored. Add to this, that if the regulations of 1774 are still in force (and they have never been repealed), the *status* of the greater part of the *de facto* slaves in the provinces of Bengal and Behar, and the district of Midnapore, would turn out, upon investigation in a civil court, to be, not slavery, but freedom. Add further, that the same may be said of the slaves *de facto* of all the Mussulmans within the presidencies of Bengal and Agra. For, according to decisions of the Sudder Dewanny Adawlut, based upon Mahomedan law, no Mussulman can maintain a claim to a slave in any civil court in those presidencies. And it will be abundantly evident, that the investing of magistrates with this jurisdiction to be exercised upon a summary inquiry, not into the right but into the mere fact of slavery, is a measure calculated to give legal vigour and consistency to an institution which now is held together almost exclusively by the opinions and feelings of the people.

But, thirdly, it is not true that the measure in question would be a mere transfer of power from the master to the magistrate. Throughout a large part of India the master is not now authorized by the law, as administered by the courts, to bring back his runaway slave by force, or to beat his disobedient slave. His only remedy is a civil action. Throughout all that part of India, the measure in question would be in direct opposition to the commands of the British Parliament.

Mr. Officiating-secretary Grant remarks also, that "it appears to be very important to compare, on the one hand, the inconveniences to which it may be thought the law will give rise, not merely such as may necessarily result from it, but also such as it may be likely to produce

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produce if administered indiscreetly, or if made a plausible ground for discontent and excitement; and, on the other, the practical benefits which the law may be expected to confer."

We have already stated the principal practical benefit which we expect from the law abolishing the power of punishment, to which we will add the advantage of letting a master know with certainty what he is to expect if his slave complains of a beating to the magistrate, which advantage the master now does not possess. And with regard to the indiscreet administration of the new law, it seems scarcely possible that the courts should go further in the way of indiscretion (if any indiscretion there be in the matter) with the new law than they now do without it. Our reason for thinking that the law will not produce discontent or excitement in any considerable degree is, that these extremely liberal proceedings of the courts, the various legislative enactments, and orders of government in the nature of legislative enactments on the subject, and the proclamations of local authorities, appear always to have been received with entire submission. For the facts establishing this proposition, we refer again to Mr. Cameron's minute.

Mr. Secretary Grant next raises the question—

"Whether, supposing a law of the nature proposed be determined on, it could with justice be passed without compensation to the owners of slaves, and, generally speaking, what compensation would be equivalent to the practical change which such a law would effect in the value of a slave?"

We have maturely reflected upon this question, and we are of opinion that a law of the nature proposed could with justice be passed without compensation to the owners of slaves.

The order in council for improving the condition of the slaves in Trinidad furnishes a precedent applicable to our purpose.

Before that order, the Trinidad slave-owner had the power of stimulating his slaves, male and female, to labour by the immediate application of the cart-whip, which was always carried into the field.

The order provides, "that it is and shall henceforth be illegal for any person or persons within the said island of Trinidad to carry any whip, cat or other instrument of the like nature, while superintending the labour of any slaves or slave in or upon the fields or cane-pieces upon any plantation within the said island, or to use any such whip, cat or other instrument for the purpose of impelling or coercing any slaves or slave to perform any labour of any kind or nature whatever, or to carry or exhibit upon any plantation or elsewhere any such whip, cat or other instrument of the like nature, as a mark or emblem of the authority of the person so carrying or exhibiting the same over any slaves or slave."

The order in council also converted into a judicial proceeding the power of punishing offences with the lash, which it still left to the master in regard to male slaves, limiting the punishment to 25 lashes in one day, requiring that the slave should be free from laceration occasioned by any former whipping; that 24 hours should elapse between the commission of the offence and the punishment; that one person of free condition should be present besides the person inflicting the punishment, and that if the punishment exceeded three lashes, a statement should be entered in a book of the nature and particulars of the offence, of the time, place, and of the nature and extent and particulars o the punishment, and of the person or persons of free condition present.

With regard to female slaves, the order in council not only took away from the master the power of stimulating to labour by the cart-whip, but also the power of flogging for offences committed, leaving him nothing but the power of imprisoning or putting the female offender in the stocks.

It seems to us impossible to deny that this order in council, which had the sanction of both Houses of Parliament, was a much greater infringement of the rights of West Indian masters, a much greater deterioration of the pecuniary value of West Indian slaves, than our Act will be of the rights and value of the masters and slaves of this country. And if that be so, then we have the authority of the King in Council and of the two Houses of Parliament for saying, that the passing of this proposed Act would create no legitimate claim to compensation.

In the debate which took place in the House of Commons on the 19th of May 1826, the question of compensation was discussed. That debate arose upon a resolution moved by Mr. Brougham, expressive of the House's deep regret, that nothing effectual had been done by the West Indian legislatures in compliance with the declared wishes of his Majesty's Government and the resolutions of the House of Commons, upon which the above-mentioned order in council was founded. Mr. Canning, who spoke as the organ of the Government, expressed himself thus: "I agree, sir, in many particulars with an honourable gentleman opposite (Mr. Bernal), who has spoken with so much good sense; but I differ from him widely on the subject of compensation. I think nothing could be more monstrous than to admit a claim to compensation into a system of measures which are purely measures of amelioration; and which all who look upon the moral improvement of the slave as beneficial to the interests of the master must acknowledge to be calculated to create eventually an advance instead of a deterioration in the value of the master's property in his slaves."

We quote these words because it would not be right, in considering the question to which the government has called our especial attention, to omit the opinion of so distinguished a statesman; but we must confess that we are not satisfied with his reasoning. His argument is, indeed, stated with the utmost skill, but we think it admits of an answer, particularly as it applies to the use of the whip.

The fallacy appears to consist in not distinguishing between the improvement of the negro as a man and his improvement as a slave. What the Trinidad planter wanted was a strong

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and submissive drudge, with just so much intellect as would enable him to perform the several operations of cane-planting and sugar-making.

The elevation of the negro in the scale of rational beings was to the planter, as such, a matter of indifference in itself. And if that elevation was to be produced by taking away the stimulus which induced the slave to cultivate with energy the soil in which he had no discernible interest, the master cannot have regarded it as a good in which he was to have his share, but as a good which was to be brought about at his expense.

It seems to us, that the legislatures of the West Indian islands, who declined to adopt the principles of the Trinidad order, had a correct perception of their own pecuniary interests; and we believe that the slaves of Trinidad must have become, under Mr. Canning's humane regulations, less valuable, considered as mere property, than they were, when, to use his own expressive words, "they were subject to that wanton and degrading use of the whip which places the negro slave on a footing with the cattle of the field."

The same view of the subject was taken by Lord Dudley and Ward, himself a proprietor of slaves. He said, "that while negroes remained the slaves of the planters, he did not think that what was done merely to ameliorate their condition could form a ground for such a claim. The moment, however, that another important step was taken; the moment, however prompted by humanity and with whatever prospect of success, measures were taken to set the slaves free from their masters, the nature of the case was completely altered, and the owners were justly entitled to indemnification. Where slavery ended, compensation began."

We have felt bound in candour not to put forward, as if we have relied upon it, an argument from which we see reason respectfully to dissent, however much we might have rejoiced to shelter ourselves under the authority of such names as Mr. Canning's and Lord Dudley and Ward's. But though the ground upon which those distinguished statesmen put the refusal of compensation may not be tenable, there may be, and it seems to us that there is, another ground on which the refusal may be justified. When a legislative measure diminishes the value of property, it seems to be a necessary condition to the granting of compensation that the diminution should be capable of estimation. It would be neither wise nor just to give compensation at random. If, therefore, compensation cannot be given in a particular case otherwise than at random, it ought not to be given at all. This question must not be confounded with the question of compensation for injuries by individuals, to which, at first sight, it seems to bear great affinity. There is an essential distinction between them. In many instances the law awards compensation for injuries committed by individuals even where there is no standard by which the amount of injury can be estimated, as in actions for adultery, or for defamation. But in these cases, the idea of punishment seems to mix itself more or less with the idea of compensation. The law does not actually authorize the infliction of punishment in a civil action, but it at least connives at such infliction. In *odium spoliatoris*, it is permitted to take something more from the defendant than the actual amount of the damage. This we believe to be the motive which has induced the legislatures of most civilized countries to exact compensation for injuries by private persons, even when the amount of the compensation must be fixed at random. If, by the random estimate that must be made, too little is given, still the injured party is in a better plight than if no compensation were given. If too much is given, it is at least taken from a person who has deserved no favour.

This doctrine has no application to the case of compensation given out of the public purse for damage to property inflicted by the legislature. By supposition, the act of the legislature which produces the damage is not a blameable but a meritorious act. The idea of punishment is entirely out of the question. The legislature is aiming at the general good of the whole people, and if, in attaining that object, it inevitably damages the property of individuals, it may reasonably say to them, "Show us the amount of the loss you have suffered, and you shall be indemnified out of the public purse; but, if you cannot show the amount, we shall run the risk of giving you more than an indemnity." This principle, we believe, is very generally acted upon. Acts of Parliament which regulate the mode in which property shall be enjoyed almost always affect its value; but compensation is not given in such cases; and the ground of distinction between such cases, and those in which property is taken away, seems to be, that in the latter case the damage is estimable, in the former not. We fairly admit the mere circumstance, that a legislative measure must lower he value of property without the possibility of compensation, to be itself an objection to that measure; but it is, of course, an objection which in each case may or may not be overbalanced by the advantages expected from the measure. In this case, moreover, it is only for the sake of argument that we admit that there is any sensible deterioration of property.

We are satisfied that the deterioration of property occasioned by our Act will be so small as not to be worth consideration, even if it were capable of being estimated in figures; and further, that there will at any rate be no deterioration which would not equally have place whether this law were passed or not.

We hold, that our proposed Act differs from the Trinidad order in council in such a manner, that even if the latter had created a case for compensation, it would not follow that the former would do so. All our evidence shows, that the Indian slaves work for the sake of preserving the advantages of their position, and because they feel that their interests are bound up with the prosperity of their masters' affairs. Universal experience shows, that if they had not some such motive, the degree of punishment which the judicial authorities of India now permit would not be sufficient to make them useful to their master in a pecuniary way. The power of inflicting such a degree of punishment may be convenient

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to the master in preserving the discipline of his establishment; but its value in money is surely not worth the trouble of attempting to estimate it.

If, then, the British Government and the two Houses of Parliament were justified in passing and approving this order in council without giving compensation to the slave-holders of Trinidad, it follows, that the government of India will be much more than justified in passing the proposed Act without giving compensation to the slave-holders of India. This follows, as we have just been showing, from the difference between the power which the order in council took away, and the power which the proposed Act will take away.

But the same conclusion follows also, as we will now show, from the different position in which the two governments stand with relation to the parties whose rights are in question.

The British Government had itself created and fostered the slavery of the West Indies. It had done every thing in its power to encourage the investment of capital in slaves. It had more than once refused its sanction to Acts passed by colonial legislatures to prevent the further importation of slaves. The West Indian planters were in truth only the instruments (the willing instruments no doubt for the most part) by which the Government and Legislature of Great Britain carried into effect their schemes for augmenting the national wealth by slave labour. If ever, therefore, there was a case in which the Legislature would have been justified in exercising liberality with the public money, it was this case of the West Indian planters. Yet so long as the property in slaves was suffered to continue, the claim to compensation for measures which merely diminished in an uncertain degree the productiveness of that property, was held to be clearly inadmissible. How much more clearly, then, is the claim supposed to arise out of this proposed Act inadmissible!

The government of India found slavery existing as an immemorial institution. From the time of Mr. Hastings' regulations, whenever it has had occasion to speak publicly upon the subject, it has announced its rooted dislike of that institution. No man was ever tempted by the government to acquire this kind of property. Very few men can have purchased slaves without knowing that they were acquiring property in a subject-matter which the rulers of the country thought to be wholly unfit for such a purpose.

But further, we submit, with reference to the observations in Mr. Grant's letter, that the question of compensation does not depend upon the adoption or rejection of our recommendation. For, as we have already observed, there will be no deterioration of property which would not equally have place whether this law were passed or not.

If the alternative were, shall we take the power of parental correction from the master, or shall we leave it to him? then, indeed, before adopting the first branch of the alternative, it would be fit to consider, whether the power is of any substantial and ascertainable value. But that is not the alternative in the present conjuncture. The alternative is, shall we take the power of parental correction from the master by a legislative act, or shall we take it by judicial decisions?

"It must be sufficiently clear," says Mr. Grant's letter (para. 5th), "that the abhorrence of slavery entertained by the English functionary is gradually establishing an administration of the law under which all slavery must fall. It may be certain that with the lapse of time that abhorrence will only increase and be diffused, and that any inconsistencies now existing in legal practice must be before long removed in favour of the slave."

We pass by for the present the very questionable propriety of permitting the judicial functionaries to express and to act judicially upon their abhorrence of that which the legislature of the country not only admits to be the law, but actually refuses to repeal; and we remark only, that if any inconsistencies now existing in legal practice must be before long removed in favour of the slave, the same right to compensation appears to us to accrue to the masters whether that removal is affected by a repeal of the law, or by the abhorrence which the judicial functionaries feel for it. If there really is injustice in taking away the power of correction without paying for it, that injustice is not mitigated by the proposed mode of taking away the power. At best the injustice is only concealed by that mode of proceeding. Not only is it not mitigated by that mode of proceeding, but it is really aggravated. By a legislative repeal, fair notice would be given to all masters of slaves, that correction is forbidden and punishable. By the other course, many masters would be led to believe, that they might lawfully exercise the power, and would only be undeceived by finding themselves treated as criminals. Either, then, compensation is due though this Act should not pass, or compensation is not due though this Act should pass.

The second evil which belongs to slavery in India is the sale of free persons into slavery. It is true, that when adults sell themselves, or when parents sell their children with a sincere view to their advantage, this kind of transaction, though very alien from our manners, is, in the absence of any provision for the destitute, not without its utility. But there are many abuses connected with it, and some of the most frightful kind.

The first of these which we shall mention is, as far as we are informed, confined to the province of Behar; it is by no means the worst, but it illustrates very strongly that blind obedience paid in this country to custom, however strange and unreasonable. The first account which we have met with, of this peculiar slavery in Behar, is contained in a letter from the provincial council of Patna to Mr. Hastings, dated 4th August 1774.

Having stated that, on investigation, they found two kinds of slaves in the province, Mussulman and Hindoo, and that the former are properly called Moollazadah, and the latter Kahaar, the council describe as follows the manner in which the Kahar caste became slaves: "They date the rise of the custom of Kahar slavery from the first incursions of the Mahomedans, when the captives were distributed by the general among the officers of his army, to whose posterity they remained; all other slaves have become so by occasional

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purchase, as in cases of famine, &c. The kabalah must be signed by the mother or grandmother, and not by the father; children, also, born of slaves are the property of the owner of the woman, though married to a slave of a different family."

"The palankeen bearers in this province are all of this latter tribe, and belong to some person or other, though allowed to intermarry, labour for themselves, and act at their own discretion, the same as if no such nominal bondage subsisted."

The bondage, however, could not be called altogether nominal, for it appears to have always involved a liability to be sold into actual slavery.

"It seems," say the provincial council, "that on the sale of a slave who separately procures his own subsistence, only one half of the price is received by the owner, the other half going to the parents of the slave."

This state of things appears to have been the transition from complete slavery, in which the slave could, of course, be sold by nobody but his master, to that extraordinary condition in which the free Kahars and Dhanuks of Behar are described to be by one of our witnesses, Tek Loll.

"Of Hindoo slaves," he says, "there are two classes in Behar, the Kahar and the Dhanuk, which is called Juswar Kurmi; these are both inheritable and transferable by sale. By the local custom of Behar, free persons, whether infant or adult, of these two classes, may be sold by their maternal uncles or maternal grandmothers, not by their parents."

"No one would buy a free person of these classes unless the maternal grandmother or maternal uncle was present at the delivery, and consenting."

"The mother has a veto upon the sale, but not the father."

"The maternal grandmother has the prior right to sell; she being dead or permanently absent, then the maternal uncle."

"These sales take place not only in times of scarcity, but at all times."

"Bun-vickree is one kind of these sales, which takes place when the subject of the sale is absent from his family; the consent of the subject is quite immaterial, and is not asked. The price is lower when the sale is bun-vickree."

"If a person thus sold were to refuse compliance, the buyer would coerce him, and I should think the magistrate would support the buyer in doing so."

"I do not know any case of the kind of my own knowledge, but I have heard of such cases."

This strange custom appears, as we have said, to be peculiar to Behar. In other parts of India free persons are sold into slavery; but they are either children sold by those who have parental authority over them, or adults sold by themselves. Here adult free persons are sold, not only without their consent, but without their knowledge and in their absence; the price in that case being lower, because the buyer runs some risk of never finding the person he has bought.

Such a custom would be wholly inexplicable if we did not know that the persons thus sold, though practically free before the sale, do nevertheless belong to a slave stock, and have never been legally emancipated. We may suppose that in the transition state described by the provincial council of Patna, the master was glad to permit the relations of the slave to retain half of the price, upon condition that they would help to make the sale effectual, and that in process of time, those without whose help the sale could not be effectually made began to keep the whole price themselves.

The right to sell, if so it may be called, is supposed to reside only in persons to whom the slave is related by descent from females; this is doubtless with a view to ensure that the relationship is genuine. In some other parts of India the rules of inheritance are framed with the same sort of caution.

Dr. Buchanan does not mention this remarkable custom; he says only (vol. 1, p. 125), "By far the greater part (of slaves), as in Bhagalpur, are of the Rawani or Dhanuk tribes, but there are some Kurmis; such Kurmis, however, as have become slaves are usually called Dhanuks. Kurmis and Dhanuks, born free, occasionally give themselves up as slaves, when they fall into distress. All the Rawanis seem originally to have been slaves, although a good many, from circumstances above mentioned, may now be considered as free."

Another witness from Behar denied all knowledge of this custom when we put the question to him.

"The great majority of Kurmi are absolutely free; but as far as I know, a free Kahar does not exist, though many have left their masters and are practically free; but these, when claimed, never pretend to be gurua or unowned. They are sold by their owners, but never by any one else."

The answer of Mr. Morris, judge of Patna, to the questions of the law commissioners, as far as it relates to the present subject, is as follows:—

"I will first of all observe, generally, that nothing could have been more loose or uncertain than the practice in regard to rights claimed or exercised over slaves. I have never been able to trace the rules that were recognized or acted upon to any principles of law, whether Mahomedan or Hindoo. Local prescriptive usage, modified and limited by occasional edicts, issued by the civil authorities, to guard against particular abuses, seems to have been the only law to which either party, whether master or slave, looked up. In the usages which have thus become common and binding, certain principles of natural equity were more or less discernible. For instance, the right of disposing by sale of infant offspring,

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offspring, male or female, rested exclusively with the mother, or, failing her, with the maternal grandmother. The father, or other relations on his side, had no such right of disposal, nor is his consent even deemed indispensable to the validity of the sale. This custom applies mainly to two large castes, viz. the Kahars and a tribe of Kurmis, who, as a body, are all counted as slaves immemorially, though it may happen that some few here and there, being accidentally free, do sell their own children. In all other cases the children are the property of the parent's master. By degrees, the practice referred to seems to have become pretty general throughout Behar, *i. e.*, whether the parents are reputed free or otherwise, no sale of children appears to be recognized as valid to which the mother or her mother has not in some way been made a party; and even in cases of sale of slaves, the undoubted property of the person selling them, it is customary, in order to give greater validity to the sale, to procure the assent of the mother, or her attestation to the instrument of sale."

The particulars of this very singular custom will be found more fully stated in the part of our Report which gives the details of Bengal slavery.

The next abuse which springs out of the custom of selling free persons is that of kidnapping children for the purpose of selling them, and connected with this is the unheard-of atrocity of an established trade, which consists in murdering the parents and other persons in whose care children may be, with a view to kidnap the children, and to prevent their being reclaimed.

This monstrous practice has only been lately brought to light, and it is described in Major Sleeman's report, under the name of Megpunnaism. "There seems good ground to believe that the system began with the siege of Bhurtpore, in the year 1826. Parents had, no doubt, long before this been occasionally murdered for the sake of their young children, in that and in every other part of India where children are allowed to be bought and sold; but we have no reason to believe that there was, before that time, any gang in that or in any other part of India that followed this system of murdering indigent and helpless parents for the sake of their children, as an exclusive trade. We have reason to believe that it has not yet extended beyond the Upper Dooab, the Delhi territories, and the Rajpootana and Alwar states; and the able and successful exertions of Lieutenant Mills have given me reason to hope that we shall very soon, if well supported and assisted by the local authorities, be able to suppress the system where it has prevailed, and effectually prevent its spreading to other parts. It will be seen that these gangs always select for their victims the parents and grown-up children of distressed families who have been driven to emigration by famine or domestic misfortunes. Brinjarahs, who all over India trade in children that have been stolen from their parents, and prostitutes, who purchase those that are good, looking wherever they can get them, will give more for those whose parents are certified to be dead than for any others, because they have less apprehension of such children ever absconding in search of them, or being reclaimed by them. In seasons of great and general calamity, like those by which Upper India has been for some years past afflicted, great numbers of the most respectable families of all castes have been reduced to indigence, and obliged to emigrate; and the children of parents of this description, who have been taken great care of, and sheltered from the sun, and who are, in consequence, commonly very fair, are those most sought after by these murderers."

"In such seasons of calamity, the permission to purchase and sell children saves, no doubt, a great number from starvation; but as such seasons happily, even in India, return after long intervals, and as this permission is liable to foster such horrible crimes as are here exposed, it had perhaps better be withheld altogether. It is, I believe, understood where such purchases of children are permitted, that when they reach the age of maturity they shall be free to go where they please; but who shall say into what hands or into what country such children shall be transferred before that time comes? If Hindoos, they must become outcastes in their own religion; and in nine cases in ten they become, I believe, Mussulmans, in order to secure a recognition of civil and social rights in some circles of society above the very lowest. Lieutenant Mills, in his letter of the 15th October 1838, states, 'This system of murdering indigent parents for their children has been flourishing since the siege of Bhurtpore in 1826; and the cause of their confining their depredations to this class of people seems to have been the great demand they found for these children in all parts of the country, and the facility with which they inveigled their parents into their society. They were in the habit of disposing of the female children thus obtained for very large sums to respectable natives, or to the prostitutes of the different cities they visited, and they found this system more lucrative than that of murdering travellers in good circumstances, and less likely to be brought to the notice of the local authorities, as inquiries were seldom made after the victims by their surviving relations.'"

"These gangs, contrary to the customs of those whose proceedings are now so well known to us, invariably take their families with them on their expeditions; and the female members of the gangs are employed as inveiglers to win the confidence of the emigrant families they fall in with on the road. They introduce these families to the gang, and they are prevailed upon to accompany them to some place suitable for their designs upon them, where the parents are murdered by the men, while the women take care of the children. After throwing their bodies into the river, or otherwise disposing of them, the men return to their women in the camp; and when the children inquire after their parents, they are told that they have sold them to certain members of the gang, and departed. If they appear to doubt the truth of these assertions, they are deterred from further inquiries by a threat of instant death. They are allowed to associate freely with the families of the murderers, and

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in a few days their grief subsides, and they become reconciled to their fate. The female children are either adopted by members of the gang, or sent in charge of the women to be disposed of. They find a ready sale for them among the Brinjarahs, many of whom are connected with these gangs in their murderous trade, and all of them are well known in Upper India to traffic in children. These Brinjarahs resell the children to the prostitutes of the different cities, who soon become acquainted with the fate of their parents, and are much pleased to learn it, as it relieves them of all apprehension that they will ever come to reclaim them."

"The numerical strength of these Megpunna gangs, as far as I can yet learn, are between 300 and 400 persons over and above what I have already secured; and many of them have living with them the unhappy orphans of respectable parents whom they murdered. I fear, however, that the gangs will hereafter be found more numerous, though I have here given the names and descriptive rolls of all who are known to those whom I have as yet admitted as approvers. Indeed I am disposed to think that the greater part of the Hindoo Brinjarah tribes practise this system of murder; but I am not at present in possession of sufficient evidence to authorize the apprehension of any. The conviction of these gangs for specific acts of murder is attended with considerable difficulty, from their practice of throwing the bodies of their victims into the rivers, near which they are commonly murdered; and from the obstacles we find in tracing and recovering the children who have become inmates in the zenanas of respectable people, or the establishments of common prostitutes, who all consider themselves justified in the purchase of them.* They are so, I fear, from the existing regulations; at least the purchase has not hitherto been considered a crime, particularly during the late famine, when hundreds of children were bought and sold daily."

For the further illustration of this astonishing depravity, we quote some passages from the confessions given in Major Sleeman's report:

"The confession of Jewun Dass, *alias* Prem Dass, relative to the Husseeagunge affair, taken in my presence on the 19th August 1838:

"*Q.* Are you a jemadar of Thugs?—*A.* Yes.

"*Q.* How many men and women compose your gang?—*A.* My gang formerly consisted of 50 or 60 men and women, but of not more than 10 or 12 latterly.

"*Q.* Relate some of the technical terms used by your gang?—*A.* We call our trade, viz. murdering travellers for their children, 'megpunna;' a male traveller, 'kur;' a female traveller, 'kurree.'

"*Q.* Do you observe any omens on opening a megpunna expedition?—*A.* Yes; the call of the partridge, which, if heard on the left, is considered propitious, and on the right the contrary.

"*Q.* From whom did you learn this system of Thuggee, &c.?—*A.* From Umree Jemadarnee, a woman confined for life in the Delhi gaol.

"*Q.* Relate the particulars of the Husseeagunge affair?—*A.* I left my home with a gang of 40 Thugs, and proceeded to Husseeagunge, where Heera Dass and Rookmunee went to the city of Muttra for the purpose of buying some clothes, and succeeded in winning the confidence of four travellers, two men and two women, with their three children, whom they brought with them to our encampment; after passing two days with us, Teella Dass, Mudhoo Dass, Byragees, and Dewa Hookma, Teelake, Gungaram, Brinjarahs, Balluck Dass, Chutter Dass, Neput Dass and Hunooman Dass, prevailed on this family to accompany them to the banks of the Jumna, and murdered the four elderly travellers in a garden near the village of Gokool; after throwing their bodies into the Jumna, they took their three children to the tanda, or encampment, of Dewa Brinjarah, near the village of Kheir, and sold the two female children for 40 rupees, and the male for five rupees; on their return to the encampment of the gang, Heera Dass, *alias* Pudma, and Mudhoo Dass, quarrelled about the division of the money, which terminated in Hookuma Brinjarah preferring a complaint of selling children against Mudhoo Dass at the thana of Husseeagunge. The thanadar made inquiries regarding the sale of the children, and succeeded in recovering them from Dewa Brinjarah, who related at the Thana the particulars of the murder of their parents, and the circumstance of their having been taken by a party of Byragee Thugs to the village of Khar, and sold to the Brinjarah, upon which the thanadar apprehended 29 of us."

From the deposition of Radha, wife of Roopla:

"We now went off to Thuneiseir, where we encamped in a grove on the bank of a tank, and here several parties of travellers were inveigled by the wives of the leaders of our gangs to come and take up their lodgings with us.

"1. A Chumar, with three daughters; one 30 years of age, and the others young.

"2. The widow of a carpenter, and her son, 10 years of age.

"3. A Brahmin and his wife, with one beautiful daughter 14 years old, another five, and a son six years of age.

"4. A Brahmin and his wife, with one daughter about 14, another 12, and a son three years of age.

"These travellers lodged for two or three days among the tents of the Naeks and Brinjarahs, after which we all went one morning to a village in the territory of the Toorooee rajah; I forget

* "When the children are found, they are often too young to be admitted as competent evidences at the trial."

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forget his name. Here very heavy rain fell at night, and deluged the country, and we got no rest. The next morning we went to a village on the bank of the canal, still in the same rajah's country. The next day we went to a village on the bank of the Jumna; and two hours after night, Kaner Dass proposed that we should go down to the sacred stream of the Jumna, say our prayers, and remain there. They all went down accordingly, leaving me, Roopla and his second wife (Rookmunee) at the village. They murdered the seven men and women, and threw their bodies into the river; but who killed them, or how they were killed, I know not. The Chumar and his eldest daughter, the two Brahmins and their wives, and the carpenter's widow, were all murdered.

"They brought the nine children back to us a watch and a half before day-light. They were all crying a good deal after their parents; and we quieted them the best way we could with sweetmeats and playthings. We came to Beebeepore, and encamped in the grove. A daughter and son of the Brahmin's were extremely beautiful, and these we left with Dhyan Sing for sale. We came on to a village a coss distant from Beebeepore. Here a trooper came up to Beebeepore, saying that he had heard of several people being murdered, and suspected us of the crime. The head men of the village of Beebeepore and some of the Brinjarahs came to our camp with the trooper, and assured him that he must be mistaken, as they knew us all to be very honest, inoffensive people, and taking him back to Beebeepore they treated him with great consideration, and he went away apparently satisfied. But fearing that our deeds had become known, Pemla and Newla's wives and Pemla's mother took off the seven other children to Dhyan Sing, and left them all in his charge. Pemla went to Kurnaul, and Goorbuksh and his gang went to Beebeepore, while my husband and his party remained where we were. A woman who keeps prostitutes came from Kurnaul, and purchased and took away all the children. All were sold through Dhyan Sing. One boy was purchased by an elephant driver, who took him off upon his elephant, and another was purchased by a Mussulman. All the rest were taken off in covered carriages by the prostitute to Kurnaul. I should know all their faces again were I to see them. My husband and Kaner Dass disputed a good deal about the mare that has been brought in; but my husband got it at last in his share of the booty, and seven or eight rupees besides.

"At Thuneiseir, Goorbuksh and his party got six or seven travellers, with their six or seven children, at the same time that we got ours; and the parents were all murdered at the same time and place that the parents of our children were murdered, on the bank of the Jumna. He also sold his children through Dhyan Sing at Beebeepore. There were several people from Beebeepore concerned with us. We came back to Beyree in the Jhujjur nawab's territory, and three or four days after Goorbuksh came to us with one of the boys he had kept for himself out of his booty."*

The confession of Roopla Jemadar, relative to the sale of the children whose parents were murdered near Kurnaul:

"Three of the children whose parents were murdered at Kurnaul were sold to Emambuksh, who keeps prostitutes, and lives at a village about four coss from Kurnaul.

"*Q.* Describe the personal appearance of these three children?—*A.* One of them is about nine years old, remarkably fair, with very light hair, and the other two not quite so fair, about six or seven years of age.

"Thanah, zemindar of the village of Beebeepore, takes five per cent. on every child he disposes of for us.

(signed) "*C. Mills.*"

"Lieutenant Mills had the following conversation with one of the two men, who described this last murder, Dheera:

"*Q.* You have stated in your various depositions that you invariably preserve the children and sell them. Are you not afraid that these children will disclose the manner in which you got them, and thereby get you into trouble?—*A.* We invariably murder our victims at night, first taking the precaution to put the children to sleep, and in the morning we tell them that we have purchased them from their parents, who have gone off and left them.

"*Q.* You seem to have been in the habit of selling children in all parts of the country; how have you avoided being apprehended?—*A.* The children are seldom aware of the fate of their parents; and in general we sell them to people very well acquainted with the nature of our proceedings."

From the first confession of Khema, *alias* Nursing Dass, a jemadar of Thugs:

"After the capture of Bhurtpore, Nanoo Sing Brinjarah, and four other Byragees, residents of Kurroulee, came to me with four travellers and their four children, and invited me to participate in their murder, which I consented to, and with the assistance of my gang we strangled the whole of them, preserving the lives of the children, whom we sold at Jeipore for 120 rupees, half of which was divided among the members of my gang. After this affair, I resolved on selecting for my victims the poorest class of travellers and murdering them for their children, for whom there was so great a demand in all the great cities; since which I have committed the following murders, the particulars of which I will detail as I may remember."

From

* "This poor boy Goorbuksh is supposed to have murdered when he found it impossible any longer to escape from Lieutenant Mills's parties."

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From the sixteenth confession of Hurree Singh, *alias* Seetal Dass, *alias* Sewram:

"After my return from the last expedition, or ten days previous to my arrest, I went to Allum Bagh in the Bhurtpore district, and was disappointed in finding only five Brinjarahs, one of whom gave me a rupee for my food, which was to be adjusted the first murder we committed."

There is an abuse of the practice of selling children into slavery, which consists in selling them for prostitution. This abuse does not appear to be confined to those who practise the frightful trade of megpunnaism; of course, however, such persons are far more indifferent to the future destiny of the unfortunate children whom they sell, than parents or other relations who sell children when pressed by want, and it is therefore probable that a much larger proportion of children sold by Megpunna Thugs is devoted to prostitution, than of children sold by any other class.

In Mr. Secretary Grant's letter of the 27th May last (No. 223), he says, "The opinion and suggestions of the Indian law commissioners are requested on this subject in a separate report, as it appears to the President in Council to be a question which, supposing it to require legislation, might be conveniently legislated upon without reference to the question to which my separate letter of this day relates."

Without disputing that separate legislation might take place without inconvenience upon the subject of selling children for prostitution, supposing it to require legislation, we nevertheless foresaw that the measures which we should have to recommend for the prevention in general of abusive sales of children, would be of such a nature as to prevent the sale of children for prostitution, as far as that can be accomplished by legislation. Foreseeing this, we suggested in our letter which acknowledged the receipt of Mr. Grant's, that it would be most convenient and satisfactory to include our answer on this subject in our general report upon slavery.

The prohibitory part of our recommendations is in conformity, it will be seen, with those which Major Sleeman has made upon the same subject. But in the permissive part we have ventured to go beyond what he thinks expedient. He dreads the consequences of allowing contracts for the services of infants terminating at the age of maturity. "Who shall say," he asks, "into what hands or into what country such children shall be transferred before that time comes?"

This is undoubtedly an evil to be guarded against, but we think that the system of registration which we recommend may be so organized as to accomplish that purpose. We have the high authority of Major Sleeman himself for asserting, that in "seasons of calamity the permission to purchase and sell children saves, no doubt, a great number from starvation." We could not, therefore, make up our minds to take away altogether this resource from the starving poor, unless we were prepared to suggest some other. But we are afraid that it would not be possible in this country to set up any tolerably safe and economical machinery for the distribution of public charity. We therefore propose to permit these apprenticeships.

The third evil which springs out of slavery in India, and which is, indeed, necessarily incident to absolute slavery in all countries where the *status* exists, is the separation of the members of a family by the sale of part, or by the sale of the whole when they are not all sold to the same master; and also the removal of slaves from places to which they are attached, or to places which they dislike. This last is indeed already confined within certain limits by Regulation III. of 1832 of the Bengal code, which prohibits the removal of slaves from one province of that presidency to another for the purposes of traffic. But such a case as that of a slave bought in Bengal and carried up to Delhi, for the purpose of there performing service, would not be within the regulation, and yet such a transaction might cause extreme suffering to the slave. And so, indeed, might a sale by a master residing at one extremity of a province to a master residing at the other, which, upon a different ground, would not be within the regulation. We prefer, therefore, to declare invalid every sale of a slave without his own consent, or, in the case of a minor, without that of his parent or natural guardian.

Our evidence shows, that sales which are oppressive to the slave are already considered disreputable. The effect of this measure will therefore be no more than the conversion into a legal obligation of a moral obligation, which has no peculiarity that unfits it to receive the sanction of positive law.

We prefer this to the absolute prohibition of the sale of slaves, because in many cases it may be indifferent or agreeable to a slave to change his master. A slave who can be sold with his own consent, and not without it, approaches more nearly to a freeman than one who cannot change his master, however much he may desire it.

There is another evil connected with slavery as it exists in Backergunge, Tipperah, Dacca Jelalpore, Mymeusingh, Sylhet, Rajshahye, Purneah, Sarun, and parts of Tirhoot, which we must not omit in this enumeration, although we have no specific remedy to propose for its correction,—we mean the custom of marrying female slaves to a person called a "Byakara." Marriage to such a person is called "punwah shadee."

The Byakara, who is generally, but not always, a slave, is the husband of many female slaves, whom he visits in turn, once a month, or once in two months. At each of his marriages he receives a present of four or five rupees from the master of the female, and at each visit to any of his wives he receives food and a small gratuity. Whatever he receives is to his own use, though he be a slave.

The object of this arrangement, according to Mr. Mytton, the magistrate of Sylhet, is, that the slave girl may remain in her master's house, and that all her children may belong to him.

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The same reason for the arrangement is assigned by one of our native witnesses, Brijnáth Das Vydia; and he adds, what shows still more clearly that it is the master's interest, when he has a female slave and no male slave who is a fit match for her, to marry her to a Byakara.

"When two slaves* belonging to different masters intermarry," says this witness, "if there is no special stipulation, the owner of the female loses all his rights, and the children, of course, belong to the owner of the male. He, however, receives no consideration for giving up these, for, in an affair of marriage, who takes a price?"

Unless, therefore, the master of a female slave marries her to a Byakara, or to a slave of his own, he loses her and her offspring; and, moreover, he cannot, without the imputation of meanness, receive money for the property he thus parts with. This last circumstance seems also to show, that the feeling of the master towards his slaves resembles rather that with which he regards his children, than that with which he regards his horses or bullocks.

Two of the judicial authorities seem, from their answers to the questions of the law commission, to look upon this kind of marriage in a somewhat different light, and to regard it as a cloak thrown, for the sake of decorum, over an intrigue between the master and his female slave.

Mr. Cheap, judge of Mymensingh, says, in describing this kind of marriage, "It appears to be confined much to this part of India, and, from the pundit's bewusta would appear not to be authorized by the Shasters, but as the sanction of custom, on which, I believe, all Hindoo law officers place almost equal dependence."

He then describes it as "the marrying of female slaves to a person who makes it his occupation to go about and offer himself as a husband for any slave. This is called a 'punwah shadee.' The bridegroom receives a few rupees, sometimes only two, and a cloth. He stays a night after the ceremony is performed, and then departs; and is generally called upon to visit his wife after she has been confined. This nominal marriage (for of its consummation some doubts may be entertained) removes any stigma or reflection that might arise from a female slave being *enceinte*. But as her being so again would, without another visit from her avowed husband, lead to suspicion or scandal, he is again called in, as I have above stated, after her delivery."

"Of the offspring of such marriages, the putative father (who is a freeman) may, I believe, claim every alternate child, but it is not often, I believe, that he avails himself of this privilege; for if he did, and his wives were prolific, he would find it difficult to provide for his numerous family, and paternal feelings cannot have much to do with the matter. He is, in fact, much the same as a Koolin Brahmin, and may form as many marriages, with this difference, that the latter confers an honour on the family where he makes an espousal; and the punwah battur saves the reputation of a slave who may become pregnant in the household, perhaps, of that very Koolin's wife's family, or any other wealthy Hindoo's."

Mr. Stainforth, magistrate of Backergunge, after mentioning other marriages of slave girls, adds, "Lastly, they are married to Byakaras, professional bridegrooms, who, receiving three or four rupees, marry scores, cohabit with them for a short time, and quit after the fashion of the Koolin Brahmins."

"If the slave becomes pregnant when it could not have been by the Byakara, he is sought for, and induced by a present to come and cohabit with her for a short time, to divert suspicion of the paternity from resting on the master. If the Byakara cannot be found, abortion is resorted to, or the woman is turned out."

It is to be observed, however, that Mr. Stainforth says, "The profession of a Byakara obtains among the Mussulmans, the birth of a bastard child in whose house is not necessarily discreditable."

The probability seems to be, that the punwah shadee was invented for the purpose of keeping female slaves and their offspring in the possession of the master; but that being capable of serving as a cloak to the master's licentiousness, it is occasionally put to that use. And this view of the subject is confirmed by the evidence of Kashinâh Khan, who says, "Sometimes this kind of marriage is intended only as a screen to conceal the intimacy of the master with his female slave."

We have already stated that we have no specific measure to propose on this subject. The Hindoo law permits unlimited polygamy, and it would probably not be prudent to meddle with that institution. But the fact that slavery aggravates, as in this case, the mischiefs of polygamy,† is an additional reason why the termination of slavery should be desired, and, if possible, hastened.

The next mischiefs to be considered are those of importation and exportation.

With regard to importation by sea, the only measures we have to recommend are two, which are required for rendering effectual in India the statute 5th Geo. 4, cap. 113, viz. that vice-admiralty commissions should be sent to all the supreme courts, and that power to seize for breach of the provisions of the Act should be given to the officers of the East India Company.

Importation

* We must of course understand the witness to mean the case where the male slave is not a Byakara. Indeed, according to his evidence, the Byakara is generally a freeman.

† The great honour which a Koolin Brahmin confers upon the families with which he intermarries has given rise to a custom among that class analogous to that of the punwah shadee, but productive probably of much greater evils.

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Importation by land, when the act is not accompanied with circumstances which will bring it within any of the penal or prohibitory recommendations which we suggest for the prevention of oppression, can hardly be looked upon as an evil. A slave brought over our frontier from a country where his master has, *de facto*, power of life and limb over him, into our dominions, where he is entitled to redress from the courts if his master strikes him, is certainly not injured by the change. We do not, therefore, propose to prohibit such importation. On the contrary, it is rather matter of regret that our other measures must tend to operate as a prohibition.

We do not know whether it was designedly or unintentionally, that while importation of slaves by land, and removal of them from one province to another, are prohibited by the Bengal code, no provision has been made against exportation of slaves by land, which nevertheless seems much more likely to be productive of hardship to the slave. The Madras code* has no provisions at all on the subject of importation and exportation. The slaves in that presidency have only the protection of the British statutes, which are understood to provide only against importation and exportation by sea. The Bombay code prohibits the exportation of slaves by land for the purpose of sale.

We recommend that the exportation of slaves by land against their will be generally prohibited.

There is a class of cases in which masters residing in foreign states have sought to bring back to their own country slaves who have taken refuge in our territories, and in which foreigners visiting our territories, accompanied by their slaves, have sought to recover them when they have absconded, with the view of removing them from our territories. This kind of transaction does not properly fall within the description of exportation, and a special provision seems to be necessary.

The following details will show, that this class of cases has hitherto been dealt with only by the executive government, and that some legislative provision is desirable:—

On the 13th April 1836, Mr. Hodgson, the resident at Nepaul, wrote to Mr. Wilkinson, the magistrate of Tirhoot, as follows: "At the request of the durbar, I have the honour to forward to you a list of fugitive slaves belonging to a chief of this kingdom, who have taken up their abode in your zillah, and whom it is desired you will have the goodness to use your endeavours to cause the return of to their master, so far as your doing so may consist with law and propriety."

On the 17th of the same month, Mr. Hodgson again addressed Mr. Wilkinson thus: "With reference to my despatch to your address of the 13th instant, with its enclosure, I request you will be good enough to limit your services for the present to the ascertainment of the facts, whether the slaves are now forthcoming at the place stated, as well as under what circumstances they fled from Nepaul, and if it is their disposition to return voluntarily to their master, provided he be first pledged not to maltreat them."

"Though it has been heretofore customary to solicit and obtain the aid of our magistrates to procure the return of fugitive slaves, I am not sure that such compliance with the durbar's wishes be warrantable, and I have accordingly referred the question to the decision of government."

The answer of government to this reference is contained in a letter from Mr. Secretary Macnaghten, dated the 22d May.† "In reply," he says, "I am desired to acquaint you, that the Governor-general in Council prefers the tenor of your second to that of your first communication to the address of Mr. Wilkinson, it being the object of the British Government to effect the gradual suppression of slavery, and manifest its aversion, instead of lending its support, to the practice, on all possible occasions."

On the 14th May, Mr. Hodgson again wrote to Mr. Wilkinson, informing him of the disinclination of government to the surrender of the slaves. "I request, therefore," he says, "you will be pleased to relieve them from the surveillance of your police, and to let them know that they are at liberty to continue in your district without liability to future question or interference of any sort."

On the 6th June, Mr. Secretary Macnaghten informed Mr. Hodgson, that the Governor-general in Council had been pleased to approve the tenor of his communication to Mr. Wilkinson.

The doctrine thus sanctioned by the supreme government was confirmed by the opinion it expressed in another case which occurred in the course of the same year, though the facts of this latter case turned out not to be such as to call for the expression of that opinion.

The case was as follows: A Khamptee chief, named the Towa Gohain, complained to Lieutenant Miller that his female slave had absconded, and had taken refuge with one of Lieutenant Miller's Chuprassees. Upon this, Major White, political agent in Upper Assam, instructed Lieutenant Miller, that if he was satisfied that the woman was a slave, and that she had not suffered from any gross maltreatment, compatibly with the usage of the British courts in Lower Assam, he was bound to give her up.

The government seems to have supposed, from the entry of these proceedings in Major White's diary, that the requisition for the delivery of the slave girl had been made by authority from the rajah Poorunder Singh, and Mr. Secretary Macnaghten wrote to Major White on the 1st August 1836, requesting him to state under what circumstances, and upon what principle, the surrender could be deemed justifiable. "There appears," Mr. Macnaghten adds,

* *Vide ante*, p. 158, *et seq.*

† Probably this should be the 2d May.

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adds, "to be no provision in the treaty with Poorunder Singh which would authorize such a requisition, and nothing short of a positive obligation would appear sufficient to warrant an interference to compel the return of any individual to a state of slavery."

Major White's reply, dated 27th August, explains, that "the order in question was given with reference to a Khamptee chief named the Towa Gohain, who stands in quite a different relation to the British Government from that of Poorunder Singh, a feudatory rajah, possessing the power of life and death, inasmuch as that the British Government, although it allows the Khamptee chiefs to manage the internal affairs of their tribes, yet reserves to the political agent or commanding officer at Suddeya, the cognizance of heinous offences, and the investigation of complaints preferred against the chiefs themselves: under these circumstances, the law with regard to slaves has been the same as that observed in Lower Assam subject to direct British rule."

Major White then points out, that according to the practice of the courts in Lower Assam, this slave ought to be given up. He concludes his letter thus: "As regards Poorunder Singh, I have no recollection that he ever made any requisition to me for the surrender of slaves; but it would be satisfactory to obtain a rule of conduct for my guidance in regard to him, the singphoes, and other chiefs, as if they see that slaves are given up in the Company's territory, they may conceive it inequitable that persons proved to be such before a British magistrate, and who have not absconded from ill-treatment, should not be surrendered, more particularly females, who generally run away to British sepoys and others, because their high pay enables them to spend more money upon them than the Assamese can afford."

To this letter Mr. Secretary Macnaghten rejoined on the 12th September: "I am directed to state," he says, "that it is the wish of the Governor-general in Council, that all functionaries should consider it as a general rule, to refrain from any summary interference for compelling the return to a state of slavery of individuals who may have effected their escape from it; every individual must be presumed to be in a state of freedom until the contrary is proved; and where rights are claimed affecting his freedom, there seems to be no reason why the claimants should have greater facilities afforded to them than in ordinary cases; as the law now stands, it may not be proper to reject a regular suit, instituted to prove the right of one individual over the labour or person of another, but the plaintiff should at least be required to fulfil completely all the conditions which the law requires in the establishment of his claim."

This, it will be seen, is only an instruction as to the manner of dealing with claims made to slaves by persons living under British dominion, and does not touch the question how a claim made by a foreigner to carry his alleged slaves out of the Company's territories is to be treated. But the expressions we have quoted from Mr. Macnaghten's letter of the 1st August show clearly, that the supreme government was prepared to adhere to the principle on which it had acted in the case of the Nepaul chief, if the question of restoring slaves to masters residing in independent territories had really been involved.

This principle appears to us to be a sound one. We think that it would be inconsistent with the justice and humanity which characterize the British Government to interfere for the purpose of sending slaves out of our own dominions. We suffer our civil courts to decree that a slave must return to his slavery within our own dominions. But then the slavery to which we so permit him to be condemned is a condition in which he is protected from violence by the superintendence of our courts. A runaway slave, restored to a Hindoo or Mussulman master, beyond the jurisdiction of our courts, might be cruelly beaten or mutilated, or even put to death.

That the principle thus adopted by the supreme government needs promulgation, seems clear from the embarrassment in which the government of Bombay found itself in three cases which occurred in the course of the years 1837 and 1838.

On the 31st December 1837, Mr. James Erskine, political agent in Katteewar, wrote to Mr. Secretary Willoughby thus: "I have the honour to solicit the instructions of the Right honourable the Governor in Council, in the case of an African slave, who having escaped from his master, a Scindian of Wagar, has sought my protection, but is now claimed by his owner."

"Annexed is the deposition of the poor unfortunate, as also an account of the condition in which he presented himself at Rajcote when he first came in. His owner demands his restoration, or, if that is not permitted, the price which he paid for him. Considering that the lad was not imported by him, but purchased from another Scindian, who was not the importer also, I believe government will decide on obtaining his freedom by the payment of the purchase-money. For this reason I have retained the slave under my protection, and informed his owner that the orders of government have been applied for in the matter."

Upon this communication Sir Robert Grant minuted, on the 26th January, as follows:—

"I think the owner of this unfortunate youth should, as a special case, be paid by government the price for which he was purchased. But before sanctioning this, Mr. Erskine, without informing the owner of our intentions, should ascertain from him what was the amount of the purchase."

Inquiry was accordingly made, and the value of the slave having been ascertained to be Rs. 65. 15. 5., the political agent in Katteewar was authorized to pay that sum to the owner, and to set the slave at liberty.

The next case gave rise to more discussion.

The circumstances of it are thus related by Mr. James Sutherland, political commissioner

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sioner and resident at Baroda, in a letter dated 2d April 1838, addressed to Mr. Secretary Willoughby:

"A person at Baroda went to Poonah accompanied by a male slave belonging to his father. This slave left him without permission, and would not return. After every proper endeavour had been used on the spot, the father applied to me to afford him assistance. In consequence, I addressed a letter to the superintendent of bazars at Poonah, requesting his aid to obtain restoration, but without any proper effect, as will be seen from his reply, which I submit with this letter. In his reply he asserts that no power is vested in him by which he can in any way interfere."

Further on, Mr. Sutherland says, "On the introduction of our rule, we found slavery to exist sanctioned by the laws of the country, and in India there has been no legislative enactment doing away with slavery, or making any distinction in the relative position in which master and slave stand to each other. In fact, the property of the owner in a slave is as much respected by the constitution at this present time as it ever was;" and he concludes his letter thus: "Mr. Salmon (the superintendent of bazars at Poonah) is not singular in the opinion he has given, for many have erroneously acted upon the same principle, emanating, I believe, from emancipation of slaves elsewhere by the British Parliament, but which does not extend to domestic slavery in India; and as judicial and magisterial officers are bound to administer the laws, they should regard those only which are prescribed for their guidance."

Upon this communication Sir Robert Grant minuted at some length; and it is to be observed, that throughout his minute he expresses no doubt of the right of the master to reclaim a slave though living in a foreign country. After showing good reasons against complying with Mr. Sutherland's requisition, he proceeds thus: "On a recent occasion, when the daughter of the guicowar* preferred a claim nearly similar to the present, I was willing to evade the difficulty by redeeming the two slaves demanded. Her rank seemed to me to render that course convenient, as it was both advisable and practicable. But it is plainly a course to be followed only under special circumstances. In this instance we must face the difficulty, and, as at present advised, I should be apt to say that the claimant, if desirous of recovering his slave, must proceed either as an inhabitant of Poonah would have to proceed in a like case, or, if he chooses to remain at Baroda, as any other person residing out of the British jurisdiction must proceed for the recovery of any other property. How far it is open to him to appear before the magistrate by attorney, or what are the precise steps he should take, I am quite unable to say; but I do not think that in the form in which the demand comes to us, it can be complied with. I quite agree with Mr. Sutherland that justice should be done, but what is asked could not, I think, be granted without injustice to another party."

"After all, however, I mean here to state doubts rather than opinions, and I beg the advice of my colleagues. Mr. Anderson's knowledge and experience peculiarly qualify him to speak on the subject; and I shall feel greatly obliged by his giving it attention. I am told that several instances have occurred of a compliance with requisitions like the present; but I should not be apt to follow such examples, unless they can be supported by better reasons than I have been able to imagine. Precedent cannot sanctify injustice; and without making any parade of anti-servile principles, or wishing to apply them to cases to which they do not belong, I certainly think that we ought to be cautious of acting on light grounds or loose authority in any matter affecting the personal liberty of mankind."

On the 23d April 1838, Mr. Anderson thus expressed himself: "However right Mr. Sutherland's opinion may be upon the general question of slavery in this country, he was clearly wrong in conceiving that he had authority, as resident at Baroda, to require a magistrate at Poonah to apprehend or give up a slave claimed by an individual at Baroda; his experience will, I think, have furnished him with no precedent for this."

"But the question is even more doubtful than this; it is doubtful if the magistrate, on the application of the owner himself, could compel the slave to return."

"I say it is doubtful, because upon no question have the authorities in India given more opposite opinions than on this—the duties required of magistrates in respect to slaves; I state this from the documents I saw when in the law commission."

"The subject was amply discussed, and we had laid before us the written opinions of every authority in India, except, by the way, the Sudder Adawlut of Bombay. The note of the law commission on the chapter of exceptions, page 22, fully shows the result."

He then adverts to the silence of the Bombay code on the subject, and continues thus: "The law our authorities administer thus leaves the subject undefined, untouched; hence the magistrates act upon their discretion; hence the diversity of opinion that is found to prevail."

"There is no difficulty in showing Mr. Sutherland the great uncertainty of the law; there is no difficulty in showing him that he had not the power to require the magistrate to apprehend the slave; but there is difficulty in telling the master that if he wishes the magistrate to interfere he must proceed to Poonah, and yet that it is uncertain if the magistrate will interfere when he gets there; it may be difficult, but I declare that I know no other course."

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* The case here alluded to is one of the three we are setting forth. We have placed it last because the last discussions upon it by the Bombay government were later than the discussion upon the present case.

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The uncertainty here alluded to by Mr. Anderson relates to the more general question, whether a magistrate would interfere to restore a slave to his master; not to the more particular question, whether a magistrate would interfere to restore a slave to his slavery in a foreign country. This latter question, indeed, seems to be one which could not properly arise upon a regular application to a magistrate by the party or his attorney. Upon such an application, we presume that the magistrate, if he thought himself competent generally to adjudge a slave to his master, would not inquire (at least for the purpose of deciding the question before him) what the master proposed to do with his slave; and if he did make the inquiry, in order to prevent an illegal exportation of a slave, he would endeavour to prevent that exportation, we presume, not by refusing to restore the slave to his master (always supposing that he would be bound under other circumstances to do so), but by taking security from the master not to export the slave.

The case terminated by Mr. Sutherland being informed what the views of government were, and that it was left to his discretion to communicate so much of them to the party concerned as he might deem expedient, "intimating to him, at the same time, that he possessed no method of recovering his alleged slave but by regularly proving his claim before the local magistrate."

The last of the three cases arose out of a visit of the guicowar's daughter to Poonah. The facts are thus shortly stated by the guicowar himself, in a reclamation made by him to the resident at Baroda: "My daughter, Eshada Baee Ghoorporee, on her return from Poonah to Baroda, remained for a short time at Nassick; there two female slaves of hers, named Dhoondee and Parvattee, ran away from her service; these two were, in the presence of Mahadar Rao Sheraboode, given over to the Company's officer at Nassick."

It appears from the statement of the slaves themselves, that Dhoondee accompanied the princess from Baroda to Poonah, whereas Parvattee was an inhabitant of Poonah, where she entered the service of the princess, and had never been in Guzerat. Both the slaves stated that they left the princess's service in consequence of ill-treatment.

The guicowar applied to the resident at Baroda, and the resident to the Bombay government, for an order to the magistrate of Nassick to deliver up the slaves.

The resident urged the same sort of arguments, and adverted also to the rank of the claimant.

Sir Robert Grant minuted on this application on the 8th April 1838. After remarking on the difficulty of such cases, he says, "Slavery, however, is not unlawful here, nor do I find that the regulations forbid the export of slaves, except for the purpose of sale or prostitution; therefore I am not aware that the guicowar calls on us to do any thing illegal, or any thing so palpably *contra bonos mores* as to be for that reason out of the question."

"The slaves, however, plead ill-treatment as the cause of their having deserted their mistress. In an ordinary case, I think this would impose on us the duty, and confer on us the right, of inquiring into the truth of such plea, and to remit the demand if the plea were established; but the high rank of the mistress seems to me to preclude our taking that course; and, under all the circumstances, I am inclined to say that we should redeem these slaves."

Mr. Anderson, in his minute of the 17th April, asks, "Is there an obligation to give up the slaves? If such obligation exists, it must be complied with. I do not see how it is met or got over by redeeming the slaves. If there is not an obligation, then I conceive we must leave them alone to do as they please."

This opinion of Mr. Anderson appears to be quite in accordance with that which was sanctioned by the supreme government in the case of the Nepaul chief.

In a later minute, of the 3d May, Mr. Anderson, after referring to his minute in the preceding case from Baroda, concludes by suggesting, that as the question was a political one, and of some general importance, a reference should be made to the supreme government.

This suggestion was adopted, and the question was referred to the supreme government in a letter from Mr. Secretary Reid, in which, after advertence to the facts, the object of the reference is thus stated:—

"The Governor in Council is therefore desirous of being informed how such a case would be dealt with by the magistrate under the Bengal presidency, on a similar demand by any foreign prince with whom the British Government is in alliance, and to be favoured with the sentiments of the Right honourable the Governor-general of India as to the course which this government should follow in the present instance."

The Government of India called upon the Sudder Dewanny Adawlut of Bengal to state what is the practice of the courts under their control in regard to cases of a similar description.

The reply from the registrar of the court states, "that in ordinary cases the jurisdiction in matters regarding the property in slaves rests with the civil courts, and that a magistrate would not be justified in interfering in order to compel their return to persons claiming them. In the case under consideration, the court are of opinion, that a magistrate should have acted precisely as the magistrate of Nassick had done; that is, refuse to deliver up the slaves, and refer the question for the decision of government."

The court then allude to what was done in a former case which occurred in the Bengal presidency in the year 1810, and quote from the correspondence which took place in that case matter so important, that we thought it right to obtain from government the papers on record relating to it; and we shall presently have occasion to call attention to the contents of those papers.

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It thus appears to be laid down, that a magistrate cannot restore to their master slaves who have escaped from a foreign country, nor slaves who have escaped from a foreign master who has brought them into our dominions. This, indeed, is contained in the more general proposition which, as we have seen, is maintained by the Government of India and by the Sudder Dewanny Adawlut of Bengal, that a magistrate cannot restore any slaves to their master. It seems, however, to be the duty of the magistrate to report to government whenever a claim is made to slaves who have taken refuge from a foreign country. And this appears to be expedient, inasmuch as such cases, particularly where the claimant is of exalted rank, may involve political considerations. It may further be collected, that government will not cause such refugee slaves to be restored. But what does not appear from these cases is, the course which a civil court would be bound to pursue upon such a claim being made before it.

It is true that in the case of the Nepaul chief, the slaves were told, with the approbation of the supreme government, that they were at liberty to continue in the district in which they had taken refuge, without liability to future question or interference of any sort. But if this freedom from liability means, as the generality of the terms seems to import, that the slaves were not liable to be claimed in a civil court as the property of their master, by a regular suit, then we apprehend that, to give complete effect to the benevolent intentions of government, a new enactment is required. There is no law which says that a foreigner shall not recover possession of his slaves in a civil suit. Perhaps if it were illegal to carry slaves over our frontier into the territories of a native power, as we now propose to make it, a civil court, when it had reason to suppose that such exportation would be the result of a decree in favour of the master, would be justified in requiring security that the slaves should not be carried out of the country. Even that, however, is doubtful, for such a transaction could hardly be considered as falling within any general prohibition of exportation.

We have already stated that our attention was attracted to a case which occurred in 1810, by a quotation made by the Sudder Dewanny Adawlut from the papers connected with it. From that case, it appears that the government of that day felt the same humane reluctance to allow slaves who had taken refuge in our territories to be deprived of that asylum against oppression. But they thought that a new law was necessary for the purpose, and contemplated the enactment of one. Why that design was not executed, we are not informed.

The circumstances of the case were as follows: In March 1810, Dusrut Tuppa, a subject of Nepaul, made a claim before Mr. Dumbleton, magistrate of Goruckpore, to six slaves who had absconded from him and taken refuge in zillah Goruckpore. It is worthy of remark that his demand was, either that the slaves should be restored to him, or their value given in money. The magistrate heard the case, and sent the proceedings to the Sudder court. The court forwarded them to the government. "As the issue of this suit" (meaning a suit in a civil court), says the letter of their registrar, "may involve the delivering up of six persons, the subjects of a foreign state, who have sought an asylum in the British territory, and as the Governor-general in Council may possibly deem it expedient to satisfy the claim of the plaintiff for the value of the slaves rather than allow them to be surrendered, the court submit the case for the information of government."

The government authorized the payment of the value, 226 rupees. But Mr. Secretary Dowdeswell, in communicating this to the registrar of the court, observes, "At the same time it appears necessary to government to guard against the recurrence of demands of this nature."

"Whatever reason may exist for maintaining the existing laws respecting domestic slavery among the two great classes of the native subjects of this country, the Mahomedans and Hindoos, the Governor-general in Council is not aware of any principle of justice or policy which requires us to render our courts of judicature the instruments for compelling persons who may seek an asylum in the British territories to return in bondage to the countries from which they may have emigrated. Unqualified as the Hindoo and Mahomedan laws respecting domestic slavery at present are, his Lordship in Council concludes that a regulation will be necessary in order to establish the modification of it above noticed in the practice of our courts of judicature. The Governor-general in Council accordingly requests that the Nizamut Adawlut will prepare for his consideration the draft of a regulation framed on the principle above described."

There is some difficulty in devising a provision which shall give protection to slaves under such circumstances as those mentioned in the cases we have detailed, and which shall not at the same time make an invidious distinction between foreigners suing in our civil courts and our own subjects. We think it would not be reasonable to enact, that a person domiciled in Nepaul or Oude should not have the same remedy for recovering the services of his slaves, provided he is willing that those services shall be rendered where the slave is within the protection of our courts, as a person domiciled on our side of the frontier; but, at the same time, if we prohibit the master from carrying his slave home with him after he has obtained a decree, the right of suing for such a decree is almost if not quite nugatory. We propose, nevertheless, to give the foreign slave-owner this barren right to sue, merely as the least offensive mode of doing what, we think, must be done at all events. It is clearly the least offensive mode, for it shows the foreigner that no distinction is made by law between him and our own subjects. We only refuse to him that which we equally refuse to them; the true difference being, that the thing refused is of much more importance to his interests than to theirs. We shall not propose, therefore, to protect the refugee slave by disabling his master from suing; but we shall propose, in addition to the general prohibition of exportation by land, which we have already intimated our intention to recommend, a provision to the effect,

effect, that it shall not be lawful for any person to remove from the British dominions any slave who may have taken refuge therein, nor for any person to remove from the British dominions a slave whom he has brought into them, if the slaves desire to remain. Observations.

We think, however, that a fine will be a sufficient punishment for the breach of these provisions, and that the fine should be remitted if the slave is brought back to the British territories.

Our first 10 recommendations relate to free persons;
Our next 17 to slaves;
Our next four to bondsmen;
And our last two to the provisions of the statute 5 Geo. 4, c. 113.

Our recommendations relating to free persons are--

1. That it shall be unlawful for any free person to become a slave by any means whatever.
2. That it shall be lawful for any free person of full age to contract to serve another for life, or for any number of years.
3. That it shall be lawful for the parents or guardians of minors to apprentice them till majority, or for any shorter period.
4. That all contracts under recommendations 2 and 3 shall be void upon the ill-treatment or prostitution of the servant or apprentice, and shall be void, *ab initio*, if made with a view to prostitution.
5. That all contracts under recommendations 2 and 3 shall be registered within a fixed time by some public officer to be designated by the executive government, who shall exercise his discretion in granting or refusing registration for a sufficient cause to be assigned, and that every such contract shall be void if not registered within the time fixed.
6. That any person who shall pretend to apprentice or to sell any minor, of whom such person is not the parent or guardian, shall be punishable by fine, not exceeding or by imprisonment, with or without hard labour, for a term not exceeding or by both.
7. That any person who shall purchase or receive as an apprentice any minor from any person whom he has not good reason to believe to be the parent or guardian of such minor, shall be punishable by fine, not exceeding or by imprisonment, with or without hard labour, for a term not exceeding or by both.
8. That any person having in his possession one or more minors, with the intention of selling or apprenticing them, such person, not being the parent or guardian thereof, shall be punishable by fine not exceeding or by imprisonment, with or without hard labour, for a term not exceeding or by both.
9. That any party to any contract under recommendations 2 and 3, who shall omit to apply for the registration of such contract within the time fixed, shall be punishable by fine not exceeding or by imprisonment, with or without hard labour, for a term not exceeding or by both.
10. That no rights arising out of any contract under recommendations 2 and 3, shall be enforced by a magistrate, and that no wrongs which are violations of such rights, except such wrongs as are specified in the 23d chapter of the penal code, shall be punished by a magistrate.

Our recommendations relating to slavery are—

11. That it shall be unlawful for any person to acquire any slave, or to hire the services of any slave from his master, except persons who are the issue of Hindoo, or Mahomedan, or Parsee fathers and mothers.
12. That any act which would be an assault if done to a freeman, shall be an assault, and punishable as such, if done to a slave by his master, or by any other person.
13. That no sale or gift of a slave, nor any transfer of his services for a limited time, except where land in the cultivation of which such slave is employed is sold, given or transferred for a limited time, shall be valid, unless it be made in writing, and authenticated by some public officer to be designated by the executive government; and unless it be made with the consent of the slave, if adult, or of his parent or natural guardian, if a minor.
14. That no slave shall be sold by public authority in execution of a decree of court, or for the realization of arrears of revenue or rent.
15. That no sale or gift or transfer of the services for a limited time of any female slave for the purpose of prostitution shall be valid.
16. That any slave shall be entitled to emancipation upon the neglect, refusal or inability of his master to provide him with customary maintenance.
17. That any slave who has been treated with cruelty by his master shall be entitled to emancipation.
18. That any female slave who has become a common prostitute through the influence of her master shall be entitled to emancipation.
19. That any slave shall be entitled to emancipation, if a reasonable price be tendered to his master.
20. That whenever any slave is entitled to emancipation, the wife or husband, and the minor children of such slave, shall also be entitled to emancipation, provided they are slaves of the same master.
21. That any person claiming emancipation from slavery shall be entitled to enforce his claim either in a civil or criminal court.

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22. That any person claiming emancipation from slavery, or claiming to be a freeman, shall be entitled to the privileges of a pauper in any civil court.

23. That every decree by which the slavery of any person is affirmed shall be appealable to the Sudder Dewanny Adawlut.

24. That any person exporting a slave by land from the British territories into those of any foreign power against the will of the slave, or removing a slave against his will, with a view to such exportation, shall be punishable by a fine not exceeding or by imprisonment, with or without hard labour, for a period not exceeding or by both.

25. That any person selling a minor slave without the consent of his parent or natural guardian, or having in his possession one or more minor slaves with the intention of so selling them, shall be punishable by fine not exceeding or by imprisonment, with or without hard labour, for a period not exceeding or by both.

26. That any person who shall remove from the British territories any slave who may have taken refuge therein, or any slave whom he may have brought into those territories, and who is unwilling to return, shall be punishable by fine not exceeding but shall be entitled to have the fine remitted upon bringing back such slave into the British territories.

27. That no rights arising out of slavery shall be enforced by a magistrate, and that no wrongs which are violations of such rights, except such wrongs as are analogous to those specified in the 23d chapter of the Penal Code, shall be punishable by a magistrate, except by emancipation under recommendation 16.

We do not intend that any of these recommendations which imply the recognition of slavery, as a legal *status*, should apply to any places within the territories subject to the government of the East India Company (such as Kumaon) where that *status* has no longer a legal existence. But, with this reservation, we propose that all legislative provisions which are inconsistent with our recommendations should be repealed.

If the above recommendations are adopted, no bondage will be lawful in future except such as is sanctioned by our second recommendation, and those connected with it. The four following recommendations are only rendered necessary by the nature of the actually existing bondage.

28. That no right to the services of any bondsman shall be transferred without his consent.

29. That no right to the services of any child or other descendant, or of the wife of any bondsman, shall accrue upon the death of any bondsman to the person entitled to his services, notwithstanding any agreement to the contrary, express or implied, between the bondsman and the person entitled.

30. That all contracts of bondage shall be void upon the ill-treatment of the bondsman, or upon the ill-treatment or prostitution of the bondswoman.

31. That no rights arising out of any contract of bondage shall be enforced by a magistrate, and that no wrongs which are violations of such rights, except such wrongs as are specified in the 23d chapter of the Penal Code, shall be punished by a magistrate.

Our recommendations relating to the statute 5 Geo. 4, c. 113, are—

32. That the Government of India should request the home authorities to cause commissions of vice-admiralty to be sent to all places within the limits of the Company's charter where there is a court of admiralty, and where no vice-admiralty commission exists.

33. That the Government of India should request the home authorities to apply to Parliament for an Act declaring and enacting, or simply enacting, that the Government of India, and the governments of Madras and Bombay, and of the Straits, shall exercise the same powers as by the above-mentioned statute are to be exercised by the governors of any colonies, &c. belonging to Her Majesty, and that the officers of the East India Company shall exercise the same powers as by that statute are to be exercised by Her Majesty's officers, civil and military.

Several other measures have occurred to us which might perhaps contribute to secure both to master and slave the benefits which each party looks for from that relation, which we nevertheless abstain from recommending. The reason is, that we are anxious that the law should be, as far as possible, in such a state as to oppose no obstacle to the dissolution of slavery whenever it shall cease to be in accordance with the feelings of the people, and also in such a state as to oppose no obstacle to that change in the feelings of the people.

It is very possible that a law containing provisions for the easy and speedy enforcement of the right which the slave has to subsistence from his master, whether he is able to work or not, might be productive of some benefit to the slave, and the same may be said of a law to restrain manumission. But such laws would tend to give stability to slavery. They would tend to keep alive the servile spirit, the spirit which leads men to barter their liberty for security against starvation. We are afraid of any legislation which shall confirm the rights that spring out of slavery, whether they be the rights of master or of slave. We would have the slave look up to the magistrate as his protector against violations of those rights which he would enjoy in an equal or greater degree if he were a freeman; but not against the violation of those rights which he has as a slave, and would not have at all if he were not a slave. We would give no encouragement to his reliance upon these rights.

We propose that the law should forbid assaults upon a slave just as it forbids assaults upon a freeman, and we therefore propose to give the slave the same remedies for assaults as a freeman. But we do not propose to give any fresh confirmation to the right which the slave now has to food, clothing, lodging, the expenses of his marriage, and to the protection of

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of his master against wrongs done him by strangers. We have no evidence that slaves ever appeal to the courts of justice for the enforcement of these rights. We do not desire that they should so appeal. No doubt the effectual enforcement of such rights as these might render the *status* of the slave in some instances more valuable to him than it now is; perhaps, in some instances, nearly as valuable as the *status* of pauperism had become to the labouring classes in parts of England before the new poor law. But we do not think this upon the whole desirable. Whatever measures it may be necessary ultimately to adopt for saving the destitute from starvation in India, we are disposed to think that no method of doing this, which has ever been devised, is open to such grave objections as slavery, even in its most mitigated form. We desire the extinction of slavery in India; indeed its ultimate extinction may be considered as already decided by the Imperial Legislature. And we believe that if, by taking away the power of punishment, we prevent the possibility of any speculations depending upon slave-labour holding out a prospect of profit, the other motives which hold the master and slave together will become gradually weaker with the general progress of society. And this tendency, we think, would be counteracted by giving the slave and his posterity an indefeasible right to subsistence which he could enforce against his unwilling master. We leave the slave, therefore, to the force of custom, of ancient, though perhaps never enforced law, and to the kindly feelings of his master, so far as regards the positive privileges which belong to him as a slave. But we bring him within the protection of British courts of justice, as regards those negative rights which he already has, or with which he is now to be invested in common with all other subjects of Great Britain.

If the object were to preserve slavery for the sake of the partial good which in certain states of society it produces, then no doubt it would be desirable to aim at the security and extension of that good. But as the object is to let slavery perish quietly, legislation should, it seems to us, be confined to the mere prevention of its evils.

If, as we recommend, all assaults upon a slave by his master are forbidden by law, the legal condition of the slave will approach much more nearly to pauperism than to what is called slavery in other countries. The essential distinction between him and a labourer will be, that instead of hiring himself out wherever he can find employment, and receiving wages while he is employed, he is bound by law to give to one person all the labour of himself and his family, and entitled by law to receive subsistence for himself and his family at all times from that person. These are rights and obligations which we believe cannot be generally and systematically enforced by legal proceedings. Whatever permanence they are to have must depend mainly upon the mutual interests and wishes of the parties. Those mutual interests and wishes appear at present to have sufficient strength to preserve the relation between master and slave from dissolution. And, with regard to the slaves, we do not perceive any general cause likely to change their view of the matter, except one, of which the operation must be extremely remote—we mean the general diffusion of education. But with regard to the masters, the case is different. A change in their views may be expected within a much shorter period. As soon as the proprietors of the soil begin to prefer profit to pomp, a large revenue to a large retinue, they will find the possession of a troop of slaves, that is to say, of slaves whom they may not punish, a very burthensome appendage. We have seen that proprietors in decayed circumstances very frequently allow their slaves to seek a livelihood where they please, and the most flourishing proprietors will assuredly do the same thing whenever the great object of their desire is to increase the net produce of their estates.

We think, then, that we were justified in expressing our hope, that, if our recommendations are adopted, no further legislation will be necessary upon this subject. As far as laws can prevent, nothing will be left which the slaves themselves look upon as an evil. There will remain, for some time, what in the eyes of the slaves is a good, though it is otherwise in the eyes of an enlightened government. But after a time even this will silently disappear. Thus will be accomplished the task which the Imperial Legislature has imposed upon that of India of "mitigating the state of slavery," "ameliorating the condition of slaves," and "extinguishing slavery as soon as such extinction shall be practicable and safe."

C. H. Cameron.
F. Millett.

The majority of the commissioners, Mr. Amos, Mr. Eliott, and Mr. Borradaile, while they cannot entirely concur in the observations and conclusions of their colleagues on some important points, yet agree with them for the most part in the opinions expressed, and the recommendations offered, in the foregoing pages of this portion of the Report, which are, indeed, to a considerable extent, founded on the consultations of the whole commission. The three commissioners, however, have directed their attention principally to matters having immediate reference to East India slavery, and have not made any close comparison between that and other species of slavery.

The majority of the commissioners agree with their colleagues in thinking that, on the part of the slaves in India, of all classes, there is not any general desire for freedom. They believe, indeed, that the advantages of the condition of slavery, according to the modification of it which exists in India, are so far thought to overbalance the evils incident to it, that

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few slaves would, under ordinary circumstances, voluntarily abandon the relation in which they stand to their masters.

The majority of the commissioners agree with their colleagues in thinking that the principal evils incident to the condition of slavery in India arise out of illegal acts perpetrated under colour of slavery, and which are neither warranted by law nor by general custom; and they concur in the conclusion, that it would be more beneficial for the slaves themselves, as well as a wiser and safer course, to direct immediate attention to the removal of the abuses of slavery, rather than to recommend its sudden and abrupt abolition.

It is in proposing remedies for checking the abuses of slavery that the majority of the commissioners are unable to concur entirely in the views of their colleagues. The main difference between them relates to the power of coercion and of restraint, which the masters of slaves now possess and exercise, for the purpose of enforcing their services, maintaining discipline among them, and preventing their absconding, the effect of that power, and the consequences of abolishing it.

The majority of the commissioners apprehend it to be the general impression among the natives, that the law rightly interpreted, with a due allowance for prescriptive usage, warrants such a degree of coercion as is recognized by the circular order of the Madras court of Foujdary Adawlut. (*Vide supra*, pp. 135–6.) It is believed that the slave ordinarily submits without complaint to moderate correction inflicted by his master for the breach or neglect of his regular duties. He considers that the evil, such as it is, of thus being compelled to work, is compensated by the advantage of maintenance for himself and family, not only whilst in health and vigour, but also in sickness, and after failure of strength. The demand thus made by a master on the labour of his slave does not generally exceed the demand that would be made upon a hired labourer, and for the most part hired labourers and slaves are employed upon similar tasks.

It appears, however, to the majority of the commissioners, that without a power of moderate correction for neglect of duty lodged somewhere, slaves employed in field labour, at least, would not work with the like industry as hired labourers, whose bread depends on their giving their employer satisfaction, who know that if they do not perform the task set them for the day, they will not get the hire for the day, and probably will not meet with an engagement for the morrow.

The slaves know that they are of a certain value to their master, and that he could not discharge them, as he might discharge a hired labourer, without loss to himself, and that it is their master's interest to give them sufficient subsistence to keep them in working condition. Under these circumstances, it is to be expected that they will indulge that propensity to idleness so characteristic of the lower orders in India, as far as they can, and that they will do nothing that they can avoid doing.

The fear of losing their situations can have little influence in counteracting the propensity to idleness among slaves, when they must feel sure that they run no risk of being discharged for only doing less than they are able and ought to do, while they still render some service which is not without value. It is more, it is conceived, than can be reasonably expected, that predial slaves, at least those living apart, and kept at a distance by their masters, and not partaking of their sympathy, as in Malabar and elsewhere, will work actively from any regard to the interest of those masters.

It does not appear to the majority of the commissioners that, in the parts of India at least where predial slavery exists, masters are willing to be satisfied with a less degree of industry on the part of their slaves, upon whose labour they depend, perhaps entirely, for the cultivation of their lands, than they would require from hired servants. Every master may be expected to have a natural desire of improving his income, and thereby increasing his comforts, and in proportion as that desire is more or less strong, so will be the motive to urge his slaves to exertion; neither is it universally the case that the object of the landowner is to maintain his family and slaves by the produce of the land, and not to accumulate a fortune out of the surplus. There will always be found native landowners, such as the Mopla merchants of Malabar, who have purchased their lands merely for the sake of a profitable investment of money, and whose sole object is to raise the largest possible surplus produce; yet, in fact, there appears to be no difference in the treatment of the slaves of the Mopla merchants and those of ancient proprietors; the same description and quantity of labour appears to be required and obtained from both. It is to be observed, with reference to this matter, that in the peculiar condition of slavery which prevails on the east and west coasts of the southern peninsula of India, and it would seem more or less elsewhere, whole tribes have been regarded as impure outcastes, subject from remote antiquity to the cultivation of the soil, in like manner as pure Hindoo castes are bound to particular professions and occupations. The distinction between these outcaste tribes and the pure classes is, in the parts of India where it prevails, quite as marked as any that can arise from colour.

A check upon the power of the master, independently of law, is the fear of making the slave dissatisfied with his condition, and disposing him to desert. In some parts of the country we have proof that this check has operated most beneficially for the slave, especially in restraining the master from a severe exercise of his power of punishment, and it is believed to have much influence every where. In the neighbourhood of towns, where the wages of labour are high, and the advantages of freedom obviously preponderate, masters have been unable to maintain their control over their slaves, and, in a great measure, have tacitly ceased to exercise it. Thus, in the neighbourhood of Madras, particularly, where predial slavery

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slavery formerly prevailed in as full force as in the other parts of the Tamil country, it is now little more than nominal. The same change appears to have commenced and to be in progress in the neighbourhood of several of the larger towns and seaports on the Malabar coast.

It is very material to bear in mind that every excess of moderate correction, or of correction of any kind without cause, is punishable by the magistrate, and that there is no apprehension of the law in this respect not being always construed very beneficially for the slave.

The majority of the commissioners consider that a law taking away all power of correcting and restraining slaves would have the effect, as far as the promulgation of a law could produce it, of abolishing slavery. They concur in the observations contained in note B. of the Penal Code, "that a labourer who knows, that if he idles his master will will not dare to strike him, that if he absconds his master will not dare to confine him, and that his master can enforce a claim to service only by taking more trouble, losing more time, and spending more money than the service is worth, will not work from fear." In such a case names are of no consequence; the labourer is in reality no longer a slave. There is an end, too, of that kind of domestic discipline by restraint over the slaves, especially the female slaves, which has hitherto been considered requisite for the due government of a family according to native manners.

The majority of the commissioners consider that the restricted power of coercion and restraint which the masters may now lawfully exercise cannot justly or prudently be taken away by law without providing compensation, or without transferring the power to the magistrate. But neither of these courses appears to them to be advisable.

With respect to the first, they think that a provision which would be satisfactory in regard to all the interests concerned is scarcely feasible, and they consider it inexpedient to attempt a measure so beset with difficulties, and so unlikely to give general content. They see no reason to doubt that the masters would be really injured by a law depriving them of their present compulsory power over their slaves; but the real injury, they apprehend, would be inconsiderable compared with the loss that would be plausibly alleged, and attributed to a measure involving so sweeping a charge in the relation of master and slave, and for which compensation would be claimed, if any opening were given to such claim. It is likely that for a time every loss in an estate cultivated by slaves, not obviously produced by some other distinct cause, would be ascribed indiscriminately to this cause; and that whenever the proprietor fell in arrears of the revenue payable by him, he would complain that he was unable to pay because he could no longer compel his slaves to work, or that he was put to greater expense in cultivating his estate by the necessity of giving extra allowances to his slaves to induce them to work as they did before. It is thought that wherever the law effected its purpose of preventing the master from coercing his slaves, there would be grounds for complaints of this nature; that either the master would really get less service from his slaves, or would be obliged to purchase their exertions by extra allowances or indulgences. The example once set by a master of giving extra allowances or indulgences, his neighbours would be constrained to follow it in order to prevent their slaves from becoming discontented, and availing themselves of the license to abandon their services, which they would find they might take with impunity, and without resistance, whenever they pleased.

It is not thought that the law would come into general operation so as to have the effect intended quickly, because the ignorant slaves would not soon become aware of the privilege bestowed on them, and because they would not be ready to take advantage of it, while the masters would be slow to give obedience to the law so long as the slave did not complain. But the masters would be quick to perceive the tendency of the law, and the injurious effect it must have upon their interests eventually. By them, therefore, it would be felt as a grievance from the first; and there seems reason to fear that it would occasion among them a degree of discontent, in some parts of India at least, which it would not be prudent to provoke.

The demand for compensation would first arise, probably, in anticipation of the injury, and it is thought that it would be impossible to satisfy it. If it were determined to give compensation only in case of loss being proved, there would be extreme difficulty in judging of it; and however reasonable the judgment might be, it would most likely always disappoint the claimant. The inquiry must necessarily occupy a great length of time, and involve many perplexing questions; whilst, after all the trouble bestowed, the expense incurred, and dissatisfaction provoked, the object of the compensation might, perhaps, be very little furthered.

But the injury which would be most felt, arising from the relaxation of discipline among domestic slaves, and consequent disorder in families, would not admit of compensation, and there would be no other means of allaying the discontent which it is feared would be excited by a law calculated to produce such results.

With regard, next, to the transferring of the power of punishment and of restraint from absconding to the magistrate. It is to be observed, that the power of punishment was not taken from masters by the Imperial Parliament, in the case of the West Indies, until the *status* of slavery was abolished; whilst the *status* was left untouched, an effectual power of punishment was left also as necessary to maintain the master's dominion. It was when slavery was changed into contract service, for a certain time, that the power of punishment was taken from the master and transferred to the magistrate.

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The majority concur with their colleagues in thinking it inexpedient to make the transfer to the magistrate in India, though they do not agree to all their reasons. While they deem it not advisable, in the present circumstances of India, to take a step tending directly to destroy the authority of masters, and so to annihilate the *status* of slavery, they see the most forcible objections to any measure tending to confirm and give permanency to so debasing a *status*, and one which can only be tolerated, because more decisive measures would tend rather to impede its gradual decay than to effect its abolition. Upon the most mature reflection, they are convinced, that to require the magistrate to compel a slave to yield obedience and render service to his master, would have the effect of upholding slavery on a more firm and permanent basis. They would carefully refrain from taking any step that would be to the prejudice of the slave. They think that this step would be so, even if united with the abolition of the master's right to punish and restrain. It would also be a step contrary to the principles upon which the Government of India have lately acted, and to the practice throughout almost the whole of British India.

As the majority of the commissioners are not prepared to recommend that magistrates should be required to interfere for the purpose of compelling slaves to perform their duties or to punish them for default, they need not enter upon the general question of the propriety of the regulations which empower magistrates to interfere upon the complaints of masters against their servants for misconduct or neglect of duty. They will only observe, that if slaves were to be made free from restraint and entirely exempted from punishment for failure of duty, they would obviously be placed in a more independent situation than that in which free servants actually stand in most parts of India.

The majority have now to express their own view of the course which should be followed.

They propose to leave untouched the lawful *status* of slavery, and with it the lawful power of the master to punish and restrain. It is lawful to correct a slave moderately, and to restrain him by the use of a force, which if used to a freeman would be an assault. It is not lawful to correct a slave immoderately or arbitrarily, or to use violence sufficient to cause permanent or severe personal injury. There is no doubt that the vindicatory powers of the law as it exists are sufficient to punish cruelty and oppression by a master. The majority think that the power which the master may lawfully exercise and does exercise occasionally is necessary as a check to the propensity to idleness which the situation of the slave naturally produces; they do not think that it is in general exercised with severity; they have already pointed out the check by which, independently of law, the master is restrained from severity. They believe that by fear of the vindicatory power of the law on the one hand, and this check on the other, the personal treatment of slaves by their masters has been already considerably mitigated. They see reason to think that the causes upon which the check adverted to depends are gradually gaining force, and to hope that, if they are left undisturbed to work their way, they will surely accomplish eventually, but without precipitation, and without disorder, and almost imperceptibly, the ultimate object aimed at,—the general extinction of slavery; while in the meantime the condition of the slaves will be progressively ameliorated.

With these views it appears that the more prudent course is not to add new provisions to the law which would be offensive, and irritating, and really injurious, so far as they should be operative, to the masters. Such provisions, if their operation was found to be successful, and not purely prejudicial, or if they were not totally inoperative, would have the effect of precipitating and bringing about with a ruder shock, and probably with some disorder, the same issue which may be attained gradually by a surer and more safe course. It should be endeavoured to give efficiency to the administration of the existing law for the protection of slaves, that the fear of it may more powerfully restrain the masters from abusive acts falling within its scope, and to provide some additional checks to enforce its requirements and prohibitions.

For this latter object, the majority concur with their colleagues in recommending "that any slave shall be entitled to emancipation upon the neglect, refusal or inability of his master to provide him with customary maintenance," and "that any slave who has been treated with cruelty by his master shall be entitled to emancipation;" "that any female slave who has become a common prostitute through the influence of her master shall be entitled to emancipation;" and "that whenever any slave is entitled to emancipation, the wife or husband and the minor children of such slave shall also be entitled to emancipation, provided they are slaves of the same master."

Further, in aid of the causes which it is conceived are leading to the mitigation and eventual extinction of slavery, the majority concur with their colleagues in the restrictions proposed with regard to the transfer of slaves, and in the recommendation that any slave shall be entitled to emancipation if a reasonable price be tendered to his master. They wish to go further, and recommend a provision corresponding with that which was ordained by the order of council for Trinidad in 1824, that a slave who has acquired sufficient property shall be entitled to purchase his own freedom, the freedom of his wife, and that of his children.

This last recommendation, it will be observed, recognizes a right on the part of a slave to the possession of property. It will be allowed that it is of the utmost importance to establish this right on the part of the slave, and to render it unquestionable for the future, if this can be accomplished without injustice to the master. It appears to the majority of the commissioners that the right of the slave to retain the possession of property which he has acquired has been practically admitted by masters to such an extent, even in parts

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of India where slavery is most prevalent and is maintained with the greatest strictness, that no injustice or danger would arise from establishing the right permanently by law.

It appears to the majority of the commissioners that a provision enabling slaves to purchase emancipation with their property would have a beneficial operation generally throughout India, but, perhaps, particularly so in Malabar. It is thought that such provisions are particularly requisite, and would serve the interests of both master and slave in those situations where the advantages of freedom so decidedly overbalance those that belong to the servile condition, that the slave is under a constant temptation to escape, and the master finds it difficult to maintain his control. Under such circumstances the master would be disposed to give up his right to the slave for a very small compensation, and the slave would probably be able to raise a sum sufficient for the purpose by binding himself as a hired servant to a new master, and would be willing to release himself absolutely in this way, rather than by deserting with the bond of slavery still hanging over him.

The majority consider that such provisions would be very beneficial, for instance, to those slaves in Malabar who, living in the neighbourhood of towns, are permitted by their masters, during a part of the year when they have not work for them, to seek employment there, and to whom it is a hardship, after having enjoyed the comparatively high wages paid for labour in those places, to be obliged to return at the call of their masters to work for them on a pittance scarcely sufficient for their support. The hope of being able to purchase their freedom would encourage the slaves under such circumstances to save their wages, and the temporary masters of those who were diligent and active would sometimes probably aid them by advances to make out the price required for their emancipation.

Nothing, in the opinion of the majority, would tend more to raise the character of the unfortunate race who are subject to slavery in Malabar than such a transition of individuals among them to a state of freedom, gradually but constantly going on. Emancipated slaves who have bettered their condition, and acquired property by the higher reward of labour to be obtained in towns, and who have not only enjoyed personal liberty, but, by their residence in towns among a mixed population, have been, for a long time, saved from the ignominious treatment to which their brethren are exposed in other parts on account of their caste, will probably have gained such a feeling of independence as to lead them to refuse compliance with the degrading usages which prevail in the interior of the country, and to resist any attempt to enforce their observance against themselves, or those connected with them. The influence of their example would spread, and, aided by the discountenance of the governing authorities of all such humiliating practices, would tend to their falling gradually, though perhaps slowly, into desuetude. Thus then it seems there is reason to expect a beginning to the breaking up of the odious debasement of caste which now so lamentably depresses the miserable subjects of it, and which is a principal impediment to the extinction of slavery in India.

The suggestions offered in the draft for the prevention of the sale of free persons into slavery, particularly with a view to put a stop to the abuses arising from the sale of children, and for restricting within the British territories the sale of slaves, and the recommendations relating to bondage, are founded upon principles agreed to by the commission unanimously, after much discussion and deliberation, and the majority consent generally to the observations and reasons by which they are supported, subject to some partial qualifications where they appear to militate against their sentiments as above expressed.

One other provision, not recommended by their colleagues, the majority consider to be necessary to guard against what would be a great evil, and one, they conceive, not unlikely to occur in the gradual decay of slavery, viz. a provision to prevent masters from relieving themselves by pretended emancipation from the obligation of supporting, during life, the slaves who, from age or infirmity, after having worked for them through their youth and manhood, while their strength lasted, have become unable to render them efficient service. The provision that appears to be called for is, that any slave who is above the age of 50, or who, being under that age, is suffering from an infirmity which renders him incapable of earning his own subsistence by labour, shall be entitled to refuse emancipation, and that no master shall be exempted from the obligation of supporting such slave during life, unless the slave has formally accepted his freedom, and surrendered his claim to maintenance, by an act done and recorded in a civil court, or in the court of a magistrate, after being personally examined by the judge or magistrate, to ascertain that his consent is freely given, with a knowledge of the consequences, and that other means of maintenance are available to him. Unless the judge or magistrate is satisfied on these points, he should not permit the act to be recorded.

On the principle of not permitting any extension of the existing slavery of British India, or allowing any conditions of slavery not having the sanction of long-established custom, and as slavery is scarcely known in India except under masters being Hindoos, Mahomedans or Parsees, the majority concur in the recommendation intended to prevent persons of other classes from acquiring slaves or hiring the services of slaves. Existing interests will not be affected by this measure. And whatever doubts there may be on the general question, whether a person amenable to English law may lawfully be the owner of a slave, the law as proposed will leave no ground for any mistake on this point in future with respect to the British territories in India at least.

The majority concur in the recommendations relating to the Act 5 Geo. 4, c. 113, for the purpose of rendering its provisions effectual in India for the prevention of the importation and exportation of slaves by sea.

On the subject of the importation and exportation of slaves into and from the British

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territories by land, the majority of the commissioners do not entirely concur with their colleagues.

On the principle in which they all concur, that every means should be adopted to prevent any extrinsic accession to the stock of slaves in British India, the majority think it should be enacted, that no person shall be recognized as a slave in the British territories on the ground of his having been a slave in a foreign territory, and that any act which would be punishable if done to a freeman, shall be punishable if done to a person who, having been a slave in a foreign country, has been brought into, or has taken refuge in, the British territories.

An enactment of this tenor, it is conceived, would be sufficient, without attaching a penalty to the act of importing slaves. The object is not to prevent a foreigner who has been accustomed to be served by slaves from bringing them with him for the sake of their services when he has occasion to enter the British territory, but to prevent him from treating them and dealing with them as slaves, and especially from removing them by force when he returns, if they are unwilling to go with him. And with respect to slaves imported for sale, from the moment of their entering the British territory, the importer, under the proposed enactment, would be liable to punishment for any attempt to carry his purpose into execution.

The majority concur with their colleagues in thinking that the exportation of slaves against their will should be generally prohibited; but, in order that the will of the slave may be ascertained, they consider it necessary that the provision should be expressed as follows:—

That any person exporting, or attempting to export, a slave from the British territory into a foreign territory, without the consent of the slave having been declared by him personally before a magistrate, and certified by the magistrate, shall be punishable by a fine not exceeding or imprisonment, with or without hard labour, for a period not exceeding or with both.

With respect to the other recommendations, which they have not particularly noticed, the majority of the commissioners wish to be understood as concurring generally with their colleagues.

The majority are fearful that it may be thought that they have treated the topics upon which they differ from their colleagues in a more summary manner than the case demanded. Though they have maturely considered their various recommendations, they could have wished for some further time in order to explain and illustrate their sentiments more fully. But although the papers relative to the several topics had been previously discussed at the meetings of the commission, it was not till within a very few days that they were circulated as finally revised and digested; and in the connected form in which, according to the previous arrangement among the members, it was settled that they should be considered by the whole commission with a view to the ultimate preparation of the Report. The majority were unwilling, after the call lately made by government, to delay the submission of those papers, which, besides containing the opinions of their colleagues from which they dissented, contained likewise much in which all agreed, and which was the result of their joint consultations. They were equally unwilling to submit the opinions of their colleagues on the points of difference, without a brief expression of their own sentiments that might sufficiently indicate the views they entertain, though the time would not allow of their being elaborately developed.

(signed) *Andrew Amos.*
D. Eliott.
H. Borradaile.

Before we conclude, we wish to express our obligations to our late colleague, Colonel James Young, to whom the preparation of the details relating to Bombay was committed in the original distribution of our labours, and who afforded us much assistance in the discussion of the whole subject.

We submit this our Report for the consideration of your Lordship in Council.

(signed) *Andrew Amos.*
C. H. Cameron.
F. Millett.
D. Eliott.
H. Borradaile.

Law Commission, January 15, 1841.

APPENDIX.

EVIDENCE.

List of Witnesses examined on the Subject of Slavery whose Depositions are annexed to the Report of the Indian Law Commission, dated 1st February 1839.

NO.	DATE OF EXAMINATION.	NAMES.	NATIVE COUNTRY.	OCCUPATION.
1.	28 December 1838	Raj Govind Sen - -	- - pergunnah Sarael, village Chuntoor, Tipperah.	- - mooktear of the rajah of Tipperah.
2.	- - ditto - -	Tek Loll - - -	- - Behar, village Futtehpoor, pergunnah Putchroke.	- - mooktear in the Sudder Dewanny Adawlut, Calcutta.
3.	2 January 1839 -	Vydia Nath Misser -	- - Tirhoot, pergunnah Dharour.	- - pundit of the Presidency Sudder Dewanny Adawlut.
4.	- - ditto -	Hamud Russool - -	- - Behar, district Patna, pergunnah Sanda.	vakeel of ditto.
5.	12 ditto -	R. H. Mytton, Esq. -	- - - - - -	magistrate of Sylhet.
6.	15 ditto -	Dhurb Singh Das -	- - pergunnah Cutteya, northern Cuttack.	- - oriah missul khan in the Presidency Sudder Dewanny Adawlut.
7.	18 ditto -	Kashe Nath Khan -	- - village Satteen, pergunnah Khatta, Rajshahye.	- - agent of the ranees of the late rajah Bishen Nauth, of Natore.
8.	22 ditto -	Hy Ricketts, Esq. -	- - - - - -	- - commissioner of revenue and circuit, 19th division, Cuttack.
-	25 ditto -	- - Tek Loll (in continuation).		
9.	29 ditto -	Ram Krishna Putnaik	- - village Burnukhundapore, pergunnah Sarael, near Pooree, southern division Cuttack.	- - mooktear in the Sudder board of revenue, Calcutta.

Appendix I.

Appendix I.

Evidence.

1.—*Raj Govind Sen,* Mooktear of the Rajah of Tipperah.

I am a native of the pergunnah Sarael, village Chuntoor, in Tipperah.

I am acquainted with the districts of Tipperah, Sylhet, Mymensingh, Dacca and Chittagong.

In these districts there are two classes of slaves, the Kayat and Chundal.

The distinction between them is, that the Kayat is pure, and the superior castes can receive water from him; the Chundal is impure, and can only be employed in out-door work.

A slave is either so by descent or by sale. A free person may be sold either by both his parents, or the survivor of them, or by himself.

A free person who has attained majority cannot be sold unless with his own consent.

These sales of freemen only take place in time of calamity.

Sometimes the consideration for which a freeman sells himself is marriage with a slave girl, whom the master will not permit him to marry upon other terms.

Sometimes free persons are sold by themselves, or by their parents, to Mussulmans, and become Mussulmans; but no adult, even if already a slave, can be sold to a Mussulman without his own consent.

If a Kayat slave were converted to Islamism he would become unfit for domestic use, but would continue a slave, and might be employed out of doors by a Hindoo master.

I am not aware that there is any importation of slaves for sale in the districts of which I speak; though sometimes people going to Assam buy slaves there, and bring them back with them.

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The price of a young Kayat woman varies from 40 rupees to 100; that of a young man, from 20 to 40.

The price of a young Chundal woman varies from 10 to 20 rupees; that of a young Chundal man is about the same.

The cause of the high comparative value of the female among Kayat slaves is, that she attends upon the ladies of the family.

The price of a Kayat female child is from 20 to 30 rupees; that of a male child, from 10 to 25 rupees.

That of a female Chundal child is from 7 to 10 rupees; that of a male child, the same.

There is, in Sylhet, a class of out-door slaves who are Mussulmans; I believe they are low caste people who have been converted, but have retained their servile state.

Slaves are very numerous in these districts; a family of respectability will frequently have from 10 to 25 families of slaves; and there is no family of respectability, either Mahomedan or Hindoo, that has not at least one family of slaves.

I should say one-fourth of the population are slaves.

Many slaves are not required to do regular work for their masters, but only to attend at festivals.

There is generally a reciprocal regard between master and slave; and the master treats his slave with more kindness and attention than his hired servant.

In general it is considered derogatory to sell a slave; but it is done when the owner is in distress.

It is customary on the marriage of a daughter to give one or two female slaves as her attendants.

If a slave give offence, it is usual to give him a slap or a blow with a shoe.

I never heard of a case of manumission; but a master sometimes expels his vicious slave.

Slaves are married with the same ceremonies as free persons of the same class; and when the husband and wife belong to different masters, it is usual for the owner of the woman to give her to the man's master, receiving a present, which is always less than her value.

If this kind of marriage take place without the consent of the woman's master, the offspring are all his slaves.

Sometimes female slaves are married to persons whose profession it is to go about as the husbands of slaves. These persons are called Byakara, and this kind of marriage is called "punwah shadee." The offspring of this marriage are the slaves of the woman's master. The Byakara is generally a slave, but receives to his own use what he earns as a Byakara. He comes to each of his wives about once in a month or two, and receives at each visit sustenance and a present. He receives at each marriage four or five rupees.

It is not usual to let slaves to hire; but I have heard that, beyond the limits of the Company's territories, in the hill country of Tipperah, Munipore and Jentia, that custom prevails.

In a case which was decided, in appeal, in the Nizamut Adawlut, in 1837, certain slaves were restored to their owner. The name of the case is Photia and others (the slaves) *v.* Musund Ali, zemindar of Sarael, whose agent I was.

A nephew of mine brought an action against a slave of his and two persons, to whom the slave had clandestinely given his own daughter in marriage. The object of the suit was to recover the two female slaves. The suit was compromised.

In another case, of which the circumstances were the same, the master got a decree in the zillah court of Tipperah, and recovered his female slave.

I have been 18 years in Calcutta, and only know these cases from hearsay.

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2.—*Tek Loll,* Mooktear in the Sudder Dewanny Adawlut, Calcutta.

I WAS born in Behar, in the village of Futtehpore, pergunnah Putchroke, and am owner of seven slaves, whom I bought.

I am acquainted with that district and the adjoining districts.

Of Hindoo slaves there are two classes in Behar, the Kuhar and the Dhanuk, which is also called Juswar-Kurmi. These are both inheritable, and are transferable by sale. By the local custom of Behar, free persons, whether infant or adult, of these two classes, may be sold by their maternal uncles or maternal grandmothers, not by their parents.

No one would buy a free person of these classes unless the maternal grandmother or maternal uncle were present at the delivery, and consenting.

The mother has a veto upon the sale, but not the father.

The maternal grandmother has the prior right to sell.

She being dead or permanently absent, then the maternal uncle.

These sales take place not only in times of calamity, but at all times.

Bun-vickree is one kind of these sales, which takes place when the subject of the sale is absent from his family, and cannot be got at.

The consent of the subject is quite immaterial, and is not asked.

The price is lower when the sale is bun-vickree, on account of the risk the buyer runs of not getting possession of the person sold.

The Kuhar and Juswar-Kurmi sometimes sell themselves to their creditors, or for the purpose of paying their creditors with the price.

Besides those who have thus become slaves from freemen, there are many who are slaves by

by descent. These have all descended from persons belonging to the Kuhar or Juswar-Kurmi, and who have been sold in the manner described.

These sales take place, not only to Hindoos, but also to Mussulmans or other persons.

When a Mussulman is the buyer, and makes a convert of the slave, the slave is called "Moollah Zadah."

I have known Mussulmans to buy slaves brought from other districts. But a Hindoo would not do so, because he would not be sure of the slave's caste, and would fear pollution. The slaves thus brought from other districts are generally children.

If a person thus sold were to refuse compliance, the buyer would coerce him; and I should think the magistrate would support the buyer in doing so.

I do not know any case of the kind of my own knowledge, but I have heard of such cases.

In case of scarcity or famine, other castes sometimes give up their children to be brought up by persons in good circumstances, but no price is given; and the children are not slaves, though they perform service in the house.

Sales of free persons, as above described, are very common, and so are sales of persons already in slavery.

The only difference between the Kuhar and the Juswar-Kurmi is, that the former, being of inferior caste, carry palankeens, which the latter do not; with this exception, they are both employed in the same menial offices, and in agriculture.

The price of slaves, of course, varies much according to circumstances. But the price of a young female may be from 50 to 125 rupees, and that of a young male about a third less. The cause of the difference is, that the girl may have children, which will belong to her owner.

Children of from six to eight sell for from 10 to 15 rupees: the price of females exceeding that of males in about the same proportion as above.

The pergunnah of Puchroke contains about a lakh of people. I should think the proportion of slaves is about one-eighth. Probably the same proportion may prevail in the rest of the zillah.

If a slave will not work, he is coerced by threats, by flogging, and by stopping his rations.

The usual character of slaves is obedient; but sometimes slaves are refractory.

In agricultural labour, slaves are generally mixed with free labourers, and no greater quantity of labour is exacted from them. Both work the whole day, with short intervals for refreshment.

28 December 1838.

3.—*Vaydia Nath Missar,* Pundit of the Sudder Dewanny Adawlut, Calcutta.

I AM a native of pergunnah Dharour, zillah Tirhoot.

I am well acquainted with that zillah, and have some knowledge of the adjoining districts of Sarun and Purneah.

The slaves in Tirhoot are all Kyburts; but they are subdivided into Kyburt proper, Dhanuk, Amat and Kurmi. (Kyburt in common parlance is pronounced Keeot.) Many people of these castes, however, are free.

The origin of all this slavery must be traced to self-sale or self-gift. I arrive at this conclusion by comparing the actual state of things with the doctrine of the Shasters.

By the Hindoo law, a Brahmin cannot be a slave to any body; a Khitrya or Byse might be, but I never heard of any that were.

The slaves of the several classes mentioned are nearly the same in regard to purity, and are employed indifferently in in-door and out-door work.

There are no slave-castes in my country, nor does the Hindoo law recognize slavery as incident to caste.

Many of the slaves of great families are settled on the estates, and are not required to perform any service except attending at ceremonies and defending their master in case of need. They pay rent, but less than is paid by free persons. They have, however, no right to any part of the produce of the land, nor to any property as against their master; and if he is angry with them, he sometimes takes every thing from them.

The rajah of Durbhunga has a great many slaves. Many free people of the castes specified are in the habit of applying to be put on his list of slaves; their object is to obtain the offices of gomashtahs and tehsildars.

I know of no text of Hindoo law which gives the slave a right to sustenance from his master, but all masters do maintain their old and infirm slaves; and, I think, as this is the established custom, a court of justice would decree maintenance to a slave, if it were refused. But I know no case in which the question has been brought before a court. Indeed, slaves are generally more favoured than other servants.

The practice of self-sale is now frequent, the transaction is recorded by an instrument called "param bhatarak." The price in these cases is the absolute property of the slave, and descends to his heirs; which is also the case with all property of which the slave may have been possessed previous to the sale.

The sale of free children by their parents only takes place in cases of great distress, and would be invalid in other circumstances by Hindoo law; only the castes above-mentioned sell themselves or their children.

My paternal grandfather died, leaving five sons. They divided the property, and among other

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other things, eight families of slaves. One of my uncles died; and his slaves, fearing that they would be shared among the other brothers, and that their families would thus be separated, fled away to Derhampore, in Purneah, which is on the estate of the Durbhunga rajah. My eldest uncle, the head of the family, went after them to induce them to return. They agreed to do so, but the head of the family dying at that time, they did not come back. The death of this uncle took place about thirty years ago, and since that time my other uncles, my father and my elder brother have written occasionally to the rajah's manager to claim the slaves. We have sent messages, and they answer "We will come." We have never sued for them, because it would be expensive, and the courts do not favour the claims of masters to slaves. And another difficulty exists, in this, that we are a numerous body of kinsmen, having a joint undivided claim on several families of slaves.

Those of the slaves who have acquired no property, say they are ready to return; but those who have made acquisitions refuse.

It would not be considered disreputable in us to take the acquisitions of these slaves, which by law belong to us.

I am one of an undivided family of four brothers. We have, in our household, thirteen slaves; three who descended to us, and ten whom we bought. Besides these, and besides those above-mentioned who went away to Derhampore, there are two families, consisting together of ten or twelve individuals who belong to us, my aunt, and my sister. They are settled on another part of the Durbhunga rajah's estate; but they come to us whenever they are summoned, to attend at festivals. We do not support them.

The chastisement of a slave ought to be the same as that of a son; that is, by the half ratan, or by tying him up by the hands. But it may be inferred, from the power which the Shasters recognize in the master to exact work, that he may punish the slave who refuses to work; and it is the duty of the ruling power to make the master and slave both perform their duties. One of our slaves ran away, and my brother applied to the magistrate to have him restored. This took place about twenty years ago. The magistrate issued orders to the darogahs, but the slave escaped into the Napaul territory. The slave afterwards, on hearing that I was established in Calcutta, came and joined my household. My brother then wrote to me to inform me of his having ran away, and to beg me to turn him away. But I kept him notwithstanding.

I do not know of any case of manumission; but I have heard of manumissions, where the slave had done something with which the master was much pleased. When a slave saves his master's life, he is *ipso facto* manumitted according to the Hindoo law; and in such case the slave is entitled to share in the master's property as a son.

Slaves are employed generally in menial offices, with the exception of cookery, which would be impure if performed by a slave. Poor persons, who have no slaves, hire persons to do such work; but slaves are preferred by those who can afford to purchase them, because slaves have a permanent attachment to the family.

In general, I think, it is more economical to be served by slaves than by hired servants.

A master is, in general, more disposed to favour his slave than a hired labourer, from whom he generally exacts the full measure of work.

A severe master might oppress his slave in a way which a hired servant of the same caste would not submit to.

The slave has no right to any portion of his time.

A slave who does no work regularly for his master, but is only called upon to attend at festivals, or to do other occasional service, receives, when so called upon, the same rations as a freeman, and wages, but not so high as those of a freeman.

No absolute slave has a right to purchase his freedom; but sometimes there is a stipulation for redemption in the contract of self-sale, or of the sale of a child.

I have never heard of a class of slaves called Moollah Zadah. The Hindoo slaves of Mussulmans remain Hindoos.

By the Shasters, property in slaves (or bipeds as they are called) is treated with the same respect as immoveable property, and is transferred with equal formality. Consequently, no one buys without full inquiry; and in the conveyance all the particulars are recorded. When a slave is bought of a stranger, it is usual to require that some known person should become surety that the seller has a right to sell.

Perhaps one or two-sixteenths of the whole population of these districts are slaves; but the great majority of the Kyburt caste are slaves; almost all respectable families have slaves, even those who are in a state of decay.

The same rites are observed at the marriage of slaves as of other Sudras, and the master is under a moral obligation to provide for the marriage of his slaves, as of his children. The parents of a young slave are consulted as to the choice of a bride or bridegroom. Illegitimate children of a slave woman are slaves of the woman's master.

When two slaves of different masters intermarry, there is usually a stipulation between the two masters respecting the ownership of the children; where there is no stipulation, the male children follow the father, the female the mother.

There is frequently a special stipulation respecting the ownership of the children, depending upon the expenses of the marriage being all paid by one party, or some such cause.

If a free person of either sex marry a slave, without stipulating for freedom with the master, such person becomes a slave; but if such person stipulate for freedom, then the children are slaves or free according to their sex; I am stating the law as laid down in the Shasters, but I have heard that the practice is conformable to it, though I do not know any case of my own knowledge.

If a male slave marry the slave of another master, without his consent, such slave may nevertheless

nevertheless have access to his wife, but so as not to interfere with her service more than conjugal rights necessarily require.

The practice of punwah shadee is known in the districts of which I speak.

The sale of slaves is very common, but it is becoming less so, because the leaning of the courts against slavery deters people from purchasing. The probability that the courts will not enforce the rights of the master has caused the price of slaves to fall considerably.

The present average price of a young girl is now from 25 rupees to 40, and it used to be from 50 to 60. The price of a young male of 18 or 20, is from 16 to 20 rupees, and was from 30 to 40.

It would be considered oppressive to sell a slave, so as to place him beyond the reach of communication with people of his own class, or to separate families; the courts ought to interfere to prevent such sales.

There are no slaves adscript to the soil.

I know no instance in which slaves have been sold in execution of a decree, or for arrears of revenue or rent; but I see nothing illegal in such a proceeding.

I am not aware that slaves are ever hired out, but the interest of a debt is sometimes paid by the services of a slave, the slave remaining in the possession of the debtor, who continues to maintain the slave.

The mortgage of slaves is legal, but not much practised, not being convenient.

If a mortgaged slave die, the loss falls upon the mortgagor, and he must provide another slave; but if the death be occasioned by the fault of the mortgagee, then the loss falls upon him.

Sale for the purpose of prostitution is of course illegal, because a prostitute necessarily loses caste.

2 January 1839.

4.—*Hamid Russool,* Vakeel of the Sudder Dewanny Adawlut, Calcutta.

I AM a native of Behar, district of Patna, pergunnah Sunda.

I am acquainted with other districts of Behar, viz. Ramghur, Behar Proper, Shahabad and Tirhoot.

There are two classes of Hindoo slaves, Kuhar and Kurmi; the Kuhar are principally domestic slaves; many of the Kurmi have separated themselves from their masters, owing to the decay of the master's family, and have established themselves as cultivators upon their own account; the right of the master to these slaves remains nevertheless, and may be asserted.

The slave generally returns to service when required; if he refuse, and a breach of the peace arise, and the case come before the magistrate, he would, if he had no doubt about the slavery, pass an order for the delivery of the slave to the master; if he had a doubt, he would tell the master to bring his action in the civil court; I do not know any instance of this of my own knowledge, but I have heard of such instances.

I remember a case in zillah Behar where one Afzul Ali, a Muslim, applied to the magistrate, and being referred to the civil court, brought a regular action in the zillah court against the slave, a girl, and Salamut Ali, the person who was harbouring her; he got a decree, and the girl was restored to him.

The great majority of Kurmis are absolutely free; but, as far as I know, a free Kuhar does not exist, though many have left their masters, and are practically free; but these, when claimed, never pretend to be gurua or unowned; they are sold by their owners, but never by any one else.

The sale of free children is rare, but in times of extreme distress, even Brahmins, Khitryas and Syuds will sell their children; I have heard that this occurred in the great famine, in the fusli year 1177; at present only the lower classes sell their children when urged by distress.

The sale of high caste children is not considered valid in law; and I have heard that the purchasers of such children, in the great famine, returned the children when they discovered that they were of high caste.

By strict Mahomedan law no one can be a slave but a Cafir taken in battle; but by popular recognition, the sale of a Mahomedan child of the labouring classes is permitted; the law is evaded by framing the deed as a contract of hire for a long period; the same form is used in the sale of a Hindoo; for in Behar the Mahomedan forms of contract and conveyance have been generally adopted.

The offspring of a person thus sold is free; my grandfather bought a female Kuhar in this manner; she remained in our family, as a slave, till her death, but we have no right to her children; they did service in our family, and were supported by us, but they are free.

I have never known a contract of this sort, in which any mention was made of future offspring; but I have known cases in which men have sold both themselves and their existing offspring by the same deed.

I have never heard of any importation of slaves into zillah Behar or Patna, and people do not buy slaves from unknown persons.

If a slave refuse to work, the master corrects him with a slap on the face, or a rattan; if the slave is incorrigibly obstinate or vicious, he is turned away: this rarely happens. Slaves perform menial offices in the house, including cookery, when the master is a Mahomedan. Slaves are also employed in agriculture.

Appendix I.

Evidence.

Manumission is rare, and not generally desired by the slave. But it sometimes happens, that a master anticipating, from the evil disposition of his children, that they will maltreat the slaves, manumits such of them as he has a regard for.

The slaves of great people frequently appear to possess property; but I suppose, in law, it is the property of the master. I know of no case in which the right to such property has been disputed between master and slave.

A master has no right to exact from his slave offices which are unsuitable to his caste; and I presume the slave would be protected in refusing to perform such offices.

The Mahomedan master has a right to exact the embraces of his female unmarried slave, of the same religion, but not of a Hindoo slave.

If a slave, so subjected to the embraces of her master, have a child by him, she is called "um-ul-wald" (the mother of offspring) and becomes free. The offspring inherit as legitimate children.

Slaves are not entitled to any time to work for themselves.

A slave who is separated from his master is entitled to food and clothing, if called upon for some occasional service, and he also commonly receives a present.

I think, upon an average, that there is some economy, and certainly some comfort, in being served by slaves, rather than free people, particularly female slaves. In the country, female free servants are not to be procured. Both males and females, of the lower classes, think it derogatory to them to take menial service; and to the females, in particular, it is disreputable.

Slaves are frequently employed in offices of trust. They are generally more trusted than free servants.

A man who has sold himself into slavery has no right to redeem himself without his master's consent. Nor has the parent of a child, who has been sold, any right to redeem the child.

Syuds,* and Sheikhs, Patans and Malaks† are the only Mahomedans who cannot be slaves according to the custom of the country.

A Mahomedan master employs a Hindoo slave in out-door work, and does not interfere with his religion.

The proportion of slaves, in the above districts, may perhaps be about five per cent.

All respectable families, whether Hindoo or Mahomedan, have slaves.

It rarely happens that a Hindoo slave is converted, and becomes Moollah Zada. I never saw one.

The same rights of marriage are observed among slaves as among free men, whether Hindoo or Mahomedan; and it is the duty of the master to provide a spouse for his slave, and to pay the expenses of the marriage.

In the absence of any special agreement, the master of the female slave is entitled to the offspring.

So also, if the husband is a free man, and there be no special agreement.

It is not usual to make special agreements as to the distribution of the offspring. I never heard of a free woman marrying a slave.

I am speaking of the slaves of Mussulman masters, whether such slaves be Mussulman or Hindoos.

The husband of a slave woman has no right to remove his wife from her master's household, but he is entitled to have access to her.

Slaves are generally well treated. The old and infirm are entitled, by law and justice, to support and care. I have never heard of this right being enforced by application to a court.

Cruelty to a slave does not entitle him to emancipation, but the magistrate ought to interfere to prevent and to punish it.

The withholding of support, or the inability to give it, would authorize the magistrate to set the slave free.

It is thought disreputable to sell slaves, but not so to buy.

The price of a Hindoo slave girl is from 30 to 100 rupees; that of a young male, from 25 to 40 rupees.

It is not usual to sell slaves to purchasers living at a great distance, nor to separate families.

According to usage, a slave about to be sold is allowed to object to the purchaser, and to choose any other who is willing to pay the price; and the master ought to give the slave time in such a case to find a purchaser. If, however, the slave cannot find one, the transaction must proceed.

I know of no class of slaves who are adscript to the soil.

It is not the custom to sell slaves in execution of decrees, or for arrears of rent and revenue.

The practice of letting slaves to hire, or mortgaging them, does not occur in my country.

Procuresses sometimes kidnap children for the purpose of prostitution.

It would be disgraceful in a Mahomedan master to sell a girl for that purpose. It is also contrary to Mahomedan law.

2 January 1839.

5.—*R. H. Mytton,*

* The descendant of the prophet and the descendants of his companions.

† Descendants of persons who have received titles from the sovereign.

5.—*R. H. Mytton*, Esq., Magistrate of Sylhet.

I WAS three years in Sylhet as magistrate and collector.

Sylhet is under a ryotwary settlement, and every Meerassadar has, in his family, one, two or three slaves.

It is considered as a mark of distinction to possess slaves; and a man's slave is the last thing he will sell.

The number of registered Meerassadars is a lakh and a quarter; but amongst them are many under-purchasers, who are of an inferior rank and station, and do not possess slaves, though they call themselves Meerassadars.

I cannot say what is the number of registered Meerassadars. For these reasons it is extremely difficult to estimate, with any accuracy, the number of slaves.

It is not common to sell a slave against his own consent, nor to sell one to a person residing at a great distance.

Complaints have sometimes been made to me, by mothers, that their master was about to sell their infant children, so as to separate them,—I mean children of an age to require parental care. In such cases I have interfered, to prevent the master from doing so. I have never found it necessary to do more than issue an order. I doubt whether it would be legal to enforce such an order by punishment.

I never recollect a case of the separation of husband and wife coming before me.

The greater part of the whole population is Mussulman, and so is the greater part of the slave population.

I never heard the term Moollah Zada.

A great many Hindoo masters have Mussulman slaves, but very few Mussulman masters have Hindoo slaves.

The greater part of the poorer classes is Mussulman, and it is, of course, these classes who sell themselves and their children in times of scarcity. They do not object to selling themselves to Hindoo masters.

The slave population is principally employed in agriculture.

The condition of slaves differs very little from that of freemen of the same class.

I never heard of any slaves who are *adscripti glebæ*.

I never heard of a case of manumission.

By law, I believe, the master is entitled to all the slave's earnings; but in practice it is very common for slaves to possess property. Some are burkundazes, receiving government pay to their own use. Some are holders of lands, under their masters, and pay rent.

The master can, by law, compel his female slave to marry against her consent; indeed, both slave and free children are generally married at an age at which they are incapable of giving consent.

Female slaves are frequently married to men whose profession it is to go about as the husbands of slaves. The object of this arrangement is, that the slave girl may remain in her master's house, and that all her children may belong to him.

These itinerant husbands receive a present at the marriage, and they are maintained, while visiting their wives, by the master.

The master is bound by law to maintain his old or infirm slave, and the general feeling would be strongly against the neglect of that obligation. I have never been called upon to enforce it as a magistrate.

I think there is no importation of slaves into Sylhet, nor do I think there is any exportation to foreign countries. But certainly, and particularly in years of scarcity, there is some exportation into the adjoining districts.

I think it would not be expedient to prevent this, inasmuch as it alleviates the distress.

I do not think Regulation III. of 1832, applicable to such cases. Because this is not importing from one province to another, and because, under the circumstances under which it takes place, it cannot, I think, be called removal for purposes of traffic.

There is also a practice of inveigling slaves, principally women and children, away from their masters, carrying them away, and selling them in the adjoining districts, especially in the pergunnah of Bickrampore, near Dacca, which is inhabited by respectable Hindoos, Brahmins and Kayets, amongst whom there is a great demand for such slaves.

Whenever a case of this kind has come before me, I have always punished it as a theft; and, I believe, this has been the practice of my predecessors. I have had many such cases before me.

There are many persons who are legally slaves, and who may be reclaimed by their masters, but who are practically free, and living in residences of their own.

There are others who are in states intermediate between complete slavery and that which I have just described.

The usual way in which a man sells himself is by a deed, purporting to lease his services for a long term, nearly a hundred years in general. The deed is called "kharidagi-pottah."

In India, it is common to borrow money, the borrower mortgaging his services for a short term of years.

Cases have come before me, where free female children have been sold for purposes of prostitution. I have always interfered to prevent the completion of such sales; and I think I have bound over the parents in recognizances not to sell the children.

I never heard of slaves being sold in satisfaction of a decree, or for arrears of revenue or rent.

12 January 1839.

Appendix I.

Evidence.

6.—*Dhurb Singh Das*, Oriah Missul Khawn, in the Calcutta Court of Sudder Dewanny Adawlut.

I AM a native of pergunnah Cutteya, in the northern division of Cuttack.

Since 1819, I have held various official situations in that province, where I remained till November 1837, when I attained my present appointment in the Sudder.

There are two classes of persons in Cuttack who generally keep domestic slaves, Mussulmans and Kaits. The latter are subdivided into Myntea or Oriah Kaits, the Bengalee and Lalla or Western Kaits.

There are also some rajahs and zemindars who are Kundaits, Rajpoots and Ketryas, who keep such slaves, but no Brahmin does so.

Before the Mahratta invasion of Cuttack the rajah Pursuttam Deo prohibited Brahmins from keeping slaves. I do not know the reason of this prohibition, but since that time no Brahmin keeps a domestic slave.

The Byse also never keep domestic slaves, it is contrary to the principles of their caste.

The domestic slaves consist of such low castes as are considered pure.

The impure castes are employed exclusively in out-door work. All classes of people who can afford it keep this kind of slaves, and they are constantly sold from hand to hand.

The pure castes are—

Chasa, Khundait, Gualah, Tanti, Agari, Bas Bania and Nursala.

The impure castes are—

Dhobee, Chumar, Ghokha, Kyut or Kyburt, Raree, Pan, Kundra, Napit, Bhagti, Hari and Dome.

All kinds of slaves are constantly sold; but according to popular recognition, the consent of the slave is necessary.

This custom has arisen from a proclamation issued, in 1824, by Mr. Robert Ker, who was commissioner of Cuttack.

A slave who was sold against his own consent ran away. The master used force to coerce him; he complained to the magistrate, who gave him no protection; he then appealed to the commissioner, who gave him his liberty, fined the purchaser, and issued the proclamation of which I have spoken.

The proclamation declared the sale of slaves illegal.

Since that time, I think in 1829 or 1830, a slave complained to Mr. Forrester, the magistrate, who declared a deed of sale of a slave to be unlawful, fined the purchaser, awarded costs from him to the slave, and referred the purchaser to the civil court to recover the price he had paid from the seller. This is the only case I remember since the proclamation. The effect of the proclamation has been, not to put an end to sales, but to prevent their taking place without the consent of the slave.

There are Mussulman slaves, who are the illegitimate offspring of women of low caste, whether slaves or free women, by Mussulmans.

The offspring of a Mussulman and a low caste woman has no right to inherit from his father, unless the ceremony of marriage have been performed between his parents.

There are also Mussulman slaves who have become so by conversion, having been bought from their parents or masters in childhood.

The origin of Hindoo slavery is, sale of free persons by themselves or their parents. People do not usually sell themselves or their children, unless pressed by necessity. This kind of sale is not uncommon at the present day.

The purer classes of slaves are sometimes employed in out-door work as well as in in-door. In such cases, they work separately from the impure classes, by whom they would be contaminated. If a man of pure caste accidentally touch one of impure caste, he must purify himself by washing.

It is usual for people of impure caste, in going along the road, if they meet a man of pure caste who happens not to observe them, to give warning, saying, "Good Sir, I am of such and such a caste; you had better retire."

Formerly, the impure castes lived in separate villages, and gave way whenever they met a person of pure caste on the road; but since the country came under the Company's government, they have become more independent.

If a slave refuse to work, or otherwise misbehave, the master corrects him by beating with the hand or a cane, or by tying him up for an hour or two.

I never heard of a complaint being made by a slave to a magistrate of ill-treatment.

Emancipation is not uncommon when a master is much pleased with a slave. In that case, if the slave were purchased, the master gives him the deed of sale; if there is no such deed, the master executes a farigh khatte, or release.

No time is allowed to the slave to work on his own account, and any thing he may acquire belongs to his master.

The marriages of slaves take place with the same rites as those of freemen of the same caste, and the expense is paid by the master. Upon the death of slaves of pure caste, the master also provides the funeral feast.

The usual practice is, for the master to buy a husband or wife for his slave; but when a marriage takes place between the slaves of two different owners, the owners take the offspring alternately;

alternately; and if the woman cease to bear when the number of her offspring is uneven, the last child goes to one owner, he paying half its value to the other.

When such a marriage takes place with the consent of the woman's master, she goes to live with her husband, rendering only occasional service to her master. If it take place without his consent, he allows the husband to have access; but the children all belong to him, the woman's master.

I never heard of the intermarriage of a free person with a slave.

The low castes of which I have spoken are in three different conditions. They are either —first, free; or, second, actual slaves; or, third, persons who, having been themselves slaves, or having sprung from slaves, can never escape the stigma of slavery, though they are in the enjoyment of liberty.

Persons in this last condition intermarry with actual slaves; but only when they can purchase them from their masters.

I never heard of Byakaras or punwah shadee.

Slaves are generally well treated; their condition is equal to that of hired labourers.

The master is bound to maintain his old or infirm slave; and I presume the slave might obtain a decree for maintenance in the civil court.

The master may exact any service which is not derogatory to his caste. It would be derogatory to the pure castes to compel them to work with the impure, and would therefore be an act of oppression.

It is more economical to employ slaves than freemen, both in-doors and out of doors.

I am an owner of slaves. I have 50.

I give an adult male slave a seer of rice, half a chittak of salt, half a chittak of oil, and one quarter of a seer of dal, or a pice to buy vegetables.

I also give two pice a week for tobacco. Two pice will purchase as much tobacco in Cuttack as four anas here.

I also allow them to cut fire-wood upon my ground. The usual allowance for fire-wood, when the slave is to purchase it, is half a pice a day.

I give four dhotis, two unguchas, one chuddar, and one blanket every year.

This is the usual allowance given to slaves.

They are provided with lodging.

They are trusted with the custody of money and other valuables in preference to hired servants.

There is no redemption in the case of self-sale, or sale of children by their parents.

There is a class of persons who agree to serve as slaves for food. They can put an end to their servitude when they please; but the stigma still remains. These people differ from hired servants, in respect that they live upon the leavings of the master's table, which degrades them to the rank of slaves.

The children of such people, if born after the servitude commenced, are slaves for ever.

Such people can acquire no property during the continuance of the servitude.

Women become slaves in this way as well as men.

The proportion of slaves to freemen is as six to ten; a great zemindar will sometimes have 2,000 slaves. There are many such; Junma Jay Chowdri and Baghwat Chowdri and others. I dare say there are 200 or 250 who have as many.

I have been speaking only of the northern and central divisions of Cuttack. In the southern division, there are but few slaves, and they are seldom sold. The great zemindars there employ freemen.

The southern and central divisions are the most flourishing parts of Cuttack.

Land is better cultivated by slaves than by freemen; for the slaves feel that they have an interest in the land.

I attribute the present depressed state of agriculture, in North Cuttack, to the late inundations of the sea. Formerly it was as well cultivated as the other two divisions.

The castes to which slaves of North and Central Cuttack belong exist in equal numbers in South Cuttack.

The price of a young male varies from five to 30 rupees. That of a young female is the same.

Slaves of the Gokha caste sell for more than other slaves, because the men are fishermen, and the women manage the buying and selling, and are very skilful, and their occupation is a productive one, both to the slave and the master. The Gokha is allowed to retain a large share of the produce, making over the remainder to his master. The Gokha females never sell for less than 50 rupees. The male sells for less, and I cannot tell the reason.

Generally, the pure castes bear a higher price than the impure, because they can be employed in domestic occupations.

A boy of five or six years sells for one-fifth of the price of a young adult; the same of a girl.

Before Mr. Ker's proclamation, the slave might be sold to a purchaser living at any distance, and the master was not considered to act oppressively.

But even in those times it was not usual to separate families.

There are no *adscripti glebæ*.

It is common to borrow money upon a mortgage of slaves; but the slaves remain in the possession of the mortgagor.

It is not common to let slaves to hire.

The old form of self-sale was by a deed of sale; but since Mr. Ker's proclamation it is done by a lease of 60, 70 or 80 years, which is understood to include children born after the lease.

Appendix I.

Evidence.

Sale for prostitution is illegal by the Shaster; and is considered immoral and disreputable, though it takes place sometimes.

I knew a case in which a judgment creditor included slaves in the schedule of his debtor's property, for the attachment and sale of which he moved the court. The debtor objected, and Mr. Pigou had the slaves struck out of the schedule, saying they were not a fit subject for sale.

18 January 1839.

7.—*Kashi Nath Khan*, Agent of the Ranees of the late Rajah Bishen Nath, of Nator.

I AM a Brahmin.

I am a native of the village of Satteen, pergunnah Khatta, district of Rajshahi.

I am principally acquainted with the zillah of Rajshahi; but I have likewise some knowledge of the adjoining districts.

I possessed two slaves; one is dead, and I have now but one.

Most of the respectable people in Rajshahi, both Hindoos and Mahomedans, have domestic slaves.

The Mahomedans have generally Mahomedan slaves.

The Hindoo slaves are of the Kybert, Kait, Jalia, Mali, and generally of all the low castes.

There is no caste so low as to be incapable of slavery; but the lowest castes are not employed within doors.

The origin of slavery is, self-sale and sale, by parents or other relations *in loco parentis*; also of a wife by her husband. This sale does not dissolve the marriage; if the husband have access to her, the offspring will belong to the purchaser, who is the owner of the soil.*

These sales, which formerly sometimes took place in Rajshahi, were principally sales of slaves imported from Rungpore and Mymensingh. (The sale of slaves domiciled in Rajshahi has always been uncommon.)

Formerly these sales were frequent, and took place in the market.

But, about 20 years ago, a person was detected in having bought a boy of 10 years old, and sacrificed him to the goddess Kali. He was tried, convicted of murder and executed. This case occurred in Rungpore; but, in consequence of it, a proclamation was issued, by order of the Nizamut Adawlut, in Rajshahi and other adjoining districts, prohibiting the sale of slaves in the market. The people supposed that the prohibition was extended to all sales, and in consequence of this understanding, though private sales still take place, yet it is no longer the custom to register them, as it was before the proclamation, in the zillah or the pergunnah—Cazi's office.

Formerly, slaves were imported from Rungpore and Mymensingh by itinerant dealers. That traffic has ceased; and now, when a person in Rajshahi wishes to buy slaves, he must either go or send, or write to those districts, and has some difficulty in finding slaves for sale.

The slaves may be about two or three-sixteenths of the whole population.

Some of the agricultural slaves are fed by their masters; but others cultivate for themselves land which their masters have allotted to them, cultivating at the same time the master's land. In this case, the master supplies cattle and implements of husbandry.

Self-sale does not now occur in Rajshahi; I believe it has ceased in consequence of the proclamation which I have mentioned, and of the inclination of the courts in favour of freedom.

A self-sold slave may be purchased in Rungpore and Mymensingh; but such a slave will probably be told, that if he run away, the courts will not restore him to his master.

Refractory slaves are coerced by threats, and beating with the hand or a stick. But this consequence often follows, that some other person, who wishes to seduce the slave, tells him that if he complain to the magistrate he will be liberated; and a master, therefore, very seldom beats his slave.

There are no *adscripti glebæ*.

But if an estate is cultivated by slaves, no one would purchase the estate without the slaves.

There are many estates in Mymensingh, on which the greater part of the cultivators are slaves, and there are some such estates in Rajshahi.

I can mention, in particular, the estate of Lushkurpore. A portion of that estate has been sold for arrears of revenue; the slave cultivators were not sold with the land, and I consider them to be still the property of the old zemindar, but practically they are free ryots, paying rent to the new zemindar.

When slaves are sold with the land, it is usual to have separate bills of sale for the land and the slaves.

I have heard of but one instance of manumission.

The slave cannot hold any property against his master.

Slaves are married with the same rites as free persons of the same caste.

It is the moral duty of the master to provide for the marriage of his male and female slaves.

* This figurative expression has reference to a maxim of Hindoo law, according to which the female is considered as the soil, and the male as the seed.

slaves. Sometimes the master will buy a wife for his male slave; sometimes he will marry him to the daughter of a freeman, who consents to make his daughter a slave to obtain the favour of the master. The slavery of the bridegroom is not considered derogatory to the bride's family, she being still admitted to communion with her family.

Sometimes the master will buy a husband for his female slave. In other cases he marries her to a Byakara, who visits her occasionally, she remaining in her master's house. The Byakara has generally several wives of this kind, and visits them in succession. Sometimes this kind of marriage is intended only as a screen to conceal the intimacy of the master with his female slave.

The offspring of a Byakara, whether he be free or a slave, belong to the masters of his wives respectively.

It is not usual for the husband and wife to be slaves of different masters, on account of the inconvenience; but if a slave of one master marry the slave of another without his consent, the offspring belongs to him. If such a marriage were to take place with his consent, there would be a stipulation as to the division of the offspring.

Slaves are in general well treated. A respectable master will treat his domestic slave as a child. Less kindness is felt for the slave who does not live in his master's house. But he is treated in the same way as a hired labourer.

There is more satisfaction in having domestic service performed by slaves than by hired servants, because they are more trustworthy, but I think the expense is about the same.

The same may be said of out-door slaves.

The slave has a right to maintenance from his master in age and sickness, and the courts would enforce the right.

According to the Shaster, the master would be punished for ill-using his slave, but the slave would not be liberated. Now, however, I believe the courts would liberate the slave.

In Mymensingh and Rungpore, masters let their slaves to hire, particularly females, but not in Rajshahi. The hiring is generally for short periods, from two to six months.

There are two modes in which slaves are mortgaged: one, when the mortagee has possession of the slave whose services discharge the interest; the other, when the possession remains with the mortgagor, and the security of the creditor depends upon the deed only.

Slaves are transferred by an absolute bill of sale.

I know of no instance in which slaves have been sold in execution of a decree, or for arrears of rent or revenue.

There is no redemption in the case of self-sale or sale by a parent.

As far as I have observed, it is not usual to separate husband and wife, or young children from their parents. But the master has certainly a right to sell his slave to whom he pleases without his consent; but the ruling power ought to restrain him in any oppressive exercise of that right.

18 January 1839.

8.—*Henry Ricketts*, Esquire, Commissioner of Revenue and Circuit, 19th Division, Cuttack.

I HAVE been employed in the district of Cuttack, in the political, judicial, revenue and salt departments, since the year 1827.

Slavery prevails in all parts of Cuttack, but more particularly in the chuckla of Budruk, in the northern division, and in the chuckla of Jehazpore, in the central division of the district.

Slaves are kept by all classes of persons, and are employed chiefly in out-door work.

The slaves are principally Pans, Kundras, Chasas and Gowalahs.

The Pans and Kundras are impure castes, and cannot be employed in any services by which their masters might be polluted.

There are also Mussulman slaves.

In 1829 or 1830, in consequence of the prevalence of dacoity in the chuckla of Budruk, and the impression that the slaves were chiefly concerned in those atrocities, I took a census of the slave population of that portion of the district, and found it to amount, to the best of my recollection, to about 11,000; and in 1831 or 1832, I took a census of the whole population of Balasore, including the chuckla of Budruk, and found it to be 500,000. The official returns of this census are deposited in the magistrate's office.

I do not know how slavery originated in Cuttack; but accessions are continually made by the self-sale of adults, and the sale of children by their parents in times of distress.

I believe the Mussulman slaves bear a less proportion to the free Mahomedan population than the Hindoo slaves bear to the free Hindoo population.

A deed of sale is the form of document used in cases of self-sale and the sale of children, and these writings purport to convey the parties sold, and their descendants, in full property for ever. The civil courts so far recognize these sales, as to admit the deeds in evidence for the purpose of deciding on the titles of parties claiming the proprietory right in the slaves, but the slaves themselves are never parties to such suits. I recollect no suit instituted by a master against a slave, or *vice versâ*, founded on a deed of this description; and I cannot say, therefore, what the result would be; but I should not myself enforce such a deed, on the principle that slavery is not recognized by any of our regulations.

I was for seven or eight years magistrate of the northern division of Cuttack, and during that period several complaints were preferred to me by masters, regarding the non-attend-

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Appendix I.

Evidence.

ance of their slaves, but I never interfered to assist in coercing the latter; and I believe it to be the general practice of the magistrates in Cuttack not to recognize the right of the master to punish or coerce his slave. I know not how this practice originated. I never heard of any proclamation issued by Mr. Ker, when commissioner of Cuttack, on the subject of slavery.

I am not aware what measures masters resort to for the purpose of enforcing the services of their slaves. My impression is, that one or two cases have occurred of slaves complaining against their masters for maltreatment, but I have no distinct recollection of them: such complaints are exceedingly rare.

As a magistrate, I would not recognize the relation of master and slave as justifying any act on the part of the master which would otherwise be an offence, not even an act of slight correction or restraint of the slave.

I do not know whether slaves are ever manumitted by their masters. My impression is, that slaves do occasionally purchase their liberty, but I cannot call to mind any particular instance.

The slaves do not enjoy the privilege of working during any portion of time for their own benefit. The masters have a right to their full labour.

I can give no information respecting the marriages of slaves.

The slaves are generally well treated, and their condition is equal to if not better than that of the free agricultural labourer, particularly in a famine.

It is the usage of the country for masters to support their slaves under all circumstances; but suits are never preferred by slaves on this account, and I imagine such suits would not be entertained by the courts.

Slaves are usually maintained by a daily allowance of food and periodical supplies of clothing; but some have lands given them to cultivate, the master receiving half the produce, or such portion of it as may be specially agreed on.

Free persons sometimes mortgage themselves for a time, either on account of debt, or for an advance of money; but I do not know for what periods such contracts are usually made, or the conditions of them, whether the services of the self-mortgagor go to the discharge of both principal and interest, or of interest only.

I believe that transfers of slaves from one owner to another are frequent, but that they are never made without the slave's consent.

I understand also that slaves are mortgaged by their masters as security for the payment of a debt; but in such cases the slaves continue in the possession of their owners.

I am not aware whether masters let their slaves to hire.

I know of no slaves *adscripti glebæ*.

Children are frequently sold by their parents for the purposes of prostitution: sometimes by kidnappers. There are female slaves attached to the temple of Juggurnaut, but I do not know if to other temples also.

I am not aware of slaves being sold by auction in satisfaction of decrees of court, or for realizing arrears of revenue or rent.

I know of no persons being imported into or exported from the district of Cuttack as slaves.

Kidnapping is certainly not common, but a case of kidnapping of a child occurred a short time ago at Cuttack. For what purpose the child was taken I know not.

I remember only to have tried one suit whilst officiating as judge of Cuttack, in which the ownership in slaves was disputed; and I do not recollect the particulars of it.

22 January 1839.

CONTINUATION of the Deposition of *Tek Loll*, Mooktear of the Sudder Dewanny Adawlut, Calcutta.

MANUMISSION is rare, but sometimes it takes place when a master has a particular cause of satisfaction with a slave.

Upon occasion of funerals, it is usual to give one or more slaves, amongst other presents, to the officiating Brahmin.

In general, slaves are contented with their lot.

They can have no property as against their masters, but, by his indulgence, they frequently possess property.

Their marriages and funerals are attended with the same rites as those of free people of the same caste, and the master pays the expenses.

I have seven slaves.

One female slave accompanied my family from Behar to Calcutta two years and a half ago, and is now living with us. Two, one male and one female, I bought here. The other four are left in my family house in Behar. They consist of a lad, a man who is married to the slave of another master, an unmarried girl, and a widow who has married a second time in the form we call "saggai."

I bought two of these slaves, viz. the girl I mentioned, and the lad, from their masters.

Two sold themselves to me, viz. the widow, and the man who is married to another man's slave. He was a freeman, though married to a slave.

Of the other three, I bought one girl of 11 years old from her maternal grandmother; another girl, very young, from her maternal uncle; and a boy, aged between four and five years, from his maternal uncle.

I know

I know of no case in which the price of a slave is shared between the maternal relation and the owner.*

The girl I bought from her grandmother has been married since we came to Calcutta. I married her to a slave who had left his master, and who followed me from Behar, and now lives in my family as a servant. He told me he was a slave, but never disclosed his master's name. I pay him wages. The marriage was performed at my expense.

I have only heard the prices of the slaves remaining in Behar from my brother.

The girl, who was bought from her master, cost 41 rupees.

The self-sold man, 26. Of the other two I have forgotten the price.

Of those in Calcutta, the male, who was bought from his maternal uncle, in Calcutta, cost seven rupees. The girl who is married to the runaway slave, cost 11 rupees. She was bought in Behar. The unmarried girl was bought for five rupees, in Calcutta. All the seven are Behar people, of the Kuhar caste.

The maternal relations who sold the children to me had settled in Calcutta, and were in distress. I do not know if the children were born here or in Behar.

It is a moral duty incumbent on the master to provide for the marriage of his slaves.

If my male slave marry the female slave of another, the progeny all belong to the owner of the woman.

The owner of the female to whom my slave in Behar is married has assigned a house, to which my slave goes at night after his work is over. They have children, who all belong to her master.

It is uncommon for slaves of different masters to intermarry.

It is not uncommon for a free Kuhar to marry a slave. Even if he were to marry a free woman, the children would be under her dominion, and not under his, according to the rules of the Kuhar caste; therefore he has less reluctance to marry a slave.

If a free girl marry a slave, which often happens, the children are free, as they follow her condition.

These customs belong to the Kurmi as well as the Kuhar caste.

Slaves are in general well treated. If they live in a separate house, they have rations; if in the house of their master, they have their portion of the food which is dressed for the family. They all receive clothing; usually two suits in the year.

The quantity of food is not fixed, but proportioned to the appetite of the slave, when he lives in the house.

But when he lives separate, and chooses to dress his own food, he receives a fixed allowance. An adult male would receive three seers of rice in the husk, or two seers of wheat unground, and, in addition, three quarters of suttu, which is the meal made from inferior grain or pulse. This is more than he can consume, and he barters the surplus for salt and other condiments. He has no allowance of fuel, but must find it for himself.

He sometimes can get a little tobacco out of the surplus, but it is not enough to purchase pawn and betel.

It is considered that the slave has a right to support in sickness and age. I never knew it refused.

Extreme ill-usage would not confer a right to emancipation; but the magistrate would punish the master in that case.

If the master had no occasion for any service from the able-bodied slave, he would tell him to go and earn his own livelihood, but without relinquishing his legal rights.

I do not know of any case of a slave being let to hire, but mortgages of slaves occur in two forms; that is to say, when the slave remains in the possession of the mortgagor, and when he is transferred to the mortgagee. In this latter case the mortgagee supports the slave, and has the benefit of his labour; which, however, does not, without special agreement, go to discharge the interest.

The children born during the mortgage belong, in either case, to the mortgagor.

I remember a case which occurred in Behar three or four years ago: a suniasi claimed a man, named Beetut, and several others, as his hereditary slaves. The case was decided in the plaintiff's favour by the sudder aumeen, and the decision was confirmed by the zillah court.

I have lived eight years in Calcutta. Before that time I lived for 22 years in the city of Patna, going occasionally to my family house.

Slaves are usually transferred by a bill of sale called "puttra." There are two ways in which the sale of slaves (whether self-sale or sale by a master) takes place; one is, when the price is settled between the parties; in the other, the price is settled by a committee of arbitrators, who fix the price after a personal examination of the slave. If the slave about to be sold is a pregnant woman, and the future offspring sold with her, the price is greater than it would be if the woman were sold alone.

A Kuhar could not be required to perform the work of a sweeper; but sometimes he will do such work if his master is ill.

There

* The question, to which this is an answer, was asked in consequence of our having observed a statement in the following words in the collection of papers, intituled, "Slavery in India," p. 5:—

"It seems that on the sale of a slave who separately procures his own subsistence, only one half of the price is received by the owner, the other half going to the parents of the slave."

Appendix I.
Evidence.

There are some slaves who live, with their master's consent, on the lands of other persons, and perform no service for their masters, except attending at festivals, when they receive food.

It is more economical to have labour performed by slaves than by freemen. Slaves show more zeal in the service of their masters.

The females belonging to Hindoo families, in poor circumstances, have no objection to hire themselves as servants.

It is common to commit the custody of valuable things in the house to slaves, but not to employ them in zemindari offices.

The sale of children is very frequent in times of scarcity. Their relations who sold them have no right to redemption.

When a man agrees to serve for food, he can hardly be called a slave. His children are not affected by the contract.

When a Mahomedan buys a Hindoo slave, he does not usually make a convert of him.

Self-mortgage sometimes occurs, and is subject to the same rules as the mortgages of which I have spoken. This kind of contract does not affect the children.

I never heard of a Byakara. The transfer of slaves is very common. But people of consideration think it derogatory to sell their slaves; and, when in reduced circumstances, prefer to let their slaves go and earn their own livelihood.

It is lawful, and not disreputable, for a master to sell his slaves to purchasers living at a distance, and to separate families. But such cases are rare.

It is usual for the master, after he has fixed the price of his slave, to allow him to select any purchaser who is willing to give that price.

There are no *adscripti glebæ* in Behar.

Slaves have frequently been sold in execution of decrees, by order of the courts in Behar, Patna and Shahabad; but I cannot tell whether this is still done.

They are not, I believe, sold for arrears of rent or revenue.

Procuresses do obtain female children for purposes of prostitution.

There are no dancing girls attached to the temples in Behar.

Slaves are divided among the family, like any other part of the inheritance.

25 January 1839.

9.—*Ram Crishna Putnaik Mahanti*; or, *Oriah Ka'it.*

I AM a native of village Bir Mukkunda Pore, pergunnah Sarai, near Pooree, in the southern division of Cuttack.

I am mooktear by occupation.

I have lived all my life in Cuttack, and have only been two months in Calcutta.

I am the owner of six villages. I have no slaves of my own. My lands are cultivated by free people.

There are slaves in Central and South Cuttack. They are the children or descendants of men of high caste, except Brahmins and of Mussulmans, by concubines of inferior classes.

Among the lower castes, self-sale and the sale of children in times of scarcity are also origins of slavery.

The pure castes are—

Chasa, Gowala, Khundait, Soodra (proper), Goorea (confectioner), Buriee (carpenter), Loohar, Bus Bunnia (seller of spices), Napit.

The impure are—

Telee, Kyburt-Raree, Golo, Tanti, Rungree (dyer), Chumar, Gokha, Khundra, Baslee, Pan, Haree, Dom, Bagdee.

The Brahmins do not own domestic slaves, but they have slaves for out-door work.

The impure castes are employed exclusively in out-door work. The pure are employed in both out-door and in-door work.

Sales of slaves are not common.

Those slaves who are the spurious kindred of their masters are never sold. The others, not very often.

The sale is invalid without the consent of the slave. This is the local usage of the country. I have heard of a proclamation of Mr. Ker, which prohibited the sale of slaves. The consent of the slave is necessary by the old local usage, independently of the proclamation.

The spurious offspring of a Mussulman, by a woman of low caste, would not be a slave. I do not know whether he would inherit.

I never heard of any class of slaves in Cuttack called Moolah Zadah.

There are some classes so very impure that it is necessary to wash, after accidentally coming in contact with them. If one of these see a man of respectability coming towards him, he either gives way or gives warning, that the men of good caste may avoid the pollution.

If a slave of pure caste is disobedient, it is usual to correct him by slaps with the hand.

But the course with a slave of impure caste is to complain to the darogah, who will admonish him. He may also be corrected by causing another impure man to beat him.

I never

I never heard of an instance of emancipation. The slaves do not in general desire it.

It sometimes happens that a master, in decayed circumstances, will tell his slave to go and earn his own livelihood. In this case, it is not usual for the master to receive any of the slave's earnings, unless the slave should be his child.

The master does not, by this proceeding, relinquish his legal rights, though sometimes the slave becomes practically free. But this does not frequently happen.

I never heard of a slave being let to hire.

No time is allowed to the slave to work on his own account.

Slaves are married with the same rites as free people of the same caste; and their funerals are performed in the same way.

Sometimes a master will marry two of his slaves to each other: sometimes he will purchase a husband or wife for his slave, and sometimes he will marry them to the slaves of other masters.

Free people do not intermarry with slaves except those people who, though not belonging to any owner, have the taint of slavery in their blood. These people marry slaves without loss or consideration.

When I speak of buying a husband or wife, I do not mean buying them from another master, for it is not usual for masters to sell their slaves. I mean the purchase of a man from himself, or of a girl from her parents.

The maxim which regulates the local usage is, that the seed is more worthy than the soil in the distribution of the offspring: and, therefore, if a freeman marry my slave girl, with or without my consent, the offspring is his.

It is not usual upon the marriage of slaves to make any special agreement respecting the ownership of the offspring.

If I consent to the marriage of my female slave with a freeman, or with the slave of another master, she ceases to be my slave. In the first case, she becomes free: in the last, she becomes the slave of the husband's master.

The condition of slaves is harder than that of free labourers. Their work is harder, their fare and clothing worse, and they are sometimes beaten.

When I said the slaves do not desire emancipation, I mean that they look upon it as unattainable; and, therefore, do not think about it.

The slave is entitled to maintenance from his master in age and infirmity; and I think that Mr. Wilkinson, formerly collector and magistrate of Cuttack, enforced this right in a case which was brought before him.

It is not usual to exact the lowest offices from slaves of pure caste, but if the master insist, the slave must obey. The slaves of impure caste perform the lowest offices.

The labour of slaves is more economical than that of free labourers.

If I could obtain slaves, I should cultivate my villages by means of them, but they are not to be had; and I should also employ them for domestic purposes.

There is no redemption in the case of self-sale, or sale by parents.

The proportion of slaves (meaning by that term, all who have the stigma of slavery) to freemen is as six to ten; one part out of the six is in actual slavery, the other five are practically free. I am speaking only of Southern Cuttack.

Southern Cuttack is more thickly peopled, and more cultivated than the other division. The people are more industrious. This has always been the case.

The purchase of children by procuresses for prostitution takes place. The children are sometimes kidnapped, and sometimes bought from their mothers.

I remember that Mr. Wilkinson punished a man with eight months' imprisonment for selling a child he had kidnapped.

Slaves are never sold in execution of decrees, or for arrears of rent or revenue.

There are 50 or 60 families or slaves belonging to the temple of Juggernaut. The males of these families are not married to the females, but live with them in a state of concubinage. The number of this college of Devadasis or slaves of the god is kept up by their own progeny, and no addition to their numbers from without is permitted.

There is another temple in Cuttack, that of Rogonat, which has a similar establishment.

29 January 1839.

(*Continuation*

Appendix I.

Evidence.

(*Continuation from page* 223.)

EXAMINATION of WITNESSES on Slavery in India, forwarded to the Supreme Government with the Second Report of the Law Commissioners.

NO.	DATE OF EXAMINATION.	NAMES.	PLACE OF BIRTH.	OCCUPATION.
10.	5 February 1839	Vishna Dutt Dalla -	Nil Assur Parbutty -	- - chief-priest of the temple of the goddess Durgah.
11.	5 ditto „	Vaydianath Missur -	- - Tirhoot, pergunnah Duraon.	- - pundit of the Sudder Dewanny Adawlut, Calcutta.
12.	8 ditto „	- - Aga Kurbullae Mahummud.	Shiraze - - -	- - merchant and shipowner and agent for ships belonging to the Red Sea and Persian Gulf.
13.	8 ditto „	W. C. Blacquière, Esq.	Great Britain - -	- - Persian translator and chief interpreter to the supreme court of Calcutta, and justice of the peace.
14.	12 ditto „	Hafiz Ahmud Kubir -	Rampore, in Rohilkund	- - principal of the Mahomedan college at Calcutta.
15.	12 ditto „	Gopal Lall Kait - -	- - village Romdaud, pergunnah Ramnah, North Cuttack.	- - agent of the rajah of Burdwan.
16.	12 ditto „	Ramcoomul Rae -	- - Nagdaon, pergunnah Salem Oortaul, tuppah Arrungabad, zillah Dacca Jalalpore.	- - mooktear of the Sudder Dewanny Adawlut, Calcutta.
17.	12 ditto „	Lallah Kashipershaud	- - Sirsua, pergunnah Turesar.	- - mooktear of maha rajah Chutter Singh, Durbhungah, Tirhoot.
18.	15 ditto „	Bissumber Ghose -	- - village Kalisha, pergunnah Shahabad, zillah Burdwan.	- - mooktear of the rajah of Burdwan.
19.	15 ditto „	Survand Rae - -	- - Khulsee, pergunnah Sultaun Pertaub, Dacca Jalalpore.	- - mooktear of Bhagruttee Deveye, zemindar of Zaffur Alem, of Mymensingh.
20.	15 ditto „	Parishnath Dobe -	Bhaugulpore - -	- - mooktear of maha rajah Rahamut Ali Khan Bahadoor, of Khurruckpoor.
21.	15 ditto „	Brijnath Dass Vydia -	- - village Mohdly, pergunnah Chundpertab, Dacca Jalalpore.	- - mooktear of Bowany Kishor Acharji, zemindar of pergunnah Ulalsingh, Mymensingh.
22.	19 ditto „	Hurnarayn Tewary -	- - - - -	- - mooktear of the family of Bissumbur Pundit, Ghazeepore.
23.	19 ditto „	Chunee Lall Dobe -	- - - - -	- - mooktear and zemindar of the newab Nazim of Moorshedabad.
24.	19 ditto „	Abdul Bari - -	- - village Izzah Nugar, Chittagong.	- - kazee of the city of Calcutta.
25.	22 ditto „	Sunkurnath Jhah -	- - Colgong, zillah Bhaugulpore.	- - priest of the family of Khurknath, zemindar of Colgong.
26.	26 ditto „	- - Urshud Ali Khan-Bahadoor.	- - - - -	- - vakeel of the newab Nazim.
27.	5 March „	Dumur Singh - -	Purneah - - -	- - mooktear in the Sudder Dewanny Adawlut, Calcutta.
28.	8 ditto „	Jogdhyan Missur -	- - Benares, but of a Lahore family.	- - professor of mathematics in the Sanscrit college.
29.	15 ditto „	Soodursun Loll - -	- - Tirahi, pergunnah Goa, in Sarun.	- - mooktear in the Sudder Dewanny Adawlut, Calcutta.
30.	15 ditto „	Lallah Deoke Nundun	Bhojpoor, in Shahabad	- - mooktear of the rajah of Chotah Nagpore.
31.	22 ditto „	Sridhur Buxshee Kait	- - Jumalpoor, Western Birbhoom.	- - agent of the rajah of Pachet, in Jungle Mehals.
32.	30 ditto „	Bahadoor Reza - -	Sylhet - - -	- - owner of two talooks in Sylhet.
33.	30 ditto „	Prawn Kishen Dutt -	- - - - -	talookdar, Sylhet.
34.	17 May „	Lalla Ramchurn Lall -	- - pergunnah Sherghotty, in Bamghur Behar.	- - agent of maha rajah Lutchmenath Singh.
35.	16 August „	Captain Bogle - -	- - - - -	commissioner of Arracan.
36.	30 November „	W. R. Young - -	Great Britain - -	- - commissioner to inquire into the condition of the settlements in the Straits.

10.—*Vishnu Dutt Dalli.*

I AM a native of village Assur Parbutty, and by right I am chief priest of the temple of the goddess Durga, under her name of Kamkhya, which is seven days' journey east of Gowalpara.

The tribe of Brahmins to which I belong is established in Canouge.

I am the owner of 10 slaves, five men, four women, and one boy.

The Kos, Kybart, Kalipla and Napit, are so far pure as to be fit for in-door work in the houses of Brahmins and Kaits.

The Chundal, Dom, Hera and Kumar, can only be employed in out-door work.

There are slaves belonging to all these castes, but many of them are also free.

The origin of slavery in Assam is the sale of children by parents in times of scarcity. Self-sale does not take place there.

Slavery never originates, in Assam, from the mixture of castes.

If a Brahmin or a Kait were to cohabit with a free woman of low caste, the offspring would not be slaves. The father would be degraded, but might recover his purity by proper expiation.

People do not sell their slaves except when they are in distress; and by favour of the goddess, my country is blessed with plenty; consequently there are few transfers from one master to another.

Since the establishment of the British Government in Assam, all sales of slaves are registered at the office of the head station of each district, as well sales of free children by their parents, as sales of slaves by one master to another.

There are many Mahomedans in Assam; some of whom are slave-owners and some are slaves.

These Mahomedan slaves sometimes belong to Hindoo masters, but are only employed in out-door work.

Sometimes Mahomedan masters have Hindoo slaves. They do not convert them, and employ them only in out-door work.

I do not know the term Moolah Zada.

Manumission *eo nomine* is very rare: but sometimes a man who has no relations will present his slaves to a temple, whereby they become the slaves of the god.

The slaves of the god are employed for three months in the year in attendance at the temple, and have a right to share in the offerings during that time. During the other nine months they support themselves by their own labour.

The rajah assigned 12 villages for the support of my temple, which are cultivated by free ryots paying rent to the temple; we have only 20 or 25 slaves of the goddess.

There are many temples in Assam to which such slaves are attached. They are never purchased by the temple, but always presented by the pious. Their offspring are also slaves of the god.

5 February 1839.

11.—*Vaydenath Missur,* Pundit of the Sudder Dewanny Adawlut, Calcutta.

IF a man wish to adopt a son, and the adoption fail, owing to the requisite ceremonies being omitted by the adopter, or being impracticable by reason of the child's age, or having been already performed, the child is not a slave in any case; and if he have been initiated by his natural father, his filial relation to him is not dissolved.

I explain* the passage in the Kalika Purána, by supposing that the word "das" describes figuratively the condition of a child whose adoption is incomplete. I also think that Nunda Pundit, in his comment on the passage, understood the word "das" to be used figuratively in the text.

The real condition of a child imperfectly adopted, if the imperfection result from any other cause than the child's being already initiated by his natural father, is one of degradation, and which, therefore, may be figuratively called slavery, for the purpose of expressing contempt; but it has nothing of slavery in it but the degradation.

5 February 1839.

12.—*Aga Kurbelai Mahomed.*

I AM a native of Shiraz, and have resided for the last 30 years in Hindoostan, and for the last 18 years in Calcutta.

I am a merchant and ship-owner and an agent for ships belonging to the Red Sea and Persian Gulf.

The ships from Judda and Muscat do not bring cargoes of slaves; but sometimes the officers of them used to have a few slaves whom they would sell in Calcutta.

For

* This is an answer to a question relating to the following passage of the Kalika Purána, cited in the Duttaka Mímánsá of Nanda Pundit, sec. 4, s. 22.): "The ceremony of tonsure and other rites (Chudádya) of initiation being indeed performed, under his own family name, sons given, and the rest may be considered as issue; else they are termed slaves."

Appendix I.
—
Evidence.

For four years, this importation has entirely ceased. The cessation was occasioned by the proceedings of this government. The governments of Judda and Muscat, hearing that this government had prohibited the importation of slaves, ordered that no slaves should be brought hither in ships belonging to the state.

The slaves imported were inhabitants of the east coast of Africa. Of the males imported a large part were eunuchs.

Since the importation has ceased, those who formerly purchased have been without any supply. Of those formerly imported many were sent up to Lucknow. The purchasers were principally respectable Mahomedans.

I am the owner of seven. They are all eunuchs. I imported them myself from Judda.

I have heard that a Hubshe would sell in Calcutta for 200 rupees if emasculated; for 150 if entire; a Mobazi slave would sell for 100 rupees; they are never eunuchs.

At Lucknow, a eunuch would sell as high as 1,000 rupees; an entire Hubshe would not fetch above 300.

8 February 1839.

13.—*William Coates Blaquière*, Esq., Persian Translator and Chief Interpreter to the Supreme Court of Calcutta, and a Justice of the Peace.

I SHOULD think that very few slaves, if any, are imported into Calcutta since the increased vigilance of the custom-house officers. This increased vigilance commenced about two years ago, when the establishment of the custom-house was re-organized.

Before that time, there was certainly a considerable importation, not however immediately before, for the vigilance of the magistrates had in a great degree suppressed it.

Before that time the importation was very great of Hubshis, that is to say, Abyssinians brought by Arab merchants from the Red Sea.

These Hubshis were usually carried up the country to Lucknow and other places; some, however, remained in Calcutta. These slaves were of both sexes, but the females preponderated; some of them were adults and some children; some of them were eunuchs; I think they were bought exclusively by Mussulmans; I believe that they were generally bought on the east coast of Africa from their parents or from slave-owners; they were used only as domestic slaves by the purchasers in this country; they were always circumcised and made Mussulmans when they arrived here.

I remember that in consequence of the correspondence between the government and the magistracy, an extract from 51st Geo. 3, cap. 25, was communicated to all Arab merchants and persons connected with Arab shipping in Calcutta; I attribute to this the diminution of the trade in slaves which I before mentioned.

The interruption of the slave trade did not occasion any demonstration of discontent among the former purchasers.

The majority of the Mahomedan, Portuguese, Armenian, Parsee and Jew inhabitants of Calcutta possess slaves.

The motive for keeping slaves is, no doubt, that it is cheaper to do so than to hire servants.

In the year 1834, a native lady, calling herself a relative of General Martin, came down from Lucknow upon her own affairs. In consequence of the inundation that had taken place, there were at that time a great many children for sale at the price of from one to four rupees. These were sold, some by their parents, and others by persons who went into the parts which had been inundated, to the south of Calcutta, for the purpose of purchasing or kidnapping them. The lady I have mentioned purchased 24 or 25 of these children, and had embarked them in her boats for the purpose of carrying them to Lucknow. Information of this transaction was laid before me; I sent my officers to take possession of the children; they were all Mahomedans; most of them had been converted to Islamism by their mistress; they were from seven to fourteen years of age; three of them were boys. Upon the seizure of the children, the mistress remonstrated with me through her attornies, and threatened me with an action; no proceedings, however, were taken against me. The female children were placed partly at Mr. Wilson's, and partly at the Kidderpore Ladies' Asylum, and a few at other schools. The boys were made over to respectable Portuguese Christian housekeepers, who promised to take charge of them. I examined the children when neither their mistress nor any person on her behalf was present. They all expressed reluctance at being taken from her, and refused to be placed under the care of Christians, declaring that they were Mahomedans. They were gradually prevailed upon to go to the several institutions where they are now; three were persuaded in the first instance, who told the others that they were well treated, which induced them to follow. Six or seven months elapsed before they were all disposed in this way. During this time the girls were placed in a place adjacent to the female lock-up house, hired for the purpose, under the care of female attendants, also hired for the purpose. The boys were allowed to run about the police-office until they were placed. All the children were fed and clothed at the expense of government during this period.

After the inundation of which I have spoken, children were commonly hawked about the streets of Calcutta and the neighbourhood. Whenever information of this was laid before the magistrates, we interfered, took the children away, and placed them with respectable householders. Constant applications were made to the magistrates for these children; and they were made over to the applicants, when respectable, on verbal agreements.

It

It has always been my practice to interfere, when I have heard that children or women have been kidnapped in the Mofussil, sometimes from as far as Moorshedabad, and brought into Calcutta for sale.

The number of those whom, after inquiry, I have thought fit to release and restore to their parents, or place with respectable housekeepers, I should think must amount to six or seven hundred. I have been a magistrate since the year 1800.

The greater part of these were girls about to be sold for purposes of prostitution.

Until the re-organization of the police, in 1831, the branch of police to which these proceedings belong was under my sole charge.

I believe these sales, for purposes of prostitution, still take place very frequently; a case of the kind was brought to my knowledge about six months ago. I liberated the two women who had been brought to Calcutta to be sold, and restored them to their families.

The houses of bawds in Calcutta swarm with women who have been inveigled from their families and prostituted against their will.

The Hindoo families in Calcutta are served by free people, who either receive wages, or merely food, clothing and lodging.

In ordinary times, dealers go from Calcutta into Sylhet, Dacca and Mymensingh, and there purchase Hindoo and Mussulman boys and girls, whom they sell to Mussulmans of Calcutta as domestic slaves, the prices varying from 20 to 30 rupees. The Hindoo children are converted to Islamism. I do not know how many are thus imported annually; I should think not many.

8 February 1839.

14.—*Hafiz Ahmud Kubeer*, Principal of the Mahomedan College at Calcutta.

I AM a native of the town of Rampore, in Rohilcund; I am 57 years old, and have resided for the last 30 years at Calcutta.

I am acquainted with the Rampore-Jaghire, and with the districts of Bareilly and Moradabad.

Rohilcund is inhabited chiefly by Mahomedans, the descendants of the Afghan settlers.

Slaves, both Hindoos and Mahomedans, are numerous in Rampore and the two districts above mentioned.

The Hindoo slaves are Brahmins, Rajpoots, Kurmees, Chumars and Kolees; the three first being pure castes; the two last, impure.

Slaves of all the above castes may be kept by all classes of persons.

Both Hindoos and Mahomedans become slaves by being sold in childhood by their parents, under the pressure of want. In times of general scarcity, the price of a child is three or four rupees; but at other times, in individual cases of necessity, from 20 to 30 rupees.

The sale of Brahmin and Rajpoot children is not frequent.

Hindoo children purchased by Mussulmans become Mussulmans.

Many children are purchased by inhabitants of towns; but persons of respectability in the country likewise buy them, but not from their own villages, as it would be difficult to keep them from running to their home.

The males, whilst young, are employed as domestic servants; but from those of pure caste no services are required by which they would be polluted, as the pollution would be communicated to the masters. When they grow up they are employed chiefly in agriculture, their masters being then averse to their continuing about the house.

The female slaves are always occupied in the house, and are never made to work in the fields.

When the slaves attain the age of about 40, their owners continue to maintain them, but they relax in their demand of service from them; after that period, also, their owners do not insist on their remaining with them, and they seek employment where they please.

The children of persons thus sold into slavery are free; the masters of their parents cannot sell them, and have no right of dominion over them, and they are at liberty to seek their own livelihood.

The self-sale of adults is not known.

There are persons, both Hindoos and Mahomedans, in those parts, who resort to the hill countries of Kumaon and Gurhwal for the purpose of purchasing Hindoo children and adults from their parents and relatives, whom they dispose of as slaves in Rampore and the districts of Bareilly and Moradabad, and also at Lucknow; these traders are called "burdeh furoshes" (slave sellers), and this traffic was very considerable before the British rule. It is still carried on, but clandestinely, and only to a very small extent. The price obtained for males and females, both children and adults, so sold, used formerly to be from 10 to 20 rupees each, but it has now risen to 20 and 30 rupees. The children of these slaves are likewise free.

Prisoners taken in war by the first Afghan settlers in their fights with their Hindoo neighbours were made slaves; their descendants are still numerous, but are not slaves any more than the children of the other slaves above described.

The slave population bears a very small proportion to the free, it may be one-hundredth of the whole.

Only persons of respectability who can afford it keep slaves. The cultivation is carried on

Appendix I.

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by free ryots, but a zemindar who keeps one or two slaves for domestic purposes will employ them likewise in the fields.

The masters enforce the services of their slaves by beating them either with a ratan or a staff, this depending on the disposition of the masters; the arms and legs of the slaves are sometimes broken by the violence of the blows inflicted. They confine slaves attempting to abscond by tying them with a string, or putting fetters, light or heavy, on their legs, in the manner practised with convicts in the public gaols.

The Afghans are a choleric race, and they beat their free servants to the same extent as their slaves, but they do not confine them.

The complaints of free servants for such assaults have always been attended to by the public authorities, but those of the slaves were not so formerly, and I doubt if they would be now.

The better kind of masters discharge their slaves when they become troublesome through misconduct, or when correction has no effect upon them.

Slaves are not worked harder than free servants, and the labour of the former is very little cheaper than that of the latter; whilst it has this disadvantage, that a slave cannot be turned off at pleasure.

No difficulty is experienced in obtaining free female domestic servants; these are called "asseels."

The slaves are fed from the family meals, and they are provided with two or three suits of clothes in the year; they also receive occasionally a few pice, and rich masters will give them one or two rupees per month, besides food and clothing.

An old or infirm slave has a right to maintenance; which, indeed, is never withheld.

Manumission seldom takes place. Some masters, as above stated, discharge their slaves when they become troublesome through misbehaviour, and sometimes slaves are manumitted in reward for special good conduct.

As long as they continue strictly slaves, they have no opportunity of acquiring property for themselves; but, as I have before explained, if on reaching the age of 40 they think they can better themselves by seeking other employment, they do so. They then separate from their masters and work as free persons; or, if they stay with their masters, their services being less rigorously exacted, they have time to work for themselves, and their masters do not interfere with their gains in this way.

The marriages of slaves are performed with the same ceremonies as those of free persons of the same class. The expenses, both of marriages and funeral ceremonies, are defrayed by the master.

When practicable, a master selects a wife for his male slaves from amongst his female slaves. If a suitable match is not to be found in this manner, he marries him to the female slave of a neighbour, so as to occasion no interruption of their services to their respective owners, whose houses the slaves so married mutually frequent; or he obtains the daughter of a free person in marriage for his slave, in which case the wife resides in the house of her husband's master, and serves him in consideration of maintenance, but does not become his slave. So, likewise, a female slave is sometimes married to the son of a free person, in which case the husband resides at the house of his wife's master, and serves him for maintenance, but continues free.

The offspring of a male and female slave, both the property of the same master, remain in the house of the master during their childhood, and, it may be, afterwards also, and are maintained by and serve him; but when they attain majority, they are free to go where they please, and the master cannot prevent them.

If the father and mother belong to different masters, the children continue with the mother, and serve and are maintained by her master while young; on becoming adult, they are at liberty to seek their own livelihood.

If the father be a free person and the mother a slave, the children, whilst young, remain, in like manner, in the house of the master; and so, also, if the mother be free and the father a slave.

My father had nine or ten slaves, two of whom were males; he purchased them from their parents and from burdeh furoshes. Three of the females volunteered to accompany me to Calcutta, where they died. Of the other slaves, one remained with my brother, one with my sister, and the rest with others of my relations.

None of the females had children, except one, who was married in the Nikah form to my father, by whom she had a son. This son is now living with my younger brother.

Slaves are differently treated; some are ill, some are well used. They are frequently employed in offices of trust. If maltreated, they will abscond; but ill-usage gives no claim to emancipation.

They are very seldom sold. Such transfers are considered very disreputable, and only take place when the masters are in distress, or the slaves give trouble by their misconduct.

There is no absolute restriction on such sales; but a master who thus disposed of his slave would be called a burdeh furosh.

A slave has no right to select his purchaser; but according to huddees (tradition), a master cannot sell his slaves so as to separate the husband from the wife, or children of tender age from the mother.

I do not know what the Hindoo custom is on this point.

A master who is reduced in circumstances generally sets his slave at liberty; and a slave so manumitted cannot be reclaimed by his master. Slaves have been known to maintain their masters when reduced to poverty.

A deed of sale is the form of document used in transfers of slaves, by sale, from one master

master to another; and in sales of free children into slavery by their parents. Children so sold are not redeemable.

It is not the custom to let to hire or to mortgage slaves.

There are no slaves *adscripti glebæ*.

It is a frequent practice for persons in distress to serve a master in consideration of being maintained by him, but not for a fixed term; and such persons quit their masters when they please.

Slaves are not sold in satisfaction of decrees, or to realize arrears of revenue or rent.

It is a common practice for Mahomedan masters to cohabit with their female slaves; the offspring of such connexions are free. Sometimes the masters are married to their female slaves in the Nikah form.

The greater part of the prostitutes, both Mahomedan and Hindoo, purchase children from their parents and from the burdeh furoshes; so that almost all the prostitutes in that part of the country are slaves.

12 February 1839.

15.—*Gopal Lall Kaiet.*

I WAS born in the village Gourdaud, pergunnah Rumna, division of Balasore, or North Cuttack; I am one of the agents of the rajah of Burdwan. It is 30 years since I left home to seek employment, but I have been there occasionally, visiting my family.

Fifty years ago, our family possessed more than 20 families of slaves. About 1792, a great famine occurred in my country, and in consequence of that many families which possessed slaves could no longer support them, and the slaves became practically free. That was the case with our family. Persons of those slave families, who formerly belonged to us, are now in our service as freemen, receiving wages.

A great many of the poor perished in the famine; none sold themselves or their children into slavery in my country; for, in consequence of the distress, there were no purchasers; but many went away into other districts, and I cannot say what became of them.

The classes to which slaves in my country belong are some pure and some impure: the pure are Chasas and Gwalahs; the impure are Dhobees, Pans and others.

There are no persons, in my pergunnah, in a state of actual slavery, though many are slaves *de jure*. The causes are, the famine I have mentioned, and, also, that, since the Company assumed the government, all the old families have fallen into decay.

Those who have risen from poverty into affluence have not purchased slaves, because they think them saucy and faithless; and moreover there is an impression among the people that the sale of slaves is prohibited. I never saw the proclamation prohibiting it, but I have heard of such a proclamation.

It is true that a long time has elapsed since I lived in North Cuttack, but I have visited it every now and then. It is only distant eight days' journey, and I am in correspondence with friends there, and I can take upon myself to say, that there is no sale of slaves in my part of the district. I am told, also, that in other parts of Cuttack masters have generally lost all practical dominion over their slaves.

12 February 1839.

16.—*Ram Comul Rai,* Mooktear in the Sudder Dewanny Adawlut, Calcutta.

I AM of the Vydia caste. My native village is Nowgaon, pergunnah Salim Pertaub, Tuppah Aurungabad, in the zillah of Dacca Jalalpore.

I am one of an undivided family, owning a small estate.

There was an hereditary slave in our family. When he was married, our family placed him in a separate house, on a part of our estate. He was advanced in years, and the father of a family as far back as I can recollect. One son of his only remains. He supports himself by cultivating the land which he holds from us. He pays no rent, and renders occasional service to us at ceremonies.

The majority of slaves in my neighbourhood are Kaiet. Some few are Napits and Gwalas.

Most of the respectable people possess domestic slaves. But agricultural labour is universally performed by hired labourers.

The origin of slavery existing in my country is self-sale or sale by parents; and sometimes a man becomes a slave for the sake of marrying a slave girl.

The Mussulmans have domestic slaves, but I am not familiar with their concerns.

Slaves are occasionally sold from one master to another; but this is considered disreputable.

We could, if we chose, bring back to our actual service the slave I have mentioned; but he is not a person who would be useful. It frequently happens, however, that persons in his condition, if they have useful qualities, are brought back to actual slavery.

Slaves are occasionally beaten by their masters, but only in the same way in which hired servants are beaten.

Manumission occasionally takes place, and sometimes the master dismisses his slave without relinquishing his legal rights. But it seldom happens that a slave so dismissed can ever be again reduced to actual slavery.

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Slaves are married with the same rights as freemen, and the master generally provides a spouse for his slave.

If I allow my slave girl to marry any one but a slave of my own, my property in her is *ipso facto* extinguished. And even if my female slave marry without my consent, though such a proceeding is an injury to me, yet my property in her ceases.

The master is bound to support his slave in sickness and old age, and the condition of slaves is in general very comfortable. Frequently a clever slave will become the manager of the family affairs.

12 February 1839.

17.—*Lala Kashee Parshadh.*

I AM a native of the village Suresur, pergunnah Suresur, in the district of Tirhoot.

When ten or eleven years old, I went to Benares for my education, and remained there ten years. I then resided for two years in my native village, after which I came to Calcutta, where I have since continued, with the exception of one year's intermediate residence at my own village.

I am a mooktear of maha rajah Chutter Singh, of Durbunga, in Tirhoot, and am acquainted with that district.

Slavery, both of Hindoos and Mahomedans, prevails there; but the Mussulman slaves are few.

The Hindoo slaves are principally Kurmees, Amuls and Kewuts. These are pure castes. There may be slaves of impure castes, but these must be rare, as they are useless for domestic purposes.

All persons of the above three castes are not slaves. There is no tradition of the free persons of those castes having ever been slaves.

Slavery has originated by free persons selling themselves or their children in times of necessity.

The slaves are employed both in in-door and out-door work, including field labour, according as their services are required.

When the slaves belonging to one master have increased beyond his wants, the superfluous ones are permitted to go out to service, or are settled on lands, and so left to maintain themselves; but the proprietory right still remains in the master, and they render him occasional service, at marriages or other festivals, receiving rations during the time of their attendance.

The rajah of Durbunga has many slaves belonging to his household. Some are in charge of the house stores; others of his slaves farm portions of his estate, or are employed as collectors of his rents; and some of the members of their families are settled as cultivators, with a view to their maintenance.* The rajah has no register of his slaves.

Old and infirm slaves are always supported by their masters. I cannot say whether the courts would decree maintenance to them in case of its being withheld.

The slaves are well used. If maltreated they abscond.

The form of document used in cases of self-sale, or of the sale of children by their parents, is either a deed of sale or a lease for sixty years; this period having been adopted from a notion that it was a term fixed by the regulations. In cases of self-sale, the price given is the property of the slave.

I have no slaves with me here; but I and my uncle have two male slaves, Kurmees, in joint property, at our family house. We purchased them when children from free parents. I do not know for how much.

If a slave abscond, his master brings him back, and endeavours by remonstrance and kind treatment to retain him; but he is never bound. That mode of restraint is used only for cattle. Impertinence or laziness is punished with slaps, or at most with a kick. Continued misbehaviour ends in the slaves being turned away.

I am not aware of any civil or criminal case respecting slaves having been decided in the courts in Tirhoot. But one occurred in the zillah court of Behar, in which a master obtained a decree for the right of property in a slave. The slave preferred a petition of appeal to the Sudder Dewanny Adawlut, but it was rejected.

If a slave abscond, and take service with a zemindar, the latter will give him up on the master's claiming him, and paying the expenses which may have been incurred for the slave's subsistence.

Manumission is never granted. But when a master is no longer able to maintain his slaves, they quit him with or without his consent. There are a great many who have thus obtained their freedom.

The families of free and slave Kurmees intermarry, slavery not being regarded as a degradation as respects that caste.

A master would not require from his slave any work which would affect his caste, because any impurity contracted by the slave would affect his usefulness to his master: but during a master's illness, the slave would perform the lowest offices for him.

On the score of economy, I do not think there is any difference between slave and free labour,

* This was an answer to a question put to the witness with reference to the evidence of Vaydianath Missur on this point.

labour, but in some places free servants, either male or female, are not procurable; though there is nothing disreputable in the condition of a free female servant.

The slave works more willingly and, therefore, does more than a free labourer; because he regards his own interests as identical with his master's.

In strict law, the property of the slave belongs to his master, but according to usage the slave enjoys any property which he may acquire by working for others at times when his master does not require his services.

Persons selling themselves into slavery have no right of redeeming themselves; nor can parents redeem their children whom they have sold a sslaves.

In Tirhoot, Mahomedans do not keep Hindoo slaves, nor Hindoos, Mahomedan slaves, but Mahomedans have Mahomedan slaves. These are of the lower classes, Joolahas and others who have sold themselves, or have been sold, when children, by their parents.

I am not aware of any importation of slaves from Nepaul or elsewhere; or that children are kidnapped for the purpose of being disposed of as slaves. Persons do not buy slaves of whose previous condition they know nothing.

It is not a general practice to keep slaves. Some persons of respectability keep them, some do not: even people of distinction sometimes have no slaves. In my own pergunnah, two-sixteenths of the population may be slaves, but in other pergunnahs the proportion of the slave-population is greater. Speaking from what I have heard from others, I should say there are more free persons than slaves of the Kurmi, Amat and Kewat castes.

Slaves are married with the same rites as free persons of the same caste. The expenses of marriage and funeral ceremonies are generally defrayed by the slaves, if they can afford it; if not, by the master, who is under a moral obligation to provide for the marriage of his slaves.

The master usually consults the wishes of his male slave respecting his marriage. Either he marries him to a female slave of his own, in which case the offspring belong to him, or he marries him to the female slave of a relation, in which case the two masters divide the offspring between them; and should the family not consist of an even number of children, either the child in excess of the even number performs services for both masters, or it is valued, and one master retains the child, paying half its value to the other master.

The two male slaves belonging to my uncle and myself were married to two female slaves belonging to some of our relations. They had children, but the children died very young, and before any division could be made of them.

When the male slave of one master is married to the female slave of another master, the woman resides with her husband, and performs service both for his master and her own; but her husband's master has no right to her services. She is usually supported by her own master; but if she work also for her husband's master, she is supported partly by one and partly by the other master.

If a male slave is married to a free girl, the wife does not become a slave; the female offspring of such a marriage are free, but the male offspring are the property of the husband's owner. If, as sometimes happens, a freeman marry a female slave, he continues free, and the children are divided; but the father takes only one share, and the master of the mother receives two shares.

The distribution of the offspring is not affected by the circumstance of the marriage of a slave having taken place without the consent of the master. In what I have said respecting the offspring, I have stated the custom of my own pergunnah; but different customs prevail in different places in this respect, and I cannot say what is the practice elsewhere. The illegitimate children of a female slave belong to her master. The punwah shadee is not known in that part of the country.

The sale of slaves by their masters never takes place except when the latter are reduced to great distress; such sales of "human flesh" * are considered very discreditable. The prices obtained by such sales vary much, according to circumstances, ranging between 40 and 100 rupees.

I am not aware that slaves are ever sold so as to separate husbands from wives, or young children from their parents, or to be sent away from their country, or to a distance from their homes. Nor would a master sell a slave to a person he did not wish to serve. The master would consult the inclination of his slave in such a case.

There are no slaves *adscripti glebæ*.

Slaves are not sold in satisfaction of decrees of court, or for the realization of arrears of revenue or rent.

It is not the custom to let to hire or to mortgage slaves.

Procuresses, I am informed, purchase children for the purpose of prostitution.

12 February 1839.

18.—*Bisumber Ghose*, Mooktear of the Rajah of Burdwan.

I AM a native of village Kalesa, pergunnah Shahabad, zillah Burdwan.

I left my home, in 1820, in search of employment, but I visit it every year.

There is no sale of slaves in my country now, nor do I see any slaves in respectable families.

I have heard, as a matter of tradition, that in the great famine in 1769–70, children were sold into slavery by their parents.

I am

* The expression used by the witness.

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I am not acquainted with the habits of the Aymadars, who are, in general, Mussulmans, and there are none living near my village.

In the great famine, people were driven by distress to do and eat what they ought not to have done and eaten.

I know of no case in the courts of that district relating to slavery.

15 February 1839.

19.—*Sarvanand Rai*, Mooktear of Bagorutti Durya, Zemindar of Zaffar Shahi and Mymensingh.

I AM a Kaiet.

I am a native of village Khulsee, pergunnah Sultan Pertaub, district Dacca Jalalpore.

I have resided in Calcutta for about 10 years; but I have frequently been to the estate of my employer during that time, and have taken an active part in the management of the zemindary affairs.

My mistress is the owner of 1,400 families of slaves, settled upon her estate at different distances from her mansion.

They belong to the following castes, Sudra proper, Kurmar or Goldsmith, Kumar or Potter, Gwala, Tali and Bagirdar, which is a Mussulman caste.

The domestic slaves of my mistress who are included in the 1,400 families I have mentioned, are 450 in number, of whom about 200 are females.

These domestic slaves belong to Sudra proper, Kurmar and Gwala castes, which are pure castes.

Of the domestic slaves, 25 or 30 are the peculiar attendants on my mistress's person. They receive rations and clothes. The remainder have land allotted to them to cultivate for their support, and receive also an allowance of about two puns of couries *per diem* and fire-wood.

Some Bagirdars, male and female, are included in the 400 domestic slaves, and do the work of porters and sweepers.

The other slaves cultivate land which my mistress has assigned to them for their maintenance, and attend at festivals. They do no agricultural work for her. All that is done by free ryots, except that the Bagirdars are employed in making roads on the estate.

Some of the slave families have been 400 or 500 years on the estate. No purchases of slaves have been made since the time of my mistress's late husband's father. He purchased some.

The origin of all this slavery must be traced to self-sale and sale by parents.

All the great zemindars of Mymensingh and the neighbouring districts have slaves, in proportion to their wealth, settled on their estates in the same way.

The condition of these slaves is so easy, that punishment is scarcely ever required, but when it is, they are scolded or receive slaps.

Since the death of my mistress's husband, the number of slaves has, I think, diminished a little, which I attribute to the ravages of cholera.

Manumission sometimes takes place when a slave does any thing very gratifying to the master. I remember my mistress's husband manumitted a slave who had saved him from injury by the falling of a punkah.

The physical condition of the manumitted slave was not perhaps improved, but his condition was elevated. The zemindar appointed him to be putwarry on the estate, and he also became a ryot on it.

In strict law, whatever these slaves earn is the property of my mistress, but she never interferes with their earnings, and some of them have considerable property, sometimes as much as 1,200 rupees.

The slaves are married with the same rights as free people. When one of them wishes to be married, he presents a petition to the zemindar (which must be done in all cases where religious rites are to be performed), and if she consent, she contributes to the expenses of the marriage more or less according to her estimation of the parties. The zemindar does not permit her female slaves to be married to the slaves of other masters.

In Mymensingh and the neighbouring districts, even those who live upon small salaries, such as writers and accountants, have generally five or six slaves.

15 February 1839.

20.—*Parisnath Doobe*, Mooktear of Maha Rajah Ruhmut Ulle Khan Bahadoor, of Kurruckpore.

I AM a native of the town of Bhaugulpore, in the district of that name.

When I was about 30 years old, I went to Moorshedabad, where I attended the court of appeal for 10 years as a mooktear, visiting my house during the vacations. For the last 12 years I have resided constantly in Calcutta.

I am well acquainted with the zillah of Bhaugulpore.

The slaves in Bhaugulpore are principally Kurmis, vulgarly called Dhanuks, a pure caste; some of the Kuhar caste are also slaves, but they are considered impure in this district.

The

The slaves of these two classes are employed indifferently in in-door and out-door work, including field labour; but the superior castes cannot receive water from the Kuhar.

There is a tradition that all persons of these two castes were formerly slaves. But in consequence of the death of the masters without heirs, particularly in times of general distress, such as in the famine of 1170 fuslee, 1762–3 A. D., when whole families perished, many have become free. At the present day the greater part of the Kuhar caste are free; but most of the Kurmis continue slaves.

The origin of this slavery is, first, self-sale, for the purpose of discharging a debt, or in consideration of an advance of money in any case of necessity; second, sale of children by their parents, or other natural guardians, under similar circumstances.

It is true that all classes are liable to want; but it never was known in my district that persons of any other caste than the two above mentioned either sold themselves or were sold as slaves.

These slaves are kept by Brahmins, Rajpoots, Byse and Kaiets, but not by Mussulmans. All Hindoos of the above classes keep slaves who can afford to do so; and that is the case with the greater number. To possess slaves is a mark of respectability. The higher classes, however, have not more than five or six; the generality have two or three.

The slaves never multiply beyond the wants of the master. The women bear only three or four children each, and as some of these die, no eventful increase of the slave family takes place.

According both to law and custom, the aged or infirm slave has a right to maintenance from his master, and it is never withheld.

Whilst I was in the district, the two descriptions of sale above mentioned were of frequent occurrence; and I am informed by persons coming from that quarter, that they are so still.

These transactions are recorded by an absolute deed of sale called "purram bhattaruk." In cases of self-sale, the seller disposes of himself and his future offspring, generation after generation, in full property to the purchaser; but if he have children at the time of sale, they must be specified in the instrument, if intended to be conveyed by it. The price is the absolute property of the slave; such also is any property the slave may have been possessed of previous to the sale.

If a slave is careless, and spoils or breaks any thing, the master takes the work out of his hands and keeps him unemployed for a time. This the slave feels as a disgrace, and amends. Some masters slap their slaves, but I never heard of one beating his slave with a ratan, or binding him with a string, if he attempted to abscond. The masters, in fact, feel the same affection for their slaves as for their own children. If a slave run away, the principal inhabitant of the place to which he has fled will persuade him to return to his master on the latter appearing and proving his title; but no violence would be used to compel him to do so.

If a slave abscond two or three times, I suppose the master would sell him. I do not know if the magistrate would interfere to restore a runaway slave.

I never heard of a slave being manumitted. If a master is reduced to want, the slave maintains both himself and his master by his labour; and this is a principal inducement to purchase slaves.

Ill-usage confers no title to emancipation.

Slave service is more economical than that of free servants: the former being fed with the leavings of the family meal, and receiving the necessary clothing; whereas the latter must have their regular wages. Slaves, moreover, are greatly preferred, because they work more willingly and are more trustworthy, and the privacy of the family is thereby better maintained.

Free domestic servants are to be had; but they are less confided in. Married women cannot be spared from the management of their own families to take service with others; but widows are so employed, and such service is not considered disreputable. This free service, however, is confined chiefly to towns, and seldom takes place in the country.

The same quantity of work is required from a free servant as from a slave.

A slave has no right to any portion of his own time.

I am not familiar with the habits of the Mahomedans, and cannot say if they have slaves or not. If they have, I conclude they are Mussulmans, as I am certain they have no Hindoo slaves.

Slaves do not acquire property. Things given them by their masters are, strictly speaking, the only property they can hold as against their masters; but the master would not deprive a slave of any thing given him by another person.

The same rites are observed on the marriage and death of a slave as of a freeman of the same caste; the expenses of which are defrayed by the master. The marriage of a slave costs 10, 15, 20 or 25 rupees, according to circumstances. It is incumbent on the master to provide for the suitable marriage of his slave, and in performing that duty, he consults the wishes both of the parents and relatives to the slave.

A master prefers that his own slaves should intermarry; the children in that case belong to him.

If slaves of two different masters intermarry, the female remains at her owner's house, and the husband visits her when he can find leisure: such matches are, therefore, generally made between slaves of masters residing near each other. In this case, the children follow the mother, and belong to the owner of the soil. Sometimes, by special stipulation, the master of the male slave gets a portion of the male offspring, but never of the female. This stipulation, whenever it occurs, is made in consideration of the occasional deprivation of his slave's services, to which the master of the male slave may be liable by the visits of his slave at the

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house of the female's master, when at a distance from his own. It does not depend on the amount of the marriage expenses paid by the respective owners.

If a master cannot provide a suitable match for his male slave, in either of the ways above-mentioned, he procures a free spouse for him, and erects a hut for them near his own house; the woman preserving her freedom, and all the offspring being likewise free, and no stipulation for a share of them is ever made by the master. The wife, however, renders service to her husband's master, in consideration of being maintained by him; and such is likewise the case with the children, until they grow up, when they seek their own livelihood as they please.

If a slave girl is married to a freeman, the master does not permit her to reside with her husband's family, but provides them a habitation near his own. The husband either follows his usual occupation, or renders service to the wife's owner in return for maintenance. All the children belong to the owner of the mother, who would never agree to any stipulation for their being free.

The punwah shadee is not known in my district.

I never heard of a single instance of a slave girl having an illegitimate child. Their conduct is regarded with as much jealousy, and watched with as much care, as that of a daughter.

Though it is not considered disreputable for a master to sell a slave, such transfers seldom take place. They occur only when the master becomes too poor to maintain the slave, or is induced to part with him in consequence of his misconduct.

The following are the usual prices of slaves when valued by arbitrators:—

A female of	12 or 13	years, from	25	to 40 rupees.
Ditto	18 or 20	- - -	40	to 60 rupees.
A male	12 or 18	- - -	15	to 22 rupees.
Ditto	18 or 20	- - -	25	to 40 rupees.

If the seller is pressed for money, the prices will be less.

No Hindoo master would sell a slave to any but a Brahmin, Rajpoot, Byse or Kaiet. He never would dispose of one to a Mussulman.

It would be considered harsh to sell slaves in such a manner as to separate husband and wife, and no one would purchase young children under 10 or 11 years of age, separately from their mother, as the trouble and expense of rearing them would not be compensated by any services they could render; but after that age they might be sold separately, and such a proceeding would not be blameable; subject to the above explanation, it would not be considered hard to sell a slave to any distance, or into another zillah.

The slave's consent is never asked in such transactions, nor would any objection he might make be attended to.

There are no slaves *adscripti glebæ*.

Slaves are never sold in satisfaction of decrees of court, or to realize arrears of revenue or rent.

It is not the custom to let to hire or to mortgage slaves.

Hindoo free persons or slaves are never sold to prostitutes.

There were three hereditary male slaves in my house; two died whilst I was young; the remaining one I married to a free woman whom I procured from a village; I erected a hut for them, and she rendered me service in return for my maintaining her; she died childless; I married him a second time to a free woman, a resident of the town of Bhaugulpore; she likewise served me for maintenance, and died childless; I married him a third time to a free woman of a village, who likewise served me as a domestic servant; when I came to Moorshedabad they both accompanied me, but on their falling sick I determined to send them home; I put them on board a boat bound to a place on the way to Bhaugulpore, giving them five rupees for their expenses; from that boat I ascertained they embarked on board another, which was to pass Bhaugulpore on its way to the western provinces, but they never reached my house. From that day to this I have never been able to obtain any tidings of them.

15 February 1839.

21.—*Brij Nath Das Vydia*, Mooktear of Bhawani Kishwar Acharjya, Zemindar of Pergunnah Ulal Singh, in Zillah Mymensingh.

I AM a native of village Mohulli, pergunnah Chand Pertaub, in the district of Dacca Jalalpore.

The descendants of my grandfather, including myself, possess the village of Mohulli, and some other villages.

My grandfather had six families of slaves; and when the inheritance was divided, each of his three sons took two families of slaves.

My father placed his two families on the part of the estate which fell to his share, close to his house, that they might render domestic service in the family.

One of the two slave couples who fell to my father's share died without issue; the other had eight children, six males and two females; they served us for some time after the death of

of their father; but about 10 years ago, seven of them (one having died) went across the Mayawatte, and took refuge on the estate of another zemindar who harboured them.

We have never taken any legal proceedings, or any other steps, for the purpose of bringing them back, being doubtful whether the court would sustain our claim, and because the zemindar who harbours them is rich and powerful; they are now receiving his wages.

The father of this family of slaves was a proper Sudra, but the taint of slavery would prevent a free Sudra from associating with him, not only a free Sudra proper but even one of the nine improper castes, which are produced from the confusion of castes.

In the country I speak of, all kinds of Sudras, except Kaiets, are to be found, sometimes in a state of slavery.

The Vydia I consider not to be a Sudra but a Byse.

The origin of slavery in my country is self-sale and sale by parents; I have never known any instance of this myself, but I have heard that such sales take place; neither do I know any instance of sale by one master to another, but I believe such sales do take place; but it is disreputable to sell a slave.

There are no *adscripti glebæ*.

The correction of slaves depends in a great measure on the temper of the master; sometimes he will reprove them, sometimes he will banish them from his presence, and sometimes slap them with his hand or with a ratan.

Manumission is rarely practised; but a master in decayed circumstances will frequently permit his slave to go and earn his own livelihood.

Slaves, when well treated, do not desire manumission; when they are dissatisfied they run away; those who run away from us did so because I wanted to bring two of them down to Calcutta.

Slaves are married with the same rites as free persons of the same caste.

When two slaves belonging to different masters intermarry, if there is no special stipulation, the owner of the female loses all his rights, and the children of course belong to the owner of the male; he, however, receives no consideration for giving up these, for in an affair of marriage, who takes a price?

When the owner of a female slave, living in his house, wishes to have her married, and at the same time to retain her in his house, he marries her to a professional bridegroom, who visits her occasionally.

This kind of bridegroom is called a Byakara, and has many wives; his occupation is considered a profession.

The Byakara receives a small present on each marriage, and when visiting his wives is fed and clothed by their respective masters; they have generally from five to seven wives.

If, however, a master of a slave girl has a male slave of his own, fit to be her husband, he would of course prefer such a slave to a Byakara.

It happens sometimes, though very rarely, that a freeman marries a slave girl of the same caste; he does not lose his freedom by so doing, but he degrades himself, and can only recover his station by divorcing his wife, and making atonement and presents to the priest.

A Byakara is generally a freeman who has already suffered degradation.

15 February 1839.

22.—*Har Narain Tewari*, Mooktear of the Family of Bissumber Pundit, a Jaghirdar of Ghazeepore.

Bissumber Pundit was a jaghirdar of Ghazeepore, having his family mansion at Benares.

I lived for five or six years at the family house at Benares. Bissumber Pundit had bought two Rajpoot male slaves. One of them died without issue. The pundit manumitted the other, whose name was Huttoo. He and his children, who were all born after the manumission, were living in the family as servants, receiving wages, when I was at Benares. Most of the respectable people of Benares have slaves.

My father bought a male slave at Calcutta from the vakeel of Nepaul, about 15 years ago, for 75 rupees. The vakeel sold him on account of his propensity to run away; but without disclosing that circumstance. After three or four years, he ran away. We found him, after two or three years, in Calcutta, and laid hold of him. After two or three years more, he ran away again. After a few days, we caught him again; but thinking it not worth while to keep such a man, we told him to go about his business. He has since turned Mahomedan, and lives by mendicity. We occasionally give him alms.

19 February 1839.

23.—*Choonee Lal Doobe*, Mooktear and Tahsildar of the Nawab Nazim, of Moorshedabad.

I was born in the city of Patna. For the last six years I have resided in Calcutta.

I am acquainted with the Patna jurisdiction and the district of Behar.

The Hindoo slaves are principally Koormees, Kuhars and Gwalas.

The children of all other castes, except Brahmins, are also sold, but rarely, and only under the pressure of great distress. These are heritable property. According to the strict Shaster, the masters cannot sell them; but masters do sell them occasionally in times of difficulty. I do

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I do not know the origin of slavery, nor is there any tradition on the subject; but I am informed that slavery had existed from time immemorial.

Children are sold by the parents or persons *in loco parentis* in times of distress; but no one else can sell a child. Certainly not the maternal uncle or maternal grandmother, as such.

I have heard that self-sale takes place; but I never knew an instance.

All Kuhars are considered as belonging to a slave stock, though many are practically free, having no assignable master; and others have established their independence, though it is well known who their masters are.

There are many Koormees also in this condition; but there are others who are absolutely free, and without any taint of slavery.

The general belief is, that the sale of slaves is prohibited by Regulation X. of 1811; and, consequently, when a person buys a child from its parent, the instrument by which the child is transferred purports to make over the child for 60 years for the purpose of support, with a stipulation that if the seller should ever reclaim the child, he shall refund the price, and pay all that has been expended in supporting the child. In the case of sale to a procuress, it is stipulated that parents shall further pay the expenses incurred in educating the prostitute.

Formerly, children were sold by a direct deed of sale, and the present form was introduced to evade the prohibition supposed to be contained in the above-mentioned regulation.

I do not know the term "bun-vickree."

Slaves are married with the same rites as free people of the same caste.

If I marry my male slave to the female slave of another master, with his assent, she becomes my slave; but sometimes there is a stipulation that the offspring shall be divided between the two masters.

If a free Koormee or Kuhar has connexion with a female slave, the master lays hold of him, and reduces him to slavery.

A free Koormee would not willingly marry his daughter to a slave; but the free Kuhars, being always tainted with slavery, have no objection to such a marriage.

The treatment of slaves is generally good. Their condition is better than that of hired labourers. If they are ill used, they run away.

Male slaves are employed both in-doors and out of doors; but when the establishment of slaves is large, those employed in agriculture are separated from the domestic slaves; and in that case, the females of the agricultural class do light work in the fields.

Sometimes a master will manumit a slave with whom he is well pleased; but this does not often happen. Sometimes also he turns him away for bad conduct. In the former case, manumission is usually accompanied with a gift of the means of earning subsistence.

A slave who misbehaves is beaten with the hand or a thin stick, or a shoe or a twisted handkerchief.

Those in actual slavery are about one-eighth of the whole population; but those who have the taint of slavery are about six-sixteenths.

The owners of slaves are principally the owners of land.

There are no *adscripti glebæ*.

My paternal grandfather purchased two Kuhar slaves, man and wife. They had two sons and a daughter. One son died without issue. The other married twice; the first time at the expense of our family; the second time he sought a wife for himself, married at his own expense, and left us. He takes service with other people, but comes to us occasionally at festivals, in the hopes of getting a present. He also comes to us when he is sick. My uncle provided a husband for the daughter, and they remained for some time within our family; but have now gone away, and are beyond our control. We have remonstrated with them, but they refused to come back, making excuses, but not denying our right. I should be glad to recover her children; but every body is afraid of preferring a claim to slaves, for fear of being fined.

A slave is entitled morally, and I should think legally, to support in age and infirmity.

By the old law, the master was entitled to every thing which a slave might earn; but I do not know what may be the law on the subject at the present day.

Formerly, inferior people would sometimes mortgage their slaves; but it was always disreputable to do so; and now the general belief of the illegality of sales has also put a stop to all mortgages.

Mussulman families possess slaves. Formerly they used to purchase low caste Hindoos and convert them to Islamism.

19 February 1839.

24.—*Abdul Bari*, Kazee of the City of Calcutta.

I am a native of the village Izzat Naggur, in pergunnah Do Hazare, zillah Chittagong.

Our family has lands, both paying revenue and lakhiraj, in the above village.

I have been kazee about 11 years, during which time I have been frequently in my own country.

Our family possess about 24 hereditary slaves, male and female, adult and infant.

They live close to our house, and do both in-door and out-door work. They are all Mussulmans.

Our land is cultivated by ryots. The part immediately about the house, about thirty begahs, is cultivated by ryots, under the superintendence of our slaves.

It

It is usual, in my country, for respectable people to have slaves.

The origin of slavery there is, I believe, the sale of children by their parents in times of scarcity. I never heard of self-sale.

I believe there has never been any importation from Arracan or other places. I have never seen any Mugh* slaves.

The slaves of the Mussulmans are all Mussulmans. Those of the Hindoos are low caste Hindoos. I cannot say of what castes.

It is disreputable to sell one's slave. A master in poverty would support his slave as long as he was able, and, indeed, would never turn him away. The relation between master and slave is considered as a family tie. A slave, when his master falls into distress, will sometimes leave his master to seek his own livelihood. This does not make the slave free, for manumission can only be by express words. Manumission is not frequent, but sometimes a master will emancipate a slave with whose conduct he is pleased. I am speaking of Mussulman masters, being little acquainted with the Hindoos. When a master emancipates, he generally gives land to the freed man or a present of money.

If a slave is refractory, the master will beat him with his hand, or with a thin stick or ratan, for the purpose of amendment. If he be not corrigible by this kind of punishment, he is turned away.

If a slave is bent upon running away, the master will threaten him. If he actually escapes, the master, perhaps, complains to the magistrate. A slave of my father ran away, with his family. My father applied to the magistrate, who caused the slave and his family to be restored.

Slaves are married with the same rites as free people of the same class. The master marries his male and female slaves together, if in that manner he can make suitable matches; if not, he seeks a bridegroom for his female slave among the slaves of other masters, or perhaps he marries her to a poor free Mussulman. A freeman will very rarely give his daughter in marriage to a slave, but I have known such a case. A free person does not lose freedom by marrying a slave.

When the slaves of two different masters intermarry, the offspring belong to the master of the mother. When a master allows his slave girl to marry a freeman, and go away with him, this amounts to emancipation, and the children are free. But if the girl remains in her master's service, then the children belong to him.

The food and raiment of a slave are superior to that of a hired labourer, and he gets his share of the family meal.

A slave belonging to a neighbour of mine ran away and came to Calcutta, where he worked as a labourer. His wife and child followed him. After a year he returned to his master, who pardoned him, and received him again into his service.

The slaves are entitled to support in sickness and old age, both by law and usage.

No degree of ill-usage confers a right to emancipation.

19 February 1839.

25.—*Sankar Nath Jhah*, Priest in the Family of Kashinath, Zemindar of Kolgong.

I AM a native of the town of Kolgong, in zillah Boglipore.

Most of the respectable people in that part of the country have slaves. I have two female slaves, mother and daughter. The daughter, with my consent, married a freeman. I do not consider him to be my slave, though he comes to the house, and occasionally performs services for me. According to the present local usage, I do not think I have any legal right to his services. I stipulated on the marriage that he should leave his wife a slave in my house. But even if there had been no express stipulation, it would have been so understood, according to the usage of the country.

The slaves in my country are principally Kurmis. There are but few Kuhars.

The origin of slavery must be traced to self-sale, or the sale of a child by its mother, or some maternal ancestor.

A sale by the father alone, while the mother is living, would be invalid; and if the mother were dead, the consent of the maternal grandmother is equally necessary. In a sale by the father and maternal grandmother, the price would be divided according to any arrangement they might make between themselves; but the price would be paid by the purchaser to the father. The father signs the conveyance, of course, but it is safer to get the signature of the maternal grandmother also. But if the mother is alive, her signature is essential.

Some of the Kurmis are quite free from any taint of slavery. Others are practically free, but have the taint of slavery derived from slave ancestors.

The same may be said of the Kuhars.

The self-sale and the sale by parents are much more uncommon among Kuhars than Kurmis, because Kuhars from their impurity are, in a great measure, unfit for service.

Hindoos of all castes have slaves if they can afford it. My employer, Kashinath, has two hundred families of slaves.

About twenty or twenty-five slaves are employed about his household. The rest are employed

* The Mughs are inhabitants of Arracan.

employed in the cultivation of the lands, which he keeps in his own hands. A few, who can write, keep the zemindarry accounts. Some free ryots are also employed in the cultivation of the lands, which my master keeps in his own hands.

Several of the slaves earn their own livelihood by serving other persons as peons, &c. I do not think the zemindar receives any portion of their earnings, but a less wealthy master would probably expect some share of the earnings of a slave whom he had allowed to take service.

A great many of these two hundred families are in truth only nominally slaves, who attend at festivals; for the zemindar's is a decayed family, and not now capable of supporting so many. It would be derogatory to sell them. The lands which the zemindar has in his own hands contain two or three hundred beegahs.

Slaves, when they much misconduct themselves, are punished by stopping their rations, and striking them with the hand or with a stick, according to the disposition of the master. It is the master's right to beat his slave.

Slaves are married with the same rites as free persons of the same caste.

If I want to marry my male slave, I should first look for a suitable match among my female slaves. If there was no suitable match, I should try to get some freeman to give his daughter in marriage. In that case she would not, according to the custom of the country, become my slave, and all the children would be free.

If I marry my slave to the female slave of another master, and no special stipulation is made respecting the offspring, they all belong to the master of the woman, and without his consent the husband cannot take her to his home.

I have heard that masters sometimes emancipate their slaves, but I never knew a case.

The respectable Mahomedans have generally slaves in their families. The Kurmis will not sell themselves or their children to Mahomedans. But these best supply their wants by purchasing children from low Mahomedans—for instance, the Sekaras.

Household slaves are fed from the remains of the master's table.

Slaves, in general, share the fate of their masters If the master is pinched, so is the slave. If the master is in prosperity, the slave fares well.

The master obtains more work from a slave than from a hired labourer; for the slave has an interest in the master's prosperity. The hired labourer gives the master as little of his labour as he can.

Severity does not confer any right to manumission upon the slave.

It is not usual to mortgage slaves or let them to hire.

I have heard of the species of sale called "bun-vickree," as existing in Behar. But it is quite unknown in my country. In all sales of slaves, the deed is called "parum bhattaruk," and conveys the slave and his future progeny.

The sale of slaves by masters is very rare, being, as I have said, derogatory to the master. Such sales, however, do take place when the master is in distress.

The price of a young male adult is about forty rupees, and that of a girl of fifteen about fifty rupees.

There are no *adscripti glebæ*.

The number of persons in actual slavery may amount to one-sixteenth of the population.

22 February 1839.

26.—*Arshad Ullee Khan Bahadur*, Vakeel of the Nawab Nazim.

I AM a native of Gaya, in Behar, and have held judicial and revenue offices in various parts of India.

Besides the district in which I was born, I am acquainted, from having served or resided in them, with Etawa, Allyghur, Ghazeepore, Mirzapore, Bhaugulpore and Dacca. In all these districts, slavery obtains more or less; but in the greatest degree in Behar, and in the least degree to the westward.

It is thirty years since I was in Etawa. At that time most of the respectable Hindoo proprietors had Kurmi and Kuhar slaves employed as domestics. The Mussulman families of respectability had likewise Mussulman slaves.

The origin of slavery, in all the districts I have mentioned, is sale by parents and self-sales in times of distress.

In Etawa there are very few Mussulmans in so low a condition as to be ever reduced to sell their children. The Mussulmans, therefore, purchase Hindoo children and make converts of them.

In all these districts, it is unusual for masters to sell their slaves, and it is considered derogatory to do so.

If a slave is disobedient, it is usual to correct him by slapping him with the hand, and occasionally with a whip, or a ratan.

In Behar, there is a caste called Bamans, who live by agriculture. Most of the landholders of Behar belong to this caste. The inferior landholders of this caste, who superintend personally the work of cultivation, employ slaves, and I have heard that ill-disposed masters of this class will sometimes beat their slaves severely, and sometimes confine them by tying them up. They always feed them well, however, that being the master's interest.

The Hindoo masters never emancipate their slaves that I know of; Mahomedan masters do occasionally, it being a moral duty in them.

Both

Both by law and usage all the earnings of the slave belong to the master.

Slaves are married with the same rites as free people, and the expense of the marriage is defrayed by the master.

When two slaves, of different masters, intermarry, there is almost always a stipulation as to the ownership of the offspring. When there is not such a stipulation, the offspring follow the mother.

I am speaking of the slaves of Mahomedans, for I am not acquainted with the customs of the Hindoos.

I have heard that formerly, in Behar, the magistrate would interfere to restore a runaway slave to his master. But I never saw any case of the kind in the course of my own experience.

The condition of slaves, in Mahomedan families, is generally very comfortable. And I believe it is generally so among the Hindoos also, with the exception of some of the Baman masters.

All masters support their aged and infirm slaves, and, I should think, a slave to whom support was refused might enforce his right in a court of justice.

No degree of ill-usage confers a right to emancipation.

If the master grossly ill-uses his slaves, he is punishable at the discretion of the ruling power.

When the parent or ancestor sells a child, or when a man sells himself, the deed purports to let the services of the subject for a long period, such as eighty years. In practice, such an instrument is understood to convey the subject and all future offspring.

26 February 1839.

27.—*Damar Singh*, native of Purnia, by caste a Kaiet, Pergunnah Howeli, Mooktear in the Sudder Dewanny Adawlut, Calcutta.

I AM acquainted with the southern part of district Dinajpore, as well as with my native district. I held there the office of decree-engrosser. I am now in the service of rajah Bejai Govind Singh, and rajahs Bedyanand Singh and Rudranand Singh. Slaves (designated Khawases) exist in Purnia. They are by caste Kaiets or Kybuts and Dhanuks. The great zemindars have many families of Khawases, most of whom are supported by small assignments of lands. They render occasional service on ceremonies, receiving then a small pecuniary allowance and rations. The slaves who render constant domestic service receive monthly wages of one rupee and rations. The condition of slaves is easy—I may say easier than that of labourers. It sometimes happens that a free Kaiet will voluntarily submit to be Khawas to a zemindar for the sake of protection and support received. If the slave is allowed to tenant lands beyond the assignment for his support, he pays rent. Some of this class accumulate property, and are extensive farmers. I cannot say whether or not the origin of the bondage of hereditary slaves may be traced back to self-sale or sale by parents, but sale does not now occur in Purnia. Khawases are acquired by the submission I have described. My master, Bejai Govind Singh, has many families who have submitted to his servitude, and continue to do so. The Brahmins are the slave-owners in Purnia. There are a few Khatris, but they do not own slaves, nor do the Kaiets and other inferior Hindoos. Those who voluntarily submit to the slavery of a Brahmin, would not submit to serve a Kaiet. The Muslim of the middle rank do not own slaves. A few great Muslim zemindars, who exist in the district, may own domestic slaves; but I am not well informed as to their domestic concerns. The Khawases are married with observance of rites. The master gives a small sum, usually four rupees, and a quantity of grain on the occasion. The master of the male slave is the owner of the offspring of this marriage, whether the wife be free or slave. A free Kybut readily gives his daughter in marriage to a Khawas. The dominion of the patron or master over the Khawas who has sought his protection is not considered as complete, though the relation thus established is seldom broken; but should the Khawas seek other protection or independence, I consider that by usage he may do so. The dominion of the master over his inherited Khawas is more perfect. In Purnia, labour is very cheap. It is not usual to beat domestic Khawases. If they do not give satisfaction they are expelled. Khawases are employed in the cultivation of their master's private lands. The labour of ploughing and weeding is generally done by hired servants. The Khawases superintend and are employed in reaping, thrashing and storing. I know of no instance of manumission. In strict right, the master may have a right to the earnings of his slave, but it is not enforced. I know of no case involving right of master and slave coming before the Purnia court. In the southern part of Dinajpore, I did not observe any slavery. The Khawas who renders actual service as slave is entitled to support in old age and sickness. But the Khawas, who is only nominally slave of some patron, whose protection he has sought, is not so entitled. In great families, there is a head or Sardar Khawas. When a stranger seeks the patronage of the master by voluntary submission, the Sardar is directed to enrol or admit him into the brotherhood of the Khawases. The person thus admitted to clientage derives protection and distinction by the use of the patron's name. But the nominal Khawas of this sort may become a tenant on his master's estate, but does not usually receive any assignment of land.

5 March 1839.

28.—*Jog*

Appendix I.

Evidence.

28.—*Jog Dhyan Misr*, Professor of Mathematics in the Sanscrit College.

My family belongs to Lahore, but I am a native of Benares.

I have been resident in Calcutta eighteen years. But in the course of that time I have visited various parts of Hindoostan.

The respectable inhabitants of Benares and the vicinity have all domestic slaves. The slaves are Kuhars, Kurmis, and the spurious descendants of Rajpoots.

The origin of slavery is either self-sale or sale by parents, or the birth of a child begotten upon a concubine. Such a child and all its descendants are slaves.

Self-sale and sale by parents is common in Benares, and so is sale from one master to another, but a master will not, in general, sell his slave unless he is in straitened circumstances.

A master may correct his slave, as a father may correct his child, or a master his apprentice.

I have heard that slaves are sometimes manumitted when they have done something with which the master is much pleased. But I never knew an instance.

The earnings of the slave all belong to the master; he can hold no property unless by the indulgence of the master.

Slaves are married with the same rites as free people of the same caste.

If the male slave of one master marry the female slave of another, the offspring belong to the master of the female. The same, if a female slave marry a freeman. In the latter case, the freeman is my slave so long as he cohabits with his wife; but he may dissolve the connexion whenever he chooses to desert his wife.

If a free woman marry my slave, she makes herself my slave irrevocably.

These rules obtain not only at Benares, but at Delhi, Lahore, and all the parts westward of Benares.

The begetting of slaves upon concubines is a practice which is not openly avowed, though it is done frequently. But in the Dakhan this is done openly without scruple.

The treatment of slaves is generally good. They are, for the most part, better treated than hired servants.

Masters always support their slaves in sickness and old age. If a master should neglect to do so, the ruling power ought to compel him.

Ill-usage does not confer a right to emancipation; but the ruling power ought to punish the master in that case.

It is not usual to let slaves to hire nor to mortgage them. But a father, upon the marriage of his daughter, frequently gives a slave or two as part of the marriage present.

When a master falls into decayed circumstances, he generally dismisses his slaves to seek their own livelihood. And in that case, if he afterwards recall them to his service, I think that he cannot legally appropriate their earnings.

The form of self-sale and sale by parents is a regular bill of sale when any written document is drawn up. But most commonly there is none.

8 March 1839.

29.—*Soo Dursun Loll*, Mooktear in the Sudder Dewanny Adawlut, Calcutta.

I am a native of the village Terali, pergunnah Goa, in Sarun.

It is nine years since I left my native country. In most of the respectable families there are hereditary slaves. The origin of this slavery is self-sale. But such sales no longer take place, nor do sales from master to master.

The castes to which slaves belong are Kurmees, Kuhars, Dhanuks, Baris, Napits.

Though slaves are not sold, yet they are commonly given as part of the marriage present by the father of the bride.

Slaves are coerced by slaps. When a master falls into decayed circumstances, he sometimes tells his slave to go and earn his own livelihood; and I have heard of a slave being emancipated.

The slaves benefit by the prosperity and suffer by the adversity of their masters; and, of course, feel an interest in his fortunes.

Some of the great zemindars have as many as 200 slaves, but most of them only give occasional attendance, being settled on lands belonging to their master.

Free people and slaves do not intermarry.

If the slaves of two different masters intermarry, the ownership of the offspring is generally settled by stipulation, but in default of stipulation they belong to the master of the father.

The master always pays the expenses of the marriage of slaves.

15 March 1839.

30.—*Lala Deoke Nundun*, Mooktear of the Rajah of Chota Nagpore.

I am a native of Bhojpore, in Shahabad. I resided about seven years ago at Lohar Daga, the principal estate of the rajah, and I have visited his other estates, which are all in the Jungle Mehals.

Slavery, in the general acceptation of the term, obtains in this part of the country, and a particular form exists there called a Sunkia.

The Sunkia is a man of low caste, who, in consideration of an advance from 10 to 30 rupees or more, assigns himself to the lender until he repays the loan. It seldom happens that the loan is ever repaid, though he sometimes procures himself to be transferred to a new master, who, of course, pays a consideration to the old one. But a Sunkia cannot be handed over to a new master without his own consent. If a Sunkia does not perform his duty, the master, I conceive, is entitled to compel him by force.

The Sunkia receives rations about three seers of grain a day, and a piece of land, generally about two begahs, which he is allowed to cultivate on his own account; he also receives clothing,—two dhotees and a blanket a year. The people who assign themselves in this form are generally outcastes. Almost all the following classes of people are Sunkias, (Bhuyas, Coles and Soutwals) Kurmees and Kuhars, many of whom are domestic slaves, very rarely become Sunkias.

It is more economical to employ Sunkias than slaves, because the master has to pay the expense of the marriage of his slaves.

I cannot say why this peculiar form of slavery prevails rather than common slavery, except that these classes of people do not choose to sell themselves or their children.

The slaves of this part of the country are all Kurmees and Kuhars. The origin of their slavery is sale by a mother, a maternal grandfather or grandmother. No one would buy a Kurmee or Kuhar from himself; no such transaction is known either in the country I am speaking of, or in Shahabad.

Sales by relations, and sales from one master to another, used to be common; but an impression has got abroad that they are prohibited, and, in consequence of this, sales are now made under the disguise of a deed of hire. I believe this impression arose from some late decisions and *dicta* of the Sudder judges. I allude to two particular cases, in one of which I was mooktear.

In the sale of Kurmee and Kuhar children, the consent of the father is quite unimportant.

The general condition of slaves in the parts of which I have been speaking is good. They are sometimes corrected with slaps, and so are Sunkias. But no severe punishment is ever inflicted; if it were, the slave would run away.

In Shahabad and Behar, the poorer class of masters, who have not much occasion for domestic services, employ their slaves in agriculture. I allude to the Rajpoots of Shahabad and the Brahmins of Behar.

The rajah has from 80 to 100 domestics, but he has no agricultural slaves nor Sunkias, having no land in his own hands.

15 March 1839.

31.—*Sri Dhar Bukshi Kait*, Agent of the Rajah of Pachit, in the Jungle Mehals.

I AM a native of Jumalpore, in Western Beerbhoom.

I am an hereditary servant of the rajah, and frequently go backwards and forwards between his residence and Calcutta.

My master and the respectable people of that part of the country, in general, possess slaves.

The slaves of my master's family are spurious Rajpoots. He himself is a Khetrya of the solar race.

The slaves in general are Kaiets, Koomars, Kamars, Kurmi, Chasa, Kybert, Bhuyans. The Kaiet slave is very rare.

There are also some low caste persons who contract the obligation of servitude in consideration of an advance of money. They become free upon repayment of the advance, and are entitled to food and clothing from the master in the meantime.

The master may assign such a person over to a new master without his consent.

The origin of the slavery of this country is sale by parents, and also self-sale, as I have heard. These sales generally take place when the family is in distress. But sometimes a parent will give his child, as a slave, to a great man like my master with a view to the advantages of that position.

If two slaves of different masters intermarry, the offspring belong to the owner of the father, unless there is some express stipulation.

If a free woman marry a slave, she and her offspring follow his condition.

The sale of slaves by masters is not common, and only takes place when the master is urged by distress. The price varies much according to the merits of the slave.

Slaves are punished by blows with a slipper or a ratan, and by confinement. Since the government of the English, masters have been careful not to ill-treat their slaves, from the fear of punishment.

The earnings of the slave all belong to his master.

I am myself the owner of two slaves belonging to the Baori caste. My father left us several slaves, but we have fallen into straitened circumstances, and are not able to support them; and except the two I have mentioned, they are practically free and earning their own livelihood.

We have not sold them because they would have fetched very little, and it would be dis-

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reputable to do so. They say they will come back to us if we ever regain our station in the world, and I believe they would.

There is a kindly feeling subsisting between hereditary slaves and their masters. The slaves will sometimes beg for the support of their masters.

The slave has a right to support from his master when he is incapable of work.

Sometimes a master hires out the services of his slave, but only when he is in low circumstances.

22 March 1839.

32.—*Bahadoor Ruza.*

I AM a native of Sylhet, and the owner of two talooks in that district. One of them is in the Lahore division and the other in Bunia Choung. On the former, there are about twenty-five families of hereditary slaves of my family, and on the other, about a hundred and twenty. They are now only nominally slaves. Down to the time of my father they performed the service of watch and ward. But now they do not differ from other ryots paying rent on the estate, except that they sometimes come upon occasion of ceremonies, and that they always ask my permission to marry. Some of them also cultivate the lands of other zemindars. I neither give them any thing nor receive any thing from them.

So purely nominal is my dominion over these people, that about fifteen years ago I bought five male and five female slaves for domestic purposes. I bought them from their parents. Seven of these were children of Mahomedans, natives of the country, who were in distress. The other three were Hindoo children from Munipore, who have become Mahomedans, of course, as being slaves of a Mahomedan master. About the time when these last were bought, a great many inhabitants of Munipore took refuge in Sylhet, from the terror of a Burmese invasion, and sold their children into slavery.

Six of these slaves have run away, and I know that three of them are at Dacca.

I mean to sue in the civil court for restitution of their services.

My father bought two slaves, named Chunda and Nida, from their master. They refused to come under his dominion, whereupon he sued them in the civil court of Sylhet. My father died during the suit. I continued it, and got judgment; which was confirmed on appeal in the provincial court of Dacca. The defence was, that they were not slaves; and upon that point being decided against them, they came under my dominion.

30 March 1839.

33.—*Prawn Kishen Dutt.*

MY father is a small talookdar in pergunnah Bejorira, in Sylhet, adjoining Bunia Choung.

He owns about 75 families of slaves, of which about 60 are Hindoos, principally Kaiets and Kybert Das. The remainder are either Mussulmans or Chundals. These people are located in the vicinity of our house, and cultivated the lands of the talook, paying rent to my father. The only service they perform for my father is, that they cultivate, when called upon, the land, which he keeps in his own hands, which is about two-and-a-half ploughs; for this they receive no remuneration. Four or five male and six or seven female Kaiets are employed as domestic servants in our house, and these also occasionally cultivate my father's land.

When any of these domestic slaves are married, it is at my father's expense.

When any man wishes to marry one of the female slaves not domestic, he first asks the consent of her father; and having obtained that, he asks the consent of the master; and if that is granted, he makes a small present of one or two rupees, and our proprietory right over the girl ceases.

My father bought about 10 families of these slaves. The motive for buying is, that they increase the consideration of the owner. They were bought from their former master.

Cases relating to slavery frequently come before the courts in Sylhet. The magistrate, if a *primâ facie* case of slavery is made out, refers the alleged slave to the civil courts.

A slave, named Bolha, was the property of my two uncles, Gouri Sunkur Dutt and Jugul Kishwur Dutt. About 25 years ago, his maternal grandmother, also their slave, sold him fraudulently to Gopal Kishen and others, who resided at a distance. Bolha, the slave, and Gouri, joined in suing Gopal and the other vendees, to set aside the sale. Jugul was then absent in Assam.

30 March 1839.

34.—*Lalla Ram Charan Lal,* Agent of Maharajah Lutchmee Nath Singh, of Ramghur.

I AM a native of village Amarut, pergunnah Sheerghotty, in what is now the Behar district, formerly the Ramghur district.

In my pergunnah, and in Hazareebagh, slaves are of two kinds; the domestic slave, who is always either a Kurmi or a Kahar, and the Kamia, or out-door labourer, who is an outcaste, either Bhuyian, Rajwar, Ghatwan, Turi or Bokta.

The

The Kamias are sometimes absolute slaves, and are then called "Saunkia;" sometimes bound until the repayment of a loan.

There is no such thing as a sale of a man for life without his offspring.

The origin of the slavery of the Kurmis and Kahars is the sale of adults or children by their mothers. The presence of the maternal grandmother, or, if she is dead, of the maternal uncle, is necessary to this kind of sale. If the mother is dead, the grandmother may sell; if the grandmother is dead, then the maternal uncle. When a female is thus sold, her future offspring pass by the sale. When a male is sold, his future offspring are not affected. When an adult is sold, his consent is not asked. The mother may sell her daughter, though she be married. If the husband is a freeman, he generally follows his wife; but if he is the slave of another master, then they are separated, and the husband looks out for another wife.

The sale called bun-vikree is known in the country of which I am speaking; and the price is lower than when the subject of the sale is in the possession of the seller.

I consider that all the Kurmis and Kahars belong to slave stocks, though many of them are practically free; but they are all liable to be sold as above.

The origin of the slavery of the Kamia is self-sale, and sale by the father or other person exercising parental authority.

The Kamia, who is bound until he repays a loan, is not transferable except by his own consent. He cannot leave his master, except at the end of the agricultural year, though he should have the money to redeem himself ready before that period.

All the respectable people cultivate their land by Kamias.

The maharajah has about 500 of them cultivating the land, which he keeps in his own hands.

The master of a Saunkia never interferes with the female children of Saunkias: in strictness, I suppose, he has the right to do so; but it is not the custom. The Saunkia marries his female children as he pleases. It is otherwise with the Kurmis and Kahars; the marriages of their female children are made by the master, who pays the expenses.

The Saunkia is allowed three seers of grain in the husk daily, and one seer of rice. If his wife labours in the fields she receives the same. If she is sick, or does not labour from any cause, she receives nothing. During the harvest the men receive one and a third sheaf of the crop every day. Besides this, the Saunkia has two beegahs of land and two Mohwa trees, and has the use of his master's bullocks to cultivate the land and seed grain. He is also clothed.

The Kamia, who is bound till he repays a loan, receives nothing but three seers of grain in the husk.

The average price of a Saunkia may be about 50 rupees.

The amount of the advance to the bondsman is from 10 to 20 rupees.

If the bondsman die before the loan is repaid, his son, as a matter of course, takes his place. This is the established custom.

In Behar, the Kamia is bound not only to repay the principal of the loan, but also to pay interest, which makes the condition of the Kamia amount, in fact, to the absolute slavery of himself, and some or all of his descendants.

On the death of the father, one or more of his sons become Kamias for the payment of the debt; the arrangement being settled by arbitrators, and new engagements executed between the parties.

In Behar, the Kamias are Bhurjeans and Moosur.

One Petumbur Singh, of Seekun, in Behar, enticed away 19 or 20 Kamias from Sheerghotty, and the magistrate of Behar caused them to be restored. Many suits respecting Kamias have been decided in the civil court at Sheerghotty; but I know of no case in which a creditor has sued the sons of a deceased Kamia in consequence of having been unable to bring them to terms.

17 May 1839.

35.—Captain *Bogle*, Commissioner of Arracan.

I FIRST went to Arracan in the end of 1828, to command the provincial battalion. In 1829 I was transferred to the civil department, as an assistant to the commissioner. I left the province in July 1831; in 1837 I returned to Arracan, as commissioner, which office I still hold.

No slavery now exists in Arracan. When I was first there I found slavery and bondage existing, but not to a great extent.

All civil rights were reduced to a state of great uncertainty by the Burmese conquest, in 1783; in consequence of this, the number of slaves appears to have much decreased.

The abolition of slavery and bondage was brought about in the following manner:—

In the year 1834, some correspondence took place between the local superintendent and the commissioner, Mr. Walters, at Chittagong (Arracan and Chittagong were at that time under the same commissioner), on the subject of slavery and bondage, and the result of the

 correspondence

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correspondence was, that the commissioner directed the superintendent to declare all slaves and bondsmen free, if he thought he could do so with safety.

The superintendent accordingly issued a proclamation to that effect. This proclamation occasioned considerable dissatisfaction, but no disturbance was created, nor was there any public demonstration. I have reason to think that the proclamation produced a practical effect, and that many slaves left their masters in consequence of it.

When I returned to Arracan, as commissioner, in 1837, some petitions were presented to me by persons who had been owners of slaves and bondsmen, complaining that their slaves and bondsmen had left them, and that they had not been able to obtain redress from the local officers. Upon the receipt of these petitions I inquired into the matter, and found that the proclamation above mentioned had been issued; I therefore discouraged the petitioners.

Afterwards, when I went into the interior, a great number of similar petitions were presented to me; these I referred to one of my assistants, and, upon his report, I was satisfied that it was not prudent to stir the question at all, and that if I did so, I should be overwhelmed with petitions.

I have never been called on to decide judicially upon the validity of the proclamation.

Notwithstanding the proclamation, I believe that a considerable number of slaves and bondsmen still exist *de facto*.

I do not remember any complaints made by slaves or bondsmen of ill-treatment on the part of their masters.

The agriculture of the country is carried on by very small proprietors, who hold the plough themselves.

The highest class of people in the country is the Soogree, a kind of tehsildar; and I have known, in some instances, the sons of such persons to hire themselves as day-labourers.

The condition of a slave is not distinguishable from that of a free labourer.

There is no want of free labourers.

At harvest-time, a great many come from Chittagong, and return home after the harvest.

I believe that the slavery of Arracan originated in predatory expeditions into the adjoining countries.

I was in Assam from 1833 to 1837, as assistant to the commissioner.

A very large proportion of the land, and all the best land, is held by Brahmins, who are also the principal holders of slaves.

It would not be nearly so easy to abolish slavery in Assam as in Arracan, because the proprietors of slaves are men of such considerable wealth and power.

Since we have had the country, we have never permitted the masters to punish their slaves more severely than a father may punish his child.

When I first went to Assam, many of the principal people kept stocks in their houses, and used to put their slaves, or any poor person who offended, into them.

Since we have been in possession, these stocks are no longer permitted.

The real motive which now induces the slave to do his work is the fear of losing the advantages of his situation.

Cases of oppression were every now and then occurring while I was in the country; but we have always punished the oppressors whenever complaints have been substantiated.

I do not consider that, by law, the master has any power of punishing his slave by beating; but no doubt, if a slave complained, and it turned out that his master had only given him a slap, the court would scarcely think the case worth noticing.

I think that an Act abolishing the master's power of punishment altogether would make no change in the law of Assam.

I believe that a considerable part of the slavery now existing in Assam originated in the Paik system, which was this: the native government permitted the Paiks to hold land at a small quit-rent, and exacted labour from them in return. The government used to pay all its officers by assignments of the labour of these Paiks. Before the country came into our possession, the public officers continued frequently, through the imbecility of the government, to make slaves of the Paiks, to whose services they had been thus entitled, and also to usurp the lands to which these Paiks were entitled.

After the province came into our possession, a minute inquiry was made into this abuse. In consequence, several thousands were liberated. But the inquiry itself was so vexatious, and gave rise to so much bribery, that the commissioner put a stop to it before it was completed.

In 1834, the government gave orders that no slaves should be sold in execution of decrees or for arrears of revenue. This was followed by a great decrease in the value of slaves.

The most common way of maintaining slaves in Assam is by assigning them a portion of the master's estate to cultivate, the produce being divided between the master and slave, and the share of the slave being sufficient for the subsistence of himself and his family.

I think the effect of abolishing slavery in Assam would be, that the indignation of the master and the insolence of the slave would prevent them from making the agreement for labour

labour which their mutual interests would suggest, and thus considerable mischief would for some time be produced.

In consequence of the ignorance of the bondsmen, and the power and injustice of those to whom they were bound, it frequently happened that, though a man had bound himself for not more than eight rupees, yet his son and grandson remained in bondage. In fact, if a bondsman died without having discharged his debt, the master seized upon his nearest relation, and compelled him to serve so long as the debt remained unpaid. I brought this abuse to the notice of the commissioner, and he directed me, whenever a bondsman applied for his release, to fix the price of the plaintiff's labour, and, after deducting from it what might be esteemed a fair equivalent for maintenance, to carry the balance to the credit of the plaintiff, and whenever the sum thus credited sufficed to extinguish the original debt with legal interest, or the plaintiff paid up whatever was wanting in the amount so credited to effect such extinction, to award to the plaintiff an entire discharge and liberation from his bondage. But, to prevent protracted investigations, and to protect the master from vindictive prosecutions, the commissioner further directed that no master should be required to account for any sum that might be carried to the credit of the plaintiff under the above rule, in excess of the amount of the original debt, with legal interest, and that no suit, by a liberated bondsman, for any sum alleged to be due to him on account of labour performed during his bondage, should be entertained. A great many bondsmen were released under the operation of this rule.

Several of the bondsmen, thus liberated, have left their masters and sought employment elsewhere.

Several European settlers have established themselves in Assam who have taken bondsmen, but they generally escape, and the European finds it impossible to trace them out. The native master would find sympathy and aid in a search for a runaway bondsman.

16 August 1839.

36.—*W. R. Young*, Esq., Commissioner, to inquire into the Condition of the Settlements in the Straits.

I AM aware that the question of abolishing the court of judicature in the Straits has been under discussion. My opinion is, that so long as the law of England obtains in these settlements it would not be advisable to intrust the administration of it to unprofessional judges without some professional check.

The court of judicature is not only a court of first instance, but is also a court exercising a superintending jurisdiction over the justices of the peace and the court of requests, and I think it very necessary that some such jurisdiction should exist, on the spot, to prevent the inconvenience which suitors must suffer from the delay in correcting the mistake of those subordinate functionaries.

A circuit, made by a judge of the supreme court from Calcutta, would not adequately perform these functions unless it took place several times in the course of the year. I should say not less than three times.

I will give, as an illustration of the necessity of a professional judge, a case which occurred while I was in the Straits.

The indorsee of a bill of lading, in which freight was expressed to have been paid in London, brought an action against the captain to recover the goods, he having refused to deliver them on the ground that the freight had not, in fact, been paid. After the merits of the case had been investigated, the defendant objected that the plaintiff had no sufficient interest in the goods to maintain the action. No recorder was present, and the unprofessional judge decided that the objection was fatal, though the merits of the case were clearly with the plaintiff. It is generally understood that this decision is wrong in point of law.

I think that, admitting the expediency of having a professional judge on the spot for the decision of such cases as I have specified, it is, nevertheless, true that such a court ought not to be paid entirely out of the revenues of India. But some part of the expenses of such a court may reasonably be paid out of those revenues in respect of the benefit which India derives from the settlements in the Straits in a commercial way, and as receptacles for convicts.

I see no mode in which the revenue of the Straits can be increased except by customs.

I did not hear that the decision of the recorder's court, by which it was held that the Dutch Roman law was abolished in Malacca, had created any dissatisfaction among the Dutch inhabitants.

All conveyances of real property between Englishmen are according to the English forms; but the court would receive evidence of the native customs in a conveyance between natives.

I wish to observe, that not only the European inhabitants but also the natives are very much attached to the present administration of justice, and that they would not like any such change as would leave the settlements without a professional judge.

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Supposing that the recorder's court is not abolished, the principal reform which appears to me to be necessary is the simplification of the pleadings and procedure. Sir Benjamin Malkin did a great deal towards the accomplishment of this end; but now the business of preparing the pleadings has fallen into the hands of law-agents, and they have become long and technical. The proper remedy for this, I conceive to be, that the parties should be obliged to state their case *vivâ voce* in court, except in cases of sickness or other reasonable excuse.

I do not think there would be any difficulty in finding persons competent, from their general respectability, to sit as jurors or assessors in the courts. But, inasmuch as it would be very difficult to find persons wholly disinterested, I think it would not be safe to make their verdict binding on the court. I do not think the people would at all complain of this burthen, if the number of jurors or assessors were limited to two or three.

I was sent by the government of Bengal, as a commissioner, to inquire into the condition of the settlements in the Straits.

I was about 18 months in the different settlements.

The proclamation* alluded to has been observed, but it has not been understood to include the case of persons who are imported as the Chinese are under a bargain with the captain, that they will bind themselves to serve for a term some person who will pay fo their passage.

I believe there is a considerable number, both at Singapore and Penang, who are now serving under such contracts.

I do not think the masters of such persons ever attempt to enforce the contract by personal chastisement.

The transfer of these persons from one person to another, without their own consent, is not legal.

I never heard, while I was at Malacca, that any such agreement as the one now alluded to † had ever been entered into.

In fact, the Dutch inhabitants do generally possess slaves, but not the British.

There is no slavery at Penang.

I consider province Wellesley to be exactly in the same condition, in point of law, as Penang, in respect of slavery. But in consequence of its bordering upon the Siamese territories, I believe that, in fact, there are some persons held in slavery.

I believe that the debtor servants are in general well treated, but I think the system of debtor-service a very inefficient one.

I wish to observe that I only speak from a general impression of what I heard and saw, for it was not part of my duty to inquire particularly into the state of slavery in the Straits.

30 November 1839.

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* Published by the government in these settlements in March 1830, prohibiting the importation of persons under the denomination of slave-debtors.

† An agreement entered into by the inhabitants at a meeting assembled on the 28th November 1829, that slavery shall not be recognized in the town and territory of Malacca, after the 31st December 1841, A.D.

APPENDIX II.

OFFICIAL RETURNS as to Slavery in the Provinces included in the Presidencies of Fort William and Agra.

1. LETTER of the Law Commission to Registers of the Courts of Sudder Dewanny and Nizamut Adawlut, established at Calcutta and Allahabad, dated the 10th October 1835.
2. Reply thereto from the Register of the Calcutta Courts, dated 3d March 1837, with enclosures, viz.—
3. Mr. T. C. Robertson's Minute enclosed therein.
4. Mr. Officiating Deputy Register H. Torrens' Note, ditto.
5. Return by Mr. H. Ricketts, Commissioner of Cuttack, 19th Division, Balasore, ditto.
6. „ Mr. J. C. Brown, Civil Judge, Behar, ditto.
7. „ Mr. H. V. Hathorn, Judge, Cuttack, ditto.
8. „ Mr. J. Grant, Acting Magistrate, Balasore, ditto.
9. „ Mr. T. C. Scott, Magistrate, Balasore, ditto.
10. „ Mr. M. Mills, Officiating Magistrate, Cuttack, ditto.
11. „ Mr. J. K. Ewart, Officiating Joint Magistrate, Pooree, ditto.
12. „ Mr. Abercrombie Dick, Judge and Sessions Judge, Midnapur, ditto.
13. „ Mr. J. Stainforth, Officiating Magistrate, Midnapur, ditto.
14. „ Mr. D. J. Money, Acting Joint Magistrate, Midnapur, ditto.
15. „ Mr. H. M. Pigou, Commissioner, 18th Division, Jessore, ditto.
16. „ Mr. E. M. Gordon, Commissioner of Circuit, 14th Division, Moorshedabad, ditto.
17. „ Mr. E. J. Harington, Officiating Judge, Hooghly, ditto.
18. „ Mr. E. A. Samuells, Officiating Magistrate, Hooghly, ditto.
19. „ Mr. J. Curtis, Judge, Burdwan, ditto.
20. „ Mr. R. Macan, Additional Judge, Burdwan, ditto.
21. „ Mr. W. Taylor, Officiating Magistrate, Burdwan, ditto.
22. „ Mr. W. H. Elliott, Officiating Magistrate, Bancoorah, ditto.
23. „ Mr. J. H. D'Oyly, Civil and Session Judge, Birbhum, ditto.
24. „ Mr. W. J. H. Money, Acting Magistrate, Birbhum, ditto.
25. „ Mr. H. J. Middleton, Judge, Murshidabad, ditto.
26. „ Mr. G. Myers, Principal Sudder Aumin, Murshidabad, ditto.
27. „ Mr. R. Torrens, Magistrate, Murshidabad, ditto.
28. „ Mr. C. R. Martin, Officiating Judge, Twenty-four Pergunnas, ditto.
29. „ Mr. J. Laurell, Officiating Magistrate, Twenty-four Pergunnas, ditto.
30. „ Mr. G. W. Battye, Joint Magistrate, Baraset, ditto.
31. „ Mr. C. G. Udny, Civil and Sessions Judge, Nuddeah, ditto.
32. „ Mr. H. P. Russell, Officiating Additional Judge, Nuddeah, ditto.
33. „ Mr. R. C. Halkett, Officiating Magistrate, Nuddeah, ditto.
34. „ Mr. C. Phillips, Judge of Jessore, ditto.
35. „ Mr. A. F. Donnelly, Officiating Magistrate, Jessore, ditto.
36. „ Mr. R. W. Maxwell, Judge of Backergunge, ditto.
37. „ Mr. H. Stainforth, Magistrate, Backergunge, ditto.
38. „ Mr. W. Dampier, Commissioner 16th Division, Chittagong, ditto.
39. „ Mr. H. Moore, Acting Judge, Chittagong, ditto.
40. „ Mr. G. Bruce, Acting Joint Magistrate, Noakholle, ditto.
41. „ Mr. J. Shaw, Civil and Session Judge, Tipperah, ditto.
42. „ Mr. —— Allen, Assistant Joint Magistrate, Tipperah, ditto.
43. „ Mr. J. Lowis, Commissioner of Circuit, Dacca, ditto.
44. „ Mr. J. F. G. Cooke, Officiating Civil and Session Judge, Dacca, ditto.
45. „ Mr. J. Grant, Magistrate, Dacca, ditto.
46. „ Mr. W. H. Martin, Joint Magistrate, Furreedpur, ditto.
47. „ Mr. G. C. Cheap, Judge, Maimunsingh, ditto.
48. „ Mr. D. Pringle, Magistrate, Maimunsingh, ditto.
49. „ Mr. C. Smith, Civil and Session Judge, Sylhet, ditto.
50. „ Mr. R. H. Mytton, Magistrate, Sylhet, ditto.
51. „ Mr. C. W. Steer, Commissioner of Circuit, Bauleah, ditto.
52. „ Mr. R. Barlow, Judge, Rajshahi, ditto.
53. „ Mr. H. T. Raikes, Officiating Magistrate, Rajshahi, ditto.

54. Return by Mr. J. B. Ogilvy, Joint Magistrate, Pubna, enclosed therein.
55. „ Mr. J. Taylor, Joint Magistrate, Bogra, ditto.
56. „ Mr. T. A. Shaw, Civil and Session Judge, Rungpur, ditto.
57. „ Mr. H. F. James, Magistrate, Rungpur, ditto.
58. „ Captain Davidson, North East Rungpur, ditto.
59. „ Mr. J. Wyatt, Civil and Session Judge, Dinagepur, ditto.
60. „ Mr. G. T. Shakespear, Officiating Magistrate, Dinagepur, ditto.
61. „ The Honourable R. Forbes, Officiating Magistrate, Malda, ditto.
62. „ Mr. H. Nisbet, Judge of Purnea, ditto.
63. „ Mr. W. P. Goad, Acting Magistrate, Purnea, ditto.
64. „ Captain Wilkinson, Governor General's Agent, Kishenpur, ditto.
65. „ Lieutenant J. Hannyngton, Assistant Governor General's Agent, ditto.
66. „ Captain L. Bird, Principal Assistant Governor General's Agent, ditto.
67. „ Mr. J. Davidson, ditto.
68. „ Mr. C. Harding, Commissioner of Circuit, 12th Division, Bhagulpur, ditto.
69. „ Mr. E. Lee Warner, Civil and Session Judge, Bhagulpur, ditto.
70. „ Mr. J. Dunbar, Magistrate, Bhagulpur, ditto.
71. „ Mr. H. Laing, Officiating Joint Magistrate, Monghyr, ditto.
72. „ Mr. F. Gouldsbury, Officiating Additional Judge, Behar, ditto.
73. „ Mr. H. V. Hathorn, Magistrate, Behar, ditto.
74. „ Mr. C. Tucker, Commissioner, Patna.
75. „ Mr. G. J. Morris, Judge, Patna, ditto.
76. „ Mr. W. R. Jennings, Magistrate, Patna, ditto.
77. „ Mr. J. Hawkins, Officiating Judge, Shahabad, ditto.
78. „ Mr. T. Sandys, Officiating Magistrate, Shahabad, ditto.
79. „ Mr. T. R. Davidson, Officiating Civil and Session Judge, Sarun, ditto.
80. „ Mr. W. Luke, Officiating Magistrate, Sarun, ditto.
81. „ Mr. T. J. Dashwood, Judge, Tirhut, ditto.
82. „ Mr. G. Gough, Officiating Additional Judge, Tirhut, ditto.
83. „ Mr. J. E. Wilkinson, Magistrate, Tirhut, ditto.
84. Reply from the Officiating Register of the Allahabad Sudder Dewanny and Nizamut Adawlut, dated 18th March 1836.
85. Return by Mr. F. Currie, Commissioner, 5th Division, Ghazeepur, ditto.
86. „ Mr. G. Mainwaring, Civil and Session Judge, Goruckpur, ditto.
87. „ Mr. A. P. Currie, Joint Magistrate, Goruckpur, ditto.
88. „ Mr. R. W. Barlow, Judge, Ghazeepur, ditto.
89. „ Mr. W. Jackson, Additional Judge, Ghazeepur, ditto.
90. „ Mr. E. P. Smith, Magistrate Ghazeepur, ditto.
91. „ Mr. J. Thomason, Magistrate, Azimgurh, ditto.
92. „ Mr. B. Tayler, Judge, Jounpur, ditto.
93. „ Mr. C. Tulloh, Magistrate, Jounpur, ditto.
94. „ Mr. W. Gorton, Civil and Session Judge, Benares, ditto.
95. „ Mr. D. B. Morrison, Magistrate, Benares, ditto.
96. „ Mr. H. H. Thomas, Civil and Session Judge, Mirzapur, ditto.
97. „ Mr. W. H. Benson, Officiating Commissioner of Circuit, 4th Division, ditto.
98. „ Mr. J. Dunsmure, Civil and Session Judge, Allahabad, ditto.
99. „ Mr. A. Spiers, Magistrate, Allahabad, ditto.
100. „ Mr. S. Fraser, Judge, Bundlecund, ditto.
101. „ Mr. R. C. C. Clarke, Acting Magistrate, Bundlecund, ditto.
102. „ Mr. H. Pidcock, Magistrate, Humeerpur, ditto
103. „ Mr. R. J. Tayler, Judge, Futtehpur, ditto.
104. „ Mr. H. Armstrong, Officiating Magistrate, Futtenpur, ditto.
105. „ Mr. R. Neave, Officiating Judge, Cawnpur, ditto.
106. „ Mr. C. M. Caldecott, Magistrate, Cawnpur, ditto.
107. „ Mr. J. Cummine, Joint Magistrate, Belah, ditto.
108. „ Mr. C. Fraser, Officiating Commissioner, 2d Division, Agra, ditto.
109. „ Mr. A. W. Begbie, Officiating Judge, Mynpooree, ditto.
110. „ Mr. H. Fraser, Magistrate, Mynpooree, ditto.
111. „ Mr. J. P. Gubbins, Joint Magistrate, Etawah, ditto.
112. „ Mr. J. Davidson, Officiating Civil and Session Judge, Agra, ditto.
113. „ Mr. S. G. Mansell, Magistrate, Agra, ditto.
114. „ Mr. W. H. Tyler, Magistrate, Muttra, ditto.
115. „ Mr. J. Neave, Judge, Alligurh, ditto.
116. „ Mr. H. Swetenham, Officiating Judge, Furruckabad, ditto.
117. „ Mr. F. H. Robinson, Magistrate, Furruckabad, ditto.
118. „ Mr. S. M. Boulderson, Commissioner of Circuit, Bareilly, ditto.
119. „ Mr. W. Cowell, Judge, Bareilly, ditto.

120. Return by Mr. W. J. Conolly, Magistrate, Bareilly, enclosed therein.
121. „ Mr. C. S. Clarke, Magistrate, Shajehanpur, ditto.
122. „ Mr. S. S. Brown, Magistrate, Suheswan, ditto.
123. „ Mr. E. S. Smith, Judge, Moradabad, ditto.
124. „ Mr. W. Okeden, Magistrate, Moradabad, ditto.
125. „ Mr. R. Dick, Officiating Joint Magistrate, Kasipur, ditto.
126. „ Mr. —— Lushington, Magistrate, Bijnore, ditto.
127. „ Mr. J. R. Hutchinson, Commissioner of Circuit, ditto.
128. „ Mr. G. W. Bacon, Officiating Civil and Session Judge, Saharunpur, ditto.
129. „ Mr. J. Lowis, Acting Magistrate, Saharunpur, ditto.
130. „ Mr. E. F. Franco, Magistrate, Mozuffurnuggur, ditto.
131. „ Mr. R. C. Glyn, Officiating Judge, Meerut, ditto.
132. „ Mr. R. N. C. Hamilton, Officiating Magistrate, Meerut, ditto.
133. „ Mr. M. H. Tierney, Magistrate, Bolundshahur, ditto
134. „ Mr. T. Metcalfe, Commissioner, Delhi, ditto.
135. „ Mr. H. Fraser, Judge, Delhi, ditto.
136. „ Mr. S. W. Truscott, Magistrate, Centre Division, Delhi, ditto.
137. „ Mr. C. Gubbins, Officiating Magistrate, Goorgong, ditto.
138. „ Mr. A. Fraser, Magistrate, Rohtuk, ditto.
139. „ Mr. J. Lawrence, Magistrate, Paniput, ditto.
140. „ Mr. M. R. Gubbins, Officiating Magistrate, Hurriana, ditto.

141. Letter from the Secretary Law Commission, dated 5th April 1839, to Judge of Cuttack, on subject of sale of Slaves to levy judgments.
142. Reply thereto, dated 1st May 1839.
143. Letter from the Secretary Law Commission, dated 5th April 1839, to Magistrate of Central Cuttack, on subject of a Proclamation issued by Mr. Ker, the Commissioner, and an order passed by Mr. Forrester, Magistrate of the district.
144. Reply thereto, dated 19th June.
145. Letter from the Secretary of the Law Commission, dated 5th April 1839, to the Magistrate of North Cuttack, as to the census of Slave population in that district.
146. Reply thereto, dated 7th May 1839.
147. Letter from the Law Commission, dated 23d November 1839, to the Judges of Behar, Patna and Shahabad, on the subject of the sale of Slaves to levy judgments.
148. Reply of the Behar Judge, dated 18th December 1839.
149. Reply of the Shahabad Judge, dated 27th December 1839.

Appendix II.

Returns.

No. 1.

FROM the Secretary of the Indian Law Commissioners to Registers of the Courts of Sudder Dewanny and Nizamut Adawlut, Bengal and Agra, dated 10th October 1835.

THE Indian Law Commissioners having under their consideration, as connected with the preparation of a criminal code, the system of slavery prevailing in India, I am directed to request that the courts of Sudder Dewanny and Nizamut Adawlut will favour them with information on the following points:—

1st. What are the legal rights of masters over their slaves, with regard both to their persons and property, which are practically recognized by the Company's courts and magistrates under the Bengal presidency.

2d. And as more immediately connected with the criminal code, to what extent is it the practice of the courts and magistrates to recognize the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment; what protection are they in the habit of extending to slaves on complaints preferred by them of cruelty or hard usage by their masters; and how far do they continue to Mussulman slaves the indulgences which, in criminal matters, were granted them by the Mahomedan law.

3d. Whether there are any cases in which the courts and magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters.

The Act of 51 Geo. 3, c. 23, and Regulations X. of 1811, and III. of 1832, specially provide against the importation of slaves by sea or land from foreign countries, and the removal of slaves for the purposes of traffic from one part of the British territories dependent on the presidency of Fort William to another: but the only general rule which appears to have been laid down for the guidance of the courts in other cases of slavery, is that contained in the construction of section 15, Regulation IV. of 1793, by the Sudder Dewanny Adawlut, in 1798, confirmed by the Governor-general in Council on the 12th of April of that year, and fully recognized in the subsequent resolution of the Honourable the Vice-president in Council, dated the 9th of September 1827, in the discussions which arose regarding the intent and application of the Act of Parliament above referred to.

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By that construction it was determined, that the spirit of the rule contained in section 15, Regulation IV. of 1793, for observing the Mahomedan and Hindoo laws in suits regarding successions, inheritance, marriage and caste, and all religious usages and institutions, was applicable to slavery, though not included in the letter of it; the above-mentioned section, therefore, with the additional provisions in section 9, Regulation VII. of 1832, virtually constitute the law by which the decision of the courts, in cases of this nature, are directed to be regulated.

2. With regard to the Mahomedan law, the nature of the services which a master is entitled to demand from his slave, the summary correction with which he is justified in enforcing that right, and the liabilities of the master for maltreatment of his slave, are stated in the 2d, 3d and 4th replies in case No. 2, chapter 8, of Macnaghten's Precedents. Adverting, however, to the case of Nujoom-oon-nissa, reported at page 55, vol. 1, of the Nizamut Adawlut Reports, it does not appear to the commissioners by what law the courts were guided in ordering the emancipation of Zuhoorun, when it would seem by their circular letter, dated the 27th April 1796, and the 4th reply, in case No. 2 of the Precedents above referred to, that maltreatment is not legally a sufficient cause for emancipation, and that the ruling power has, on that ground, no right or authority to grant it.

3. With respect to the Hindoo law of slavery, as described in the outline drawn by Mr. H. T. Colebrooke, and quoted in the 8th chapter of Macnaghten's work on Hindoo law, the power of the master over the slave under that law would appear to be unlimited. "It," (viz. the Hindoo law) it is stated, "treats the slave as the absolute property of his master, familiarly speaking of this species of property in association with cattle, under the contemptuous designation of bipeds and quadrupeds. It makes no provision for the protection of the slave from the cruelty and ill-treatment of an unfeeling master, nor defines the master's power over the person of his slave; neither prescribing limits to that power, nor declaring it to extend to life or limb;" and the author of the Principles and Precedents, in a note animadverting on the bywusta of the pundits of the Sudder Dewanny Adawlut, in which they assigned limits to the master's power over the person of his slave, remarks, "that in the delivery of their opinion they were probably guided by reason rather than express law, or perhaps from the analogy of the rule with respect to servants." Yet in the next page but one of the same excellent work, he affirms, that the "courts of justice are accessible to slaves as well as freemen, and a British magistrate would never permit the plea of proprietary right to be urged in defence of oppression." Mr. Colebrooke, in his observations, cited by Mr. Harington, at page 763, of the 3d volume of his Analysis, remarks: "But, although the Hindoo and Mahomedan laws have not provided for the protection of the slave from the barbarity of an inhuman master, the regulations passed by the British authority have done so, by expressly annulling the exemptions from kisas, or retaliation for murder, in the case of a slave slain by his master. Since the period (nearly 14 years ago) when that regulation* was enacted, slaves have not been considered as out of the protection of the law, either in cases of murder or of barbarous usage; and instances have occurred of recourse to the officers of police for redress against the cruelty of a master in cases falling short of that extremity."

4. Mr. Colebrooke's exposition of the Mahomedan law as to the unlimited power of masters over their slaves would not appear to be an exact one; but the commissioners, having no reason to doubt that the practice of the courts and magistrates is correctly stated in both the above extracts, are desirous of ascertaining by what law or principle the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the criminal courts.

5. They would also wish to know with reference to section 9, Regulation VII. of 1832, whether the courts would support the claim of a Mussulman master over a Hindoo slave, when, according to Hindoo law, the slavery is legal, but, according to the Mahomedan law, illegal, and *vice versâ*. Also, slavery not being sanctioned by any system of law which is recognized and administered by the British Government, except the Mahomedan and Hindoo laws, they are desirous of being informed whether the courts would admit and enforce any claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant; and if so, by what law or principle the courts would regulate their decisions in such cases.†

No. 2.

ANSWER of the Register of the Sudder Dewanny and Nizamut Adawlut, Calcutta, dated 3d of March 1837, to Secretary to the Indian Law Commission.

2. THE records of the court, not containing the information required by the commissioners, a copy of your letter was forwarded to the commissioners of circuit, civil and session judges, additional judges, magistrates and joint magistrates, on the 13th November 1835, requesting those functionaries to furnish the court, at their earliest convenience, with such observations on the several points embraced in your communication tending to throw light on the subject under inquiry, as might be suggested to them by a perusal of your letter, and to state, at the same time, the practice of their courts with regard to the different cases noticed therein.

3. The

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* Regulation VIII. of 1799.

† This letter, as addressed to the register of the courts of Sudder Dewanny and Nizamut Adawlut, at Allahabad, has a few verbal differences of no importance.

3. The constant pressure of various important duties has been generally assigned as the cause of the delay that has taken place in replying to this circular; the court have, however, now the honour of forwarding, for the information of the commissioners, 83 original letters on this subject, as per list marked (A.)* together with a general abstract† of the reports, containing a list of the documents deserving special reference, and a note on the whole by the late officiating register of the court, Mr. H. Torrens. The court have also directed me to forward to you, for the purpose of being laid before the law commissioners, a minute recorded on the subject by Mr. T. C. Robertson, on the 10th November 1835.

4. From these various documents, the law commissioners will observe, that "slavery" (as is justly remarked by Mr. Torrens), "its laws and local usages, are, in Bengal, one strange mass of anomaly and contradiction. In some districts it is so prevalent that slave-holding and property may be almost considered synonymous: in others, it is either almost extinct, or nearly unknown."

5. Under these circumstances, the answer to the 1st question‡ must depend almost entirely on local usages of the district, and on the good sense and good conscience of the presiding officer. As observed by Mr. Robertson, "No specific rule having ever been laid down, it has hitherto been left to the discretion of every judicial functionary to dispose of such cases as might be brought before him according to his own judgment, taking the Mahomedan and Hindoo laws on some occasions, but more generally the habits and feelings of the people with his own sense of right, for his guides."

6. The question may, however, the court believe, be answered generally by stating that, in the civil courts, the right of a master over the person and property of a slave would be duly recognized, if proved agreeably to the doctrines of the Mahomedan and Hindoo laws: and, in the criminal courts, should a slave, admitted to be one, quit his master's service, or neglect to perform his ordinary work, he would be liable, on conviction, to summary punishment for the same.

7. The reply to the 2d query must also, the court observe, be general. A master would not be punished, the court opine, for inflicting a slight correction on his legal slave, such as a teacher would be justified in inflicting on a scholar, or a father on his child: but no act of hard usage or of cruelty would be permitted. Under such circumstances a plea that the complainant was the prisoner's legal slave would not constitute a proper ground for mitigation of punishment, and the master would be punished for the assault, under the general regulation of government.

8. In like manner, a slave pleading that he had assaulted or murdered another person under the orders of his master, would not bar a legal conviction of the offence; although the magistrate or the court of Nizamut Adawlut might, under all the circumstances of the case, grant such remission or mitigation of punishment as to the court might appear just and proper.

9. With regard to the latter part of this query, the court have directed me to observe, that a slave would be considered equally under the protection of the law with a freeman, as regards complaints of cruelty or hard usage, and that no indulgences, in criminal matters, would be granted to slaves, which might be considered inconsistent with the ends of public justice. Futwahs are not, I am directed to observe, taken by magistrates, and the courts of Nizamut Adawlut are competent to set aside any futwah, and to pass a final sentence, whatever may be the opinion of the Mahomedan law officers.

10. In reply to the 3d query, I am directed by the court to state, that they are not aware of any cases in which the courts or magistrates would afford less protection to slaves than to free persons against other wrong-doers than their masters.

11. With respect to the case of Nujoom-oon-nissa, reported at page 55, volume 1, of the Nizamut Adawlut Reports, in which a slave girl of the name of Zuhoorun was emancipated by order of the court, I am directed to state, that there is no note or memorandum annexed to the proceedings that might enable the court to inform the commissioners by what law the presiding judges, Messrs. Harington and Colebrooke, were guided on that occasion. The Persian record of the trial having also been destroyed, together with many other documents of a similar nature, the court regret that they have been precluded from ascertaining the exact nature of the bondage of Zuhoorun. If the girl was a slave, as legally defined by the Mahomedan law, then the order of the court directing her emancipation would appear to have been illegal. If, however, on the contrary, the girl was not proved on the trial to have been a slave taken in battle or the descendant of such a slave, then the ruling power would certainly be competent, under the peculiar circumstances of the case, as set forth in the evidence, to direct her immediate emancipation.

12. In reply to the query contained in the 4th paragraph of your letter, in which you observe, that the commissioners are desirous of ascertaining by what law or principle the maltreatment of a Hindoo slave by his Hindoo master would be considered an offence cognizable by the criminal courts, I am directed to observe that the sentences of the criminal courts are regulated by the Mahomedan law, as modified by the regulations of government. By section 19, Regulation IX. of 1807, the magistrates are empowered to punish any person subject to their jurisdiction convicted of any criminal offence punishable under

* These are omitted in this Appendix.

† This letter, as addressed to the register of the courts of Sudder Dewanny and Nizamut Adawlut, at Allahabad, has a few verbal differences of no importance.

‡ *See* No. 1. of this Appendix.

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under the Mahomedan law, or by the regulations of government; and under that section any maltreatment of a Hindoo slave, by a Hindoo master, would be considered an offence cognizable by the criminal courts.

13. With reference to the 5th and last query, the court, after much consideration, are inclined to adopt the views held by Mr. Middleton, the late judge of Moorshedabad, as contained in the 7th paragraph of his letter, under date the 4th February 1836, as contained in the following extract:—

"7. I find it difficult to offer any answer to the 5th question, contained in paragraph 5 of the law commissioners' inquiry, viz., whether, with reference to section 9, Regulation VII. of 1832, the courts would support the claim of a Mussulman master over a Hindoo slave; when, according to Hindoo law, the slavery is legal, but according to the Mahomedan law, illegal; and *vice versâ*." The explanatory provisions detailed in that section are of recent origin; nor can any cases be traced in the published reports which can directly or constructively be brought to bear on this subject. Until, therefore, the question be set at rest by some regular suit, appeal or construction of the superior court, a great diversity or practice will probably obtain in the subordinate courts, by reason of each taking a dissimilar view of the provisions in question. The following would, I conceive, be what the civil court here would do in such cases. Suppose a Mahomedan to claim the property, possession or service of another (be he Mahomedan or Hindoo) as his slave, and the latter to deny the claimant's right, the claimant would be required to prove that the person so claimed is his slave according to the provisions of the law acknowledged by the claimant, and in default of such proof, his claim would be dismissed, and the alleged slave declared free, (on the principle that the claimant has no right to that which is denied him by the laws of his own persuasion), and *vice versâ* in the suit of a Hindoo claimant; but in a similar suit brought by a claimant, originally a Hindoo, and since converted to Islamism, we should, with reference to section 9, Regulation VII. of 1832, pass judgment in his favour (provided Islamism be proved), that he was entitled to the alleged slave by succession or inheritance, either before or after his apostacy, and that the slave in question was a legal bondsman, agreeably to the Hindoo law. Also in suits instituted by claimants, originally Hindoo or Mahomedan, but at the time of bringing the action professing the Christian or any other religion, for the possession of a slave, such slave being proved a legal bondsman, according to the law from which the claimant has seceded, I think the claim must, under the section above cited, be maintained. Supposing, however, a claim to a slave to be advanced by a party, neither Mahomedan, Hindoo, nor seceder from either of those faiths, I consider the courts could not uphold such, in that slavery is not sanctioned by any system of law which is recognized by the government except the Hindoo and Mahomedan laws."

No. 3.

Minute of Mr. *T. C. Robertson.*

As I am on the eve of quitting the court for a time, I think it right to leave on record the few remarks that have occurred to me on perusing the letter about slavery recently received from the secretary to the law commission.

The present is a question upon which the government have abstained from legislating, excepting in as far as was necessary to keep pace with those parliamentary enactments which prohibited the traffic in slaves throughout the British empire.

With regard to the internal system of domestic servitude, which obtains in India as in every other part of Asia, no specific rules having ever been laid down, it has been hitherto left to the discretion of every judicial functionary to dispose of such cases as might be brought before him according to his own judgment, taking the Mahomedan and Hindoo laws on some occasions, but more generally the habits and feelings of the people with his own sense of right, for his guides.

How wisely the government have acted in thus abstaining from direct interference with an institution so interwoven with the domestic habits of the people as to render its safe handling an operation of extreme delicacy and difficulty, may be inferred from the circumstance, that during the whole course of my own experience as a magistrate, first in the crowded city of Patna, and afterwards for seven years in the large and populous district of Cawnpore, I do not remember a single important case to have come before me in which I had to decide between a master and a slave. I have no doubt whatever that the experience of most magistrates will, in this respect, correspond with my own. Occasional cases may of course arise, like that of Nujoom-oon-nissa, referred to in the second paragraph of the law commissioners' letter, in which humanity may compel us to interfere; but such are of very rare occurrence, and had far better be left to be dealt with separately and individually, than be made the subject of a minute and (as every man acquainted with the feelings of the people, especially the Mahomedan, upon this head must know that it would prove) offensive legislation.

The judicial establishments in India are part of the machinery of government, by and through which our power is maintained, with the slenderest means, over the widest realm that ever yet was held by a similar tenure of conquest.

Of establishments so constituted and so circumstanced, it is perhaps too much to exact in every instance, as if they were mere courts of law, that they should quote some precise enactment, or some formally-recognized code, in justification of their acts.

Wherever the regulations are silent, it may, I conceive, be understood that the judicial officers of the Indian government ought to shape their measures, as enjoined in section 21, Regulation

Regulation III. of 1793, and repeated in section 9, Regulation VII. of 1832, in conformity with the dictates of good sense and good conscience; and it was by this feeling that the judges of this court were doubtless actuated, when, knowing, as they must have done, that to have replaced the slave girl in the power of her incensed mistress would have, in fact, been to expose her life to the most imminent peril, they took it upon themselves, in virtue of that plenary discretion with which, in cases not expressly provided for, every high European judicial functionary must, I contend, in a country situated as this is, be held to be invested, to order the emancipation of Zuhoorun.

The order in question is apparently at variance with the strict letter of Mahomedan law; but that law has never, in any country, been literally adhered to; and the deviation, in this instance, we may rest assured, excited no alarm, and has never, in all probability, till the present moment, been made the subject of comment.

The preceding remarks refer to that purely domestic servitude which it is perhaps a misnomer to call by the name of slavery, differing as it does, entirely, in most of its circumstances, from the *status* to which the same name is in other quarters of the globe applied.

There are, however, some other modes of slavery in various parts of the country with which the legislature may with propriety and safety interfere.

The claims advanced by procuresses against poor girls, from whose prostitution they derive profit, are often extremely embarrassing, advanced as they are under the guise of demands for remuneration for expenses incurred in feeding and clothing.

This practice is not, I apprehend, peculiar to India; and it is probable that something very like it obtains even in Christian countries. Still, I think, that provision might be made for defeating such suits, by enacting, that the mere proof of a party having derived profit from the prostitution of a female slave shall be held sufficient to void all claims upon her, and to warrant her being declared free.

The other species to which a legislative remedy may, I think, be applied, is that which, branching out of domestic servitude, extends itself over the offspring of slaves however numerous.

Much has been done towards abolishing or mitigating this evil, by the decision of this court, dated 28th August 1830, No. 3,204, in which Mahomed Sabir was the original plaintiff, Bolakee and others defendants;* a translation of which, as well as of the decision which remains to be passed on a similar case now pending in this court, in which Kurtee Naraen Deo is appellant, and Gowree Sunkur Dutt Raee respondent,† had better, I think, be furnished to the law commission. There is a case of this description which arose at Sylhet, where this species of hereditary slavery is very prevalent, and was decided on during my absence on leave from my former office, by the acting commissioner of the 17th division, between the 15th November and the 25th December 1833, in which, I know, that an appeal was pending in our court, though what has become of it I cannot now discover.

The case is a very curious one, and had better be brought to the notice of the law commission.‡ I remember well, that I was on the point of deciding in favour of the alleged slaves, but was induced by the earnest entreaties of many of the people about me, who protested that such a decision would produce the most extensive injury, to postpone my final order, and, during my absence, the case was disposed of as I have above stated. I remember also, soon after joining this court, to have met with the head man of the family against whom the decree had been given, who told me that a special appeal had been admitted by Mr. Rattray, and that execution of the decision appealed from had been stayed. An extract of the cases above alluded to, and of any others that may be found, will, I think, prove the most satisfactory reply to the queries of the law commission.

There having been little or no legislation on the subject of slavery, it is very difficult to give a formal answer to questions propounded under a supposition of our having been guided in our decisions regarding it by any precise code of law, while, in point of fact, we have been left to steer our own way between the antagonist prejudices of the natives in favour of a long existing institution, and of our own countrymen against anything that bears a name peculiarly odious to their ears. For my own part, I am not one of those who look with horror at every form and mode of servitude existing among a people to whose character and habits it must have in it something congenial, or it could not have prevailed so widely or lasted so long. Still, even under its mildest form, I account it an evil, but an evil of the same class as polygamy; for which moral and religious education may, but legislation never can, provide an effectual remedy.

No. 4.

NOTE on Slavery by Mr. *H. Torrens*, Acting Register of the Sudder Dewanny and Nizamut Adawlut, dated 7th January 1837.

THE queries§ having been circulated to all commissioners, judges, and magistrates in the lower provinces, answers have been received, the substance of which is contained in the annexed abstract,—each opinion being, for readier reference, numbered, important

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* Reported in Printed Reports for 1830: *see* Appendix III., No. 2.

† *Vide* Appendix III., No. 6.

‡ The case of Nair *alias dictus* Narayan Sing, pauper appellant, adjudged in the Sudder Dewanny Adawlut on the 4th February 1836, is alluded to. *See* Appendix III., No. 7.

§ *See* Letter from the Law Commission, No. 1. of this Appendix.

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tant extracts being occasionally appended, and conflicting opinions contrasted. It would have been difficult for the judges to have come to any definite conclusion on the mass of contradictory matter herewith submitted, without the adoption of some such plan as the above. The papers upon which the annexed abstract has been prepared are herewith submitted under three heads:—

1. Documents, which though abstracted (with one or two necessary exceptions), merit, nevertheless, special reference.

2. Documents abstracted, save in what relates to the 5th paragraph of Mr. Millett's letter,* which the judges may be satisfied, for the following reasons, to omit any direct notice of:

1st. Because it appears on very strong evidence, that the holding slaves at all, as at present, is, under Muslim law, wholly illegal.†

2d. Because it is only as singular exceptions that a Hindoo master will be found having a Mussulman slave; and then only on the frailest tenure as an out-door labourer.‡

3d. Because it does not appear that, by Hindoo law, the Hindoo slave of a Mussulman could be considered as other than a Mussulman, or at any rate a seceder from his faith.§

4th. Because British subjects, amenable to the supreme court, cannot under English law hold slaves; how, therefore, can be sanctioned an anomaly by allowing them the privilege under any other code?

5th. Because Europeans or others, not British subjects, and liable to local authorities, cannot under their orders hold slaves any more than natives when the said authorities assert the right of manumission, as in the cases cited below.‖

For the above reasons, no abstract of opinions on the 5th paragraph has been made, independently of the fact, that the said opinions are so vague and contradictory as to lead to no definite conclusion being formed upon them.

3. Documents fully abstracted or unimportant. The reports most worthy of notice, among the whole, seem to be that by the late Mr. Dashwood (No. 81), and that of Mr. C. Smith (No. 49), because they not only contain valuable information, but also suggestions for the mode of abolition of slavery. Next to these may be placed the report by Mr. Cheap, (No. 47), a note on the Indian slave trade by Mr. Myers,¶ principal sudder ameen (No. 26), (forwarded with No. 25), Captain Wilkinson's report (No. 64), Mr. Shaw's (No. 41), Mr. Morris's (No. 75), Mr. Stainforth's (No. 37), Mr. Samuells' (No. 18), Mr. Hathorn's (No. 73); all these contain interesting and valuable information.

Slavery, its laws, and local usages, are, in Bengal, one strange mass of anomaly and contradiction. In some districts it is so prevalent,** that slave-holding and property may be almost considered synonymous. In others it is either almost extinct or nearly unknown. In some,†† the civil courts are loaded with suits for slaves, as that of Mymensingh,‡‡ which had, on the 30th June 1836, 250 such cases pending before it. In others,§§ the opinion generally prevails that slavery has been abolished, and that no sales are legal, at least of adults. A careful perusal of all the evidence as to the existence of slavery in Bengal, and as to its extent, leads to the conclusion, that slavery, as existing in zenanahs, may be found to prevail to a certain degree throughout the whole of Bengal; that the open sale of adult slaves is frequently only in the regular slave districts; that the treatment of slaves is (as far as is known) gentle and considerate; that the ordinary tenure of slaves in other than the slave districts noted below,‖‖ is either by purchase of the services for a period, or by purchase of the slave when a child, he or she generally absconding when arrived at years of discretion; that the ordinary causes of the effecting such sales are, 1st, debt on the part of the individual selling his service; 2d, prices paid by procuresses for the services of young girls; and 3d, famine. The mild form of slavery prevalent in this country is much insisted on by most of the reporting officers, and there is apparently singular proof of this adduced in the fact,¶¶ that in Tirhoot, a great slave district, no complaint of slave *versus* master is on the records of the magistrate's court. There is, however, strong ground for believing that the interest only of the slave-holder induces him to treat the slave kindly,*** and that when he can coerce, the bondsman or woman is often used most cruelly. That slaves are sometimes devotedly attached to their owners (*vide* Mr. Myers' note), affords no general argument against the above belief. This, therefore, weakens the argument of those who would leave slavery to "wear out in this country under the influence of British rule," without immediate intervention to suppress it, because the slaves are generally well provided for. The other reasons put forth by the advocates of continuing the present system are, 1st, that the prohibition

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* *See* Letter from the Law Commission, No. 1 of this Appendix.

† Shekh Khawaj and others *v.* Mahomed Sabir, p. 59, Rep. S. D. A. 1830. *See* Appendix III., No. 2. *See* also in this Appendix, No. 36, Mr. Maxwell; 39, Mr. Moore; 41, Mr. Shaw; 75, Mr. Morris; 72, Mr. Gouldsbury; 46, Mr. Martin. *N.B.*—There is one single instance cited (No. 18) against this principle, of which more hereafter.

‡ No. 41, Mr. Shaw; 81, Mr. Dashwood.

§ No. 41, Mr. Shaw.

‖ No. 69, Mr. E. Lee Warner; 75, Mr. Morris; 10, Mr. Mills; 76, Mr. Jennings. Case of Nujoomoon-nissa, p. 55, vol. 1, Rept. Nizamut Adawlut.

¶ Moorshedabad.

** No. 64, S. E. Frontier; 49 and 50, Sylhet; 72, 73, 75, Behar; 47, Mymensingh; 81, 82, 83, Tirhoot; 5, Assam (App. VI.)

†† No. 19, Burdwan, Mr. Curtis; 17, Hooghly, Mr. Harington; 36, Backergunge, Mr. Maxwell. ‡‡ No. 47.

§§ No. 20, Burdwan, Mr. Macan; 55, Bograh, Mr. Taylor; 18, Hooghly, Mr. Samuells, who cites a singular case in point with regard to the slaves of the Dutch at Chinsurah.

‖‖ No. 64, S. E. Frontier; 39, Chittagong; 5, Assam (App. VI.); 72, 73, 75, Behar; 78, Shahabad; 47, Mymensingh; 49, 50, Sylhet; 69, 70, Bhaugulpore; 41, Tipperah; 81, 82, 83, Tirhoot; 10, Cuttack.

¶¶ No. 83, Mr. Wilkinson.

*** No. 18, Mr. Samuells; 37, Stainforth; 53, Raikes.

hibition to sell human beings would in time of famine cause great loss of human life, and 2d, that the abolition of right to possess slaves would produce great diminution in the value of property to those who own hereditary slaves or slaves for life.* In answer to the above, and without referring to the obvious argument of inhumanity, it will be shown, that the present system is so unsystematic and contradictory as to call for some immediate enactment to amend it; and further, that this enactment may be easily made to provide for the abolition of hereditary and life slavery without endangering loss of life by famine, or rendering property insecure. In proof of the anomaly at present prevailing, the opinions of reporting officers as to the principle on which cases between master and slave should be decided are appended under the following heads:—

Principle of English Law, or local usage, equity and good conscience.	Native Law.	Native Law, with the Regulations, equity and good conscience.	Regulation VII., 1819, in criminal cases and civil, as "common contracts."
5. Ricketts. 13. Jenkins. 17. Harington. 31. Udny. 32. Russell. 34. Phillips. 44. Cook (criminal). 49. Smith. 50. Mytton. 57. James. 64. Wilkinson. 67. Davidson (of Gowalparah). 68. Harding. 73. Hathorn. 74. Tucker. 75. Morris. 82. Gough.	14. Money (ditto). 15. Pigou (?) 22. Elliott cites a precedent in criminal court. 41. Shaw. 44. Cooke (civil). 70. Dunbar (ditto). 72. Gouldsbury (ditto). 81. Dashwood (civil).	8. J. Grant. 11. Ewart. 25. Middleton. 27. R. Torrens. 28. Martin. 29. Laurell. 37. Stainforth. 40. Bruce. 48. Pringle. 49. Smith (civil). 59. Wyatt. 60. Shakespear. 62. Nisbet. 70. Dunbar (criminal). 72. Gouldsbury (ditto). 77. Hawkins. 81. Dashwood (criminal). 125. Dick.	5. Ricketts (civil). 51. Steer. 80. Luke.

The above opinions on the question in the abstract are, however, not nearly so anomalous as the practice obtaining in the criminal courts of contiguous districts. In central Cuttack† it appears, that directly two persons come into the magistrate's court as master and slave, the latter, whether his plaint be proven or not, is summarily manumitted; while in Pooree,‡ the master's right is recognized, and he is allowed "to apply moderate correction summarily." Yet Mr. Mills states his belief, that no magistrate in Bengal acknowledges such a right. Again, six slave-cases are reported from the Patna magistracy,§ in five of which the court manumitted the slave, and in the sixth the slave was made over (after being punished) to his master. The joint magistrate of Monghyr, A. D. 1830, punished certain persons as slaves for flying from their masters, and directed their manumission at the expiration of the period of confinement. The order was supported by the Nizamut Adawlut, and the master of course received injury by deprivation of a description of property which the civil courts of adjoining districts were in the daily practice of acknowledging the right to in regular suits. Instance upon instance of similar anomalies might be cited; but these are nothing compared with the contradictory usages of slavehood. Of the three descriptions of slaves, viz. the born bondsman, the life-slave, and the spell-bondsman, the last is by far the most numerous. He is found throughout all the lower provinces. He is the bunduk shewuk‖ of Shergutty, the ajeer ¶ of Hooghly, the debtor** slave of Tenasserim. He is merely an individual, who, sometimes in discharge of a debt, sometimes to realize a sum for his immediate wants, either binds himself to serve for a certain time, with food and clothing, to work out what is due, or receives his wages for such a term in advance, and in like manner, and under like condition, works them out. His property is his own. The life-slave again in like manner sells himself, but, according to Captain Wilkinson,†† cannot sell his child even to his own master, is irredeemable, and enjoys his own property. Mr. Morris, again, considers him redeemable on payment of purchase-money with interest to the master. The born bondsman‡‡ in Sylhet, Tirhoot, and towards the south-east frontier, enjoys his own property. In Behar §§ he can own nothing. In Sylhet he lives in many instances on nankar lands, assigned to him and his by his master, under obligation of performing certain service, but paid for extra labour, this being in fact nothing more than the man-rent tenure still prevailing in some parts of Scotland and the Orkneys. In Sylhet, and on the south-east frontier, the offspring of the intermarriage of slaves belongs to the owner

* No. 47, Mr. Cheap and others.
† No. 10, Mr. Mills.
‡ No. 11, Mr. Ewart.
§ No. 76, Mr. Jennings.
‖ No. 64, Capt. Wilkinson.
¶ No. 18, Mr. Samuells.
** No. 11, Mr. Blundell. (App. VII.)
†† No. 64.
‡‡ Nos. 49, 81, 64.
§§ No. 75.

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owner of the mother; in Tirhoot, to the owner of the father. In Mymensingh,* where female slaves are married to a Byakara, or professional bridegroom (who usually has many slave wives, and is fee'd for marrying them), every alternate child is claimable by the owner of the mother. In Backergunge,† where the Byakara system also prevails, the offspring of the union is invariably the property of the woman's master. In Sylhet, again, instead of feeing a bridegroom to procure the marriage of a slave girl, the master receives a fee from the freeman, who takes her as his wife. As a further instance of anomalous practice may be cited the doctrine laid down in a futwah given by a government law officer,‡ that a Sheea Mussulman may hold a slave legally under circumstances which would make the holding by a Soonnee illegal.§ In short, the variety of usage in the case of slavehood is not less remarkable than the discrepancies of practice, and is equally irreconcileable.

Now it is evident, that to abolish immediately all forms of slavery (so called) would be productive (as observed by Mr. Robertson in his minute, and in Mr. Dashwood's‖ report) of injury so great as to induce none but a pseudo-philanthropist to entertain the idea. Plans for the gradual abolition, and for the modification of slavery, are proposed by Mr. Smith and Mr. Dashwood, which become the more feasible on admission of the general illegality of slave tenures by Mussulmans. Yet it would not be expedient to deny at once to the Mussulman population of Sylhet, Chittagong and Assam, the right of possessing slaves, whom they and theirs have held for years on local usage. In some districts,¶ it would appear, that Mussulmans who maintain their slaves from a feeling of pride or pity, would not be averse to being relieved from the charge of supporting a class of dependents more idle and useless and expensive than hired servants. The plans above alluded to might be perhaps combined with general advantage in some such manner as the following, so as to meet all contingent cases:—

1. That a registry of all slaves be made, with specification of their condition, whether born bondsman, life-slave or spell-bondsman, within three months after a certain date.

2. That non-registry within that period be considered equivalent to manumission.

3. That competent authorities be constituted for the investigation of claims to slaves, with power to manumit summarily, at discretion, and to decide disputed cases of service purchase.

4. That from the date above noted, the right to possess (slaves hereditarily) born bondsmen shall cease: adult slaves (born bondsmen at that time) to have the power of redeeming themselves at a certain rate, failing which they will be considered in the light of life-slaves: children (born bondsmen) at that time to be free on arriving at years of discretion.

5. That from the date above noted, the practice of self sale, or procuring the sale of others as life-slaves, be declared illegal, and punishable by fine and imprisonment: adults (life-slaves at that time) to have the power of redemption of service; failing which, they must continue to fulfil their contract: children (life-slaves at that time) to be free on arriving at years of discretion.

6. That the practice of spell-bonding for a period, in the case of adults of not more than 10 years, and in that of children (under 10 years of age) of not more than 15 years, be, from the date above noted, legalized; the act of bonding, the sum paid, &c. &c. being duly registered, and the bondsman having power to redeem his services by repayment of the sum, with interest, at any time within the period of his bondage.

7. That the law for relations between the spell-bondsman and the purchaser of his service, be that of master and servant.

8. That the spell-bondsman shall be entitled to renew his term of bondage on receipt of the money, purchasing his services in presence of the registering officer.

9. That on proof of the purchase of a woman's services, for the purpose of prostitution, on this principle the recovery of the purchase-money be barred, and a fine of equal amount with it levied on the purchaser.

10. That the above enactment be general for all castes and classes throughout the presidency of Bengal.

The above propositions are based upon the necessity of recognizing the rights of present slave proprietors, and upon the expediency of providing some means of self support to the poorer classes during time of famine; and they are made on a mere extension of the manrent principle above alluded to. According to the original tenure, the labour of the servitor is the rent of the land he enjoys. According to the one above proposed, it is the interest of the money advanced for his services. When it is suggested, that on redeeming his service he should pay back his advance with interest, the intention was simply to prevent, by a sort of tax, the entering into contracts idly, to the injury of the parties purchasing labour (as they imagine) for a certain fixed period.

No. 5.

ANSWER of Mr. *Henry Ricketts*, Commissioner, 19th Division, Balasore, dated 26 June 1836, to the Register to the Nizamut Adawlut, Calcutta.

IN this province, masters claim a right of ownership over their slaves. They are bought and sold, and are the subject of civil suits in the court like any other property; but a complaint of cruelty made by a slave against his master would be admitted, and, if proved, the master would be punished, the relation of master and slave not being considered a ground for the mitigation of punishment. In the case of a slave sold to a new master, if unwilling to leave his former abode, compulsion on the part of the new master would not be allowed.

There

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* No. 47. † No. 37. ‡ No. 18, Hooghly.

§ *N. B.*—This is perhaps a quibble by an interested Soonnee, on the ground that the Sheea, not being orthodox, need not be considered bound by the strict interpretation of the law.

‖ No. 81. ¶ No. 59, Dinagepore; 20, Burdwan.

There is a vast number of slaves in this province. I had a list of upwards of 7,000 within the jurisdiction of one thannah of the Balasore district; but by the criminal court they have always, I believe, been treated in every respect as freemen, without any reference whatever being had to the Hindoo or Mahomedan law respecting them.

No. 6.

ANSWER of Mr. *J. C. Brown*, late Judge of Zillah Cuttack, dated 23 November 1836, to Register to the Court of Sudder Dewanny Adawlut, Calcutta.

2. I DO not recollect having had a single suit before me, during the period of my being in office there (Cuttack) for slaves; but that slavery exists in Orissa there can be no doubt. The transfer, I was given to understand, was made more in the way of a lease for a limited period than a sale; and individuals have been known, for a specified sum, to bind themselves and their heirs to others for 80 or 90 years, engaging, at the expiration of that period, if the sum advanced be not repaid, together with all expenses incurred by the lessee, to continue in servitude. During a scarcity, children are frequently sold for trifling sums by their parents; but it is well known that such sales are not binding on the individuals thus disposed of. It often occurs, therefore, that, when they arrive at the age of 8 or 10 years, they leave their purchasers, who have no remedy, and are obliged to put up with the loss; this, though, is seldom very great, as two or three rupees are (and I have heard as low a sum as 12 annas) given for a child, the price varying according to the age and appearance, and often being regulated by the sex.

No. 7.

ANSWER of Mr. *H. V. Hathorn*, Officiating Judge, Zillah Cuttack, dated 30 December 1836, to Register to Sudder Dewanny Adawlut, Fort William.

2. THE accompanying statement exhibits the total number of suits instituted since a court for the administration of civil justice was established at Cuttack.

3. It will be observed that there have been only 19 actions brought relative to slavery in the course of 30 years, and none of which were disposed of "on their merits;" and these few applications, it will be seen, were made when the court was first opened, in the years 1805-6-7, A.D.

4. I am informed, notwithstanding, that slavery in Cuttack is extremely prevalent; and which may be ascribed to the unimportant trade and manufactures in Orissa, the general poverty of the people, and the limited intercourse with other districts.

Slaves in Cuttack may be divided into five classes, as follows:—

1st. The children of indigent parents, whether Hindoos or Mussulmans, sold in time of scarcity.

2d. The female children of the following castes; viz. of Mahtes (or writers), Khundaits, Shukar Faroshes, Gowalahs, Chasas, Rajpoots, Duroodghurs, Ahungers, Bidoors, Patarahs and Potlee Baniahs, sold by their parents to Luleans and Mahareans, as public singers and dancers, and for purposes of prostitution. The Luleans are common bawds, who make no distinction of sects or caste, in contradistinction to the Mahareans or Deodasees, who restrict their traffic to Hindoos, and are admitted to the temple of Juggernaut, at Pooree.

3d. The illegitimate children of Hindoos by women of a lower caste.

4th. Slaves peculiar to Orissa, denominated "Purjahs" (signifying subjects, tenants or renters), and who are restricted to the castes of Hujjam, Dhobee, Kewut, Gohar, Rahre, Pan, Kundra, Koomar, Mehter, Baoree, Tantee, Dome, Bagtee and Chumar (toddy-sellers and tar leaf mat-makers). They are to be found, moreover, only in some of the northern pergunnahs of Cuttack. These Purja slaves sell themselves and their whole families to either Hindoos or Mussulmans for a pecuniary consideration, rendering themselves amenable for the service of their profession until the purchase-money is repaid. The subsequent births in such slave families also become the master's property, and these slaves are sold, pledged and let out to hire. The issue of marriages between the male Purja slave of one master and the female slave of another does not fall to the latter (*partus sequitur ventrem*), but is divided equally between the two masters, and, in the event of an uneven number, half the estimated value of the odd slave is given by the master who keeps the slave. These Purjas, it is to be observed, do not, by selling themselves, forfeit their caste, as they live and take their meals separate from their masters, and retain throughout servitude their hereditary possession.

5th. Poor families, whether Hindoos or Mussulmans, who, in seasons of calamity, offer themselves and their children as slaves to the more wealthy, without compensation, merely for the sake of maintenance. These may be considered slaves at will, being at liberty to quit their masters at pleasure; as long, however, as they remain, and get food and clothing, so long they are obliged to work. This description of slave is understood to have lost caste by this voluntary act of bondage.

5. In explanation of the circumstance of no suits relating to the legal rights of masters over their slaves having been instituted in this court since 1807, and the few prior to that date having been either annually adjusted or non-suited for neglect of the party, I may add, that a general supposition appears to have existed in Cuttack, that the civil and criminal functionaries were obviously averse to entertain any cause of action or criminal proceeding whereby the system of slavery was recognized: this has probably influenced some, whilst the uncertainty whether slavery was or was not sanctioned by law may have prevented others.

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STATEMENT of Suits instituted in the Civil Court at Cuttack, relating to Slavery, from 5th September 1805, to 30th December 1836.

Number of Suits.	Description of Parties.	Substance of Suits.	By what Court decided, with Date of Decision.	How disposed of.
404	Master *v.* Slave	- - to recover his lawful slave.	- - sudder ameen, 6th December 1806.	- - "non-suited," not being considered cognizable under the regulations in force.
474	ditto - -	- ditto - -	- - ditto, 12th November 1806.	- - a "razeenama" entered by the master, the slave having given himself up.
536	ditto - -	- ditto - -	- ditto, 16th January 1807.	- - "non-suited," in consequence of the plaint containing three separate causes of action.
538	ditto - -	- ditto - -	- - ditto, 15th December 1806.	- - "razeenama" filed by the plaintiff; the slave having given himself up.
559	ditto - -	- ditto - -	11th October 1806.	- - "dismissed," in consequence of plaintiff's neglect to proceed.
623	ditto - -	- ditto - -	4th December 1806.	- - "razeenama," the slave having given himself up.
664	ditto - -	- ditto - -	- - ditto, 13th April 1807.	- - "non-suited," the plaint embracing several distinct causes of action.
741	Purchaser *v.* Former Master.	- ditto - -	- - ditto, 9th May 1807.	- - "non-suited," as the slave was not present when the engagement between the parties was entered into. The purchaser ordered to sue for the recovery of his money.
753	Master *v.* Slave.	- ditto - -	- - ditto, 31st May 1807.	- - the plaintiff failing to proceed, the suit was dismissed.
826	Purchaser *v.* Possessor.	- ditto - -	- - ditto, 2d July 1807.	- ditto - - ditto.
908	Master *v.* Slave	- - for recovery of a slave.	- - ditto, 30th January 1807.	- - the slave having given himself up, the suit was disposed of by razeenama.
1,309	ditto - -	- ditto - -	- - register, 2d May 1807.	- ditto - - ditto.
2,342	Pledger *v.* Pledgee.	- - for amount of debt on account of which a slave was received in pledge.	- - sudder ameen, 6th February 1808.	- - the amount claimed having been paid, the suit was amicably adjusted.
3,315	Purchaser *v.* the Slave's Father.	- - for the value of a slave, the child having been taken away by its parent.	- - ditto, 8th December 1808.	- ditto as above.
3,601	Master *v.* Slave	- - for money of a slave.	- - ditto, 15th May 1809.	non-suited for neglect.
1,654	ditto - -	- - to get back a deed of contract for the hire of a slave.	- - register, 25th July 1807.	- - the cause of action having arisen in 1792, A.D., the suit was dismissed.
1,687	ditto - -	- - for the recovery of a slave.	- - ditto, 25th July 1807.	- - struck off the file in consequence of plaintiffs' neglect.
1,705	ditto - -	- ditto - -	- - sudder ameen. 29th July 1807.	- - the slave having given himself up, the master filed a razeenama.
1,737	ditto - -	- ditto - -	- - ditto, 16th September 1807.	- - dismissed on account of default.

Zillah Cuttack, 30 December 1836.

(signed) *H. V. Hathorn,*
Officiating Judge.

ANSWER

ANSWER of Mr. *James Grant*, Acting Magistrate of Balasore, dated 1st February 1836, to Register to the Sudder Dewanny and Nizamut Adawlut, Fort William. No. 8.

2. I AM unable to state what the practice of this court has been with regard to the different cases noticed in Mr. Millett's letter, as the records of this office furnish no cases of the kind.

ANSWER of Mr. *T. C. Scott*, Magistrate of Balasore, dated 5th July 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William. No. 9.

I HAVE the honour to state that the records of this office afford no cases in point; at the same time, there is little doubt that any assistance would be rendered by the magistrate, on the institution of any complaints of this nature by the *soi-disant* proprietor or owner of slaves.

2. I have only very recently joined this district. I am, however, given to understand, that slavery prevails in it to a very trifling extent, with the exception of one thannah, called Buddruck, an extensive tract of country between this and Cuttack. In this division, one-fourth of the population (Hindoo) is said to be slaves, descendants of people of this description under the Marhatta government; they are, however, retained in willing servitude, and with their own consent are privately transferred from one master to another, like any other species of property; their masters, being aware they could not keep them against their wish, consult their interest in treating them well, and their condition is in no way inferior to people enjoying a perfect freedom. The distress occasioned by the late storms has, I believe, augmented the number of this class of people.

ANSWER of Mr. *M. Mills*, Officiating Magistrate of Zillah Cuttack, dated 11th January 1835, to the Register of the Nizamut Adawlut, Fort William. No. 10.

2. I THINK I may with safety assert, that the magistrates of Bengal never recognize the masters to have a legal right over their slaves with regard to their person. The practice in this court, which I find has been adopted by every officer that has presided in it, is to punish the master, and manumit any slave who prefers a complaint against him for cruelty, hard-usage, or has any other reason for wishing to leave him. It does not signify whether the ill-treatment of the master or alleged cause of dissatisfaction on the part of the slave is substantiated or not. Every magistrate has passed an order on all such cases to the following purport: "We do not recognize slavery; you may go where you please, and if your master lays violent hands on you, he shall be punished." I am unable to say by what law, especially as regards the menial treatment of a Hindoo slave by his Hindoo master, the cognizance of such offences is acknowledged. There is no specific enactment prohibiting interference in these cases, in the absence of which, I believe, the magistrates consider themselves authorized to interpose their authority, demanded as it is by every feeling of humanity and justice.

3. As regards the property a slave may acquire while in a state of bondage, I presume that our courts would recognize the master's claim. I know of no precedent, and I give my opinion on the subject with much deference, as I have had little practice in the civil court.

4. In Cuttack, slavery exists; but, as in all places where the law makes no distinction, in its mildest form, indeed, where it is known that the authorities will not recognize the rights they exercise and claim, it cannot be considered any thing more than voluntary servitude.

ANSWER of Mr. *James K. Ewart*, Officiating Joint Magistrate of Pooree, dated 17th June 1836, to the Register of the Nizamut Adawlut, Fort William. No. 11.

I HAVE the honour to state that the principle upon which slaves have been treated in this court, either as prosecutors or defendants, is precisely the same as in the case of free persons, that is to say, a master, whether Hindoo or Mussulman, is considered to have a right to his slave's labour, and to apply summarily such moderate correction as is necessary. If it is proved that a master has exceeded that limit, he is liable to punishment. The master is likewise held bound to furnish good and sufficient food and clothing to his slave.

ANSWER of Mr. *Abercrombie Dick*, Judge and Session Judge of Zillah Midnapore, dated 25th March 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William. No. 12.

1. WE must practically, because thus only can we legally, recognize those rights between master and slaves which are recognized by their own laws, Mahomedan and Hindoo, not modified by the regulations of our own government.

2. The

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2. The Mahomedan law is the criminal code of the land, modified by our regulations. Conformably to it, therefore, should be the practice of our courts. It will, however, be seen in a case hereafter cited, that a very liberal interpretation has been given to the modifications in favour of humanity, by Mr. Colebrooke and Mr. Harington, two of the ablest judicial officers India ever possessed.

3. I know of none, and can conceive none.

The next question to be answered is: By what law the courts were guided in ordering the emancipation of Zuhoorun? There is no express law, or rather regulation, to sanction this; but we may infer which regulation guided the two judges who passed that sentence. One of these two able judges was Mr. Colebrooke, and he was guided, no doubt, by the liberal construction he has put upon Regulation VIII. of 1798, quoted by Mr. Millett, from the analysis of Mr. Harington, who was the other judge that sat with Mr. Colebrooke in the case of Zuhoorun. Thus, then, Regulation VIII. of 1798, seems to have been the guide in that sentence; and it was enacted subsequent to the circular order of April 1796.

The above advertence to the opinion of Mr. Colebrooke, cited by Mr. Harington, will enable us to answer the next question put by the law commissioners: By what law or principle the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the criminal court? The Mahomedan law, as modified by the regulations, and not the Hindoo law, is our criminal code; and the above liberal construction put on Regulation VIII. of 1798, points out the law and the principle on which the practice of the courts is founded.

On the above construction and regulation we may also reconcile the apparent inconsistency noticed in Mr. Millett's letter of the author of the Principles and Precedents of Hindoo Law.

In reply to the question put in the last paragraph of Mr. Millett's letter, I answer to the first,—Yes, most certainly, if the claim of the master be just; because it is expressly declared in the cited section of Regulation VII. of 1832, that the laws of those (Mahomedan and Hindoo) religions are not to operate to deprive of property parties entitled to it. To the 2d question, I answer—No, most decidedly; for the only laws which admit such a claim do not extend to such a claimant, and neither "justice" nor "equity" nor "good conscience" can admit of such a claim. To the 3d question, I again answer—No, though not so decidedly; because, in the cited section it is declared those rules were designed for the protection of the rights of such persons (*i. e. bonâ fide* professors of the Hindoo and Mahomedan religions), not for the deprivation of the rights of others. It must be confessed the section in question is sufficiently indefinite, and comprehensively latitudinarian.

No. 13.

ANSWER of Mr. *J. Stainforth*, Officiating Magistrate, Zillah Midnapore, dated 4th February 1836, to the Register of the Nizamut Adawlut, Fort William.

2. I BEG to state that it has been uniformly the practice in the criminal courts in which I have presided, to extend the same protection to a slave in all cases as to a freeman, leaving any question of property that might arise to be determined by the civil court.

3. Having lately assumed charge of this office, I am unable to state exactly the practice that has obtained in this district; but I forward copy of a letter on the subject from the joint magistrate, Mr. D. Money.

No. 14.

ANSWER of Mr. *D. J. Money*, Acting Joint Magistrate, dated 30th January 1836, to the Officiating Magistrate of Midnapore.

DURING the time I have acted as joint magistrate, only two cases of slavery have come under my notice. The first was the murder of a slave-girl by her master, a zemindar, named Punchanund Chowdry. She was sent to Midnapore in a dying state, and had just strength sufficient to make, before her death, a clear and distinct confession of all the circumstances connected with the murder. I was obliged to make over the case to Mr. Cardew, the acting magistrate of Hidgelee, as the crime was committed in this district, and I have never learned the result of the trial. The second case was a theft committed by a Mussulman slave-girl on the property of her master, who complained against her in the criminal court. She was sentenced to imprisonment for three months; after the expiration of which period, although she had not served her stipulated time, I gave her freedom, at her own desire and by consent of her master.

There are, I believe, some cases among the records of the Foujdary office, from which the system of slavery in this district, and the practice of the court with reference to it, might be culled. I am not aware of any legal rights that masters possess over their slaves, with regard either to person or property, that have been or could be practically recognized by the magistrate, nor do I think the relation of master and slave could justify an act which, in another, would be punishable, or be even admitted in mitigation of punishment. The complaint of a slave merits and would receive the same attention, of course, as that of a freeman, whether it be made against his master or any other individual.

I have not by me the regulations quoted by Mr. Millett, but I recollect considering them deficient on the subject of slavery. There was too much left to the discretion of the magistrate.

magistrate. There was no clear, explicit rule by which a magistrate could be unhesitatingly guided in his decision, embracing every possible case that could be brought before a criminal court by a Mussulman or Hindoo master or slave. With regard, however, to the maltreatment of a slave by his master, whether Mussulman or Hindoo, supposing a magistrate should not consider it as an offence cognizable by the criminal court on the principle of justice, he would not, I think, outstep his duty in trying the case and inflicting punishment, under the sanction of such regulations as authorize, without making an exception, the punishment of any one who maltreats another.

The 5th paragraph of Mr. Millett's letter refers, I conceive, more particularly to the civil court. The fact upon which the question in the first part of it is put could hardly occur in this district. A Hindoo master keeping a Mussulman slave, or a Hindoo slave serving a Mussulman master in any household capacity, would lose caste. The claim, therefore, by either party is not likely to be made.

Slavery scarcely exists in the Midnapore jurisdiction, and where it does exist, it can hardly be called slavery. There is generally a written agreement between the master and slave, attested by witnesses, the latter stipulating to serve the former a certain period, the former engaging to provide food and clothing for the latter during his service. The property of the slave, at his death, goes to the nearest of kin, and only to the master in the event of his having no relation.

Soon after the late gales, which laid waste a great part of the district, and caused a dreadful loss of life and property, there was a constant sale of little children. It has now happily ceased, but occasioned by such harrowing circumstances, and conducive as it was in many instances to the preservation of infant life, it could hardly be considered a crime, and need not be mentioned under the head of "slavery."

ANSWER of Mr. *H. M. Pigou*, Commissioner, 18th Division, Jessore, dated 9th July 1836, to the Register of the Court of Sudder Dewanny and Nizamut Adawlut, Fort William. No. 15.

3. As register and assistant to the magistrate, as judge and magistrate, and as judge, I have discharged judicial functions during a period of 29 years in Bengal and Orissa, and of two in the upper provinces, and during that time I have never met with a single slavery case brought in any shape before the criminal court, and only of one instance before the civil court: in that case the claim was for the recovery of a whole Hindoo family of slaves who had deserted their master's estate, which suit, under the exposition of the Hindoo law given by the pundit of the court, was decreed in favour of the plaintiff.

ANSWER of Mr. *Evelyn M. Gordon*, Officiating Commissioner of Circuit, 14th Division, at Moorshedabad, dated 14th April 1836, to the Register of the Sudder Nizamut Adawlut, Fort William. No. 16.

I REGRET to state, that, not having had any cases in my court tending to throw any light on the system of slavery prevalent in India, I am unable to supply the information required by the Sudder Nizamut circular, No. 2,973, dated the 13th of November last.

ANSWER of Mr. *E. J. Harington*, Officiating Judge, Zillah Hooghly, dated 2d February 1836, to the Register of the Court of Sudder Dewanny Adawlut, Fort William. No. 17.

I HAVE the honour to state, that the result of the inquiries which I have instituted upon the subject, both by reference to the records of the civil court, and communication with persons whose intelligence and general knowledge assured me that I might reasonably expect to ascertain from them the true state and condition of the class of persons denominated "slaves," has convinced me that slavery, or that state of subjection which we hear of as existing in this country previously to the rule of the Company, has ceased in this district.

Our laws, although recognizing slavery, would neither permit cruelty, nor sanction or forbear to punish cruelty, whether exercised by a master towards his purchased or hereditary slave, or by one freeman towards another. The disposition on the part of judges, magistrates and persons possessing authority, since the establishment of our government in India, to protect slaves from injustice and suffering—evinced by their orders and general conduct—combined with the clearly-to-be-discerned spirit of all our enactments, considerate to provide security and good treatment to every class, have gradually but powerfully contributed to this end; until at last the few persons who have not acquired positive emancipation are as happy and secure from ill-treatment as persons who are acknowledged free and have never suffered slavery.

Unless a master should be empowered by law to exercise coercion of a severe nature towards his reputed slave, and that redress for ill-treatment should be denied to a slave on his preferring a complaint in the magistrate's court, I conceive that slavery must decline, and at last cease.

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In this district, no civil suits regarding the right to slaves by purchase or inheritance have occurred since its constitution,—a fact the most strongly corroborative of the impressions which I have received. Excepting the district of Mymensingh, there is not one, in which I have been employed, where slave cases often occurred, either in the court of the judge or the magistrate. In Mymensingh (I speak of nearly 20 years ago) they were frequent; and families of slaves have been allotted like other property, by division, among the descendants of their deceased master, in the judge's court and in the magistrate's court. Whenever a master has complained that his slave has been enticed away, or has absconded, without justifiable cause of complaint, the police have interposed under the authority of the magistrates, and have compelled the slave to return; but the return has rarely been productive of advantage to the master, because the slave, discontented and sulky, generally refused to yield that cheerful and active obedience which could render his services really valuable; and the master could not be upheld in the exercise of the severe coercion necessary to subdue his stubborn spirit, such a power being liable to constant and dangerous abuse. If the master could by mild treatment (as would sometimes happen) succeed in conciliating the slave, and make him feel that by adherence to his service he would promote his own benefit and happiness, of course a different and much more favourable effect would ensue.

The slaves in Mymensingh, and in this district generally, are persons who either sold themselves, or were sold by their parents in times of scarcity, to masters capable of providing them with support, which they could not otherwise procure: and the sale, in addition to a small amount of purchase-money, seems rather to have been, or ultimately to have become, a condition of service to be remunerated by support and good treatment on the part of the master. The obligations of these contracts were frequently well respected, and I have often observed, that the slaves have become the attached and confidential servants of their masters; but how easily relief from bondage might be obtained may be easily discerned.

Questions regarding the caste of slaves have never come under my observation; and, I believe, that the reason of their not being advanced may be, that persons in the condition of life to which slaves belong are rarely scrupulous and seriously attached to any particular persuasion or habit.

No. 18.

ANSWER of Mr. *E. A. Samuells*, Officiating Magistrate of Zillah Hooghly, dated 17th February 1836, to the Register to the Court of Nizamut Adawlut, Fort William.

2. SLAVERY, in this part of the country, is so entirely of a domestic character, and is so rarely brought before the notice of the authorities, that it is somewhat difficult to say to what extent it prevails, or with what peculiarities it is attended. From the information which I have been able to collect upon the subject, I learn that it is only among the Mussulman population of the district that slavery is to be found in any shape whatsoever. Female slaves and young boys (also slaves) are to be found in the families of most Mussulmans of any respectability. The duty of the women appears to consist in a general attendance upon the inmates of the zenana, and that of the boys, in a performance of the lighter and less menial duties of the household.

3. No males of advanced age are, I understand, to be found in this district in a condition of absolute slavery. There is, however, a system, very much resembling that of apprenticeship in our own country, in which a person receives a small sum of money, usually from 40 to 50 rupees, and binds himself down, frequently in a regular written agreement, to serve as a slave for a certain number of years. A person of this description is termed an "ajeer," and the practice is said to be extremely prevalent.

4. The records of this office only exhibit three cases in which slaves are in anywise concerned. Two of these are prosecutions for homicide, in causing the death of certain slave-girls by maltreatment; but as neither of them were proved, and the parties were acquitted in both instances, they do not furnish us with any means of ascertaining whether the relation of master and slave has ever been considered as a circumstance which should plead in mitigation of the punishment or not. Never having myself had a case of this description before me, my own experience will not, of course, assist in elucidating the point.

5. The third case is that of Meer Golam Hossein, servant of the nawab Akber Ali Khan *v.* Bodun and Phekoo. Charge: the abstraction of two slave-girls from the house of the Nawab. The case being clearly proved, the defendants were fined 100 rupees each, and the girls were ordered to be made over to the prosecutor. They, however, were extremely unwilling to return, alleging that they had met with constant maltreatment in the house of the prosecutor, and prayed that they might be set at liberty. Upon this, the law officer was called upon for his opinion as to the course which ought to be pursued; and he having delivered in a futwah declaratory of the right of a nawab, as a follower of the Sheea doctrines, to retain possession of his slaves, the girls were immediately given up to him. The whole argument in the futwah, it is to be observed, is grounded on the fact of Akber Ali Khan being a Sheea,—the document expressly declaring that a Soonnee would not have been entitled to reclaim the women. On what particular law or precedent this decision of the law officer was founded I am unable to say, as the futwah is throughout extremely vague.

6. In

6. In this case, then, the alleged maltreatment would not seem to have been considered a sufficient cause for emancipation; nor does it appear that any protection was extended to these slaves, or that their complaints, indeed, were ever inquired into. It would not, however, be fair to judge of the practice of the court from one isolated instance. The idea which the natives in general entertain of what is likely to be the decision of our courts in cases of slavery is widely different. I am informed by the old inhabitants of the place that, under the Dutch government, which encouraged slavery, an immense number of persons of that class were to be found in Chinsura; but, finding after the cession, that their new rulers looked with a cold eye upon the right of property which the master asserted in the slave, they had generally shaken off their fetters and gone abroad as freemen. So strong, indeed, was the opinion of our disinclination to uphold slavery, that I cannot learn that any one ever came forward to reclaim his runaway bondsman. Such is still, I have reason to believe, the prevailing idea on this subject of the inhabitants of the district at large.

ANSWER of Mr. *J. Curtis*, Judge of Zillah Burdwan, dated 18th June 1836, to the Register to the Sudder Dewanny Adawlut, Fort William. No. 19.

I HAVE the honour to state, that the records of this office do not afford one single case of suits brought forward for the recovery of the services of slaves, and that a state of bondage, as formerly recognized in the West India islands and other British colonies, is, I may say, extinct in this part of Bengal.

ANSWER of Mr. *R. Macan*, Additional Judge of Zillah Burdwan, dated 24th June 1836, to the Register to the Sudder Dewanny Adawlut, Fort William. No. 20.

4. MR. MILLETT'S letter * appears to embrace two points: the first relating to the persons of slaves; the second relating to their property.

5. By the third paragraph of the letter referred to, it appears, that slaves have the same security for their lives † that other natives of India possess; and I would remark, from what I recollect of the practice of a magistrate's court, that any ill-treatment or cruelty towards a slave would be punished by every magistrate in the country with the same severity as in the ordinary cases of the same description between masters and hired servants. In the fourth paragraph of Mr. Millett's letter, the law commission wish to know the law or principle by which a Hindoo master would be punishable in such cases in the criminal courts. On this subject, I would observe, that the magistrates generally know very little of either Mahomedan or Hindoo law, and they very seldom apply to the molvies or the pundits of the courts for futwahs or bewustahs. The distinction, therefore, which those laws make between a slave and a free servant would not be recognized by the magistrates in the petty offences cognizable by them; and if a case should be committed to the court of circuit, the Hindoo law is not binding, and the futwah of a Mahomedan law officer may now be dispensed with, as laid down in the 1st section of the regulation noted below. ‡ Thus the existing laws provide, in a great measure, for the safety of the lives and persons of slaves.

5. The second point referred to in Mr. Millett's letter is connected with the property of slaves. From the situation and circumstances of slaves, they can very seldom acquire much property, but by the 9th section of Regulation VII. of 1832, as quoted in the 5th paragraph of Mr. Millett's letter, the civil courts might, in a great many cases, secure to a slave any property which he might be found possessed of; but if a case were brought into a civil court, in which the master and slave should be either Mahomedans or Hindoos, the laws of those religions would, if strictly adhered to, require that a decision should be given against a slave. In a case as contemplated in the first part of the 5th paragraph of Mr. Millett's letter, of the claim of a Mahomedan master over a Hindoo slave, and *vice versâ*, the civil courts would certainly avail themselves of the discretion given to them by the section of the regulation last quoted, and decide in favour of the slave.

6. With reference to section 9 of Regulation VII. of 1832, I would remark, that it is not a rule which admits of a wide and clear application to civil suits in general. If the members of the law commission were to inquire into the object which the framers of Regulation VII. had in view, in inserting the clause referred to, they would, I think, find that it was intended to secure to persons converted from the Mahomedan or Hindoo religion to Christianity the possession of their real and personal property; for by the law, as it stood before the promulgation of Regulation VII. of 1832, every convert to the Christian religion from either the Hindoo or Mahomedan persuasion, not only forfeited his right of succession to all real and personal property, but he could even be deprived of all hereditary property which he might be actually in possession of at the time of his conversion. The law, however, as laid down in section 9, is vague and unsatisfactory, and the real object which it is believed the framers of the regulation had in view is little understood, while the rule can never, as before remarked, admit of a wide and clear application to civil suits between persons of different nations and of different religious persuasions.

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* *See* No. 1 of this Appendix. † Reg. VIII. of 1799. ‡ Reg. VI. of 1832, sec. 1.

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7. The only point connected with slaves which is altogether unprovided for by the regulation, is their actual liberation from the power of a Hindoo or Mahomedan master.

8. In the last part of the 5th paragraph of the letter of Mr. Millett, the law commission would wish to know the law or principle which would regulate the courts in their decisions on claims to the property, possession or services of slaves, where neither party might be Mahomedans or Hindoos. In British India, the professors of the Christian religion, Parsee fire-worshippers, and Chinese-Bhoodites, would be the only persons likely to be the owners of slaves; and any individuals of those religions, or of any other persuasion, whether plaintiffs or defendants, in the criminal or civil courts, would be required to show by what law they could claim either the person or property of a slave; and as there does not now exist any law in India by which such claims could be supported, the slave would, of course, have the benefit of the absence of right on the part of masters who might not be Mahomedans or Hindoos.

9. In this district, the impression amongst the natives is almost universal that the existing laws prohibit the purchasing of slaves; and though this is not in reality the case, still all that now remains of the traffic in slaves is the occasional purchase of a few children who are offered for sale in times of great scarcity. It is also generally understood that the magistrates would afford the fullest protection to any slave who should complain of cruelty or ill-treatment on the part of the master.

10. In the zillah Burdwan, and in a few of the surrounding districts, slavery exists to a considerable extent, and particularly amongst a class of men called Aimadars, or persons holding lands directly from the government on a low quit-rent. The Aimadars are mostly Mahomedans of old respectable families, and they have, according to their circumstances, from one to twenty slaves. Most of these slaves have been born in the houses of their masters, and they are generally the descendants of children who were purchased in the great famine which visited Bengal in the year 1770; while, in some instances, the slaves have been, from father to son, for 200 and 300 years in the same family.

11. It is a general remark, that slaves are more troublesome and more expensive than hired servants; and with the exception of a few slave girls for the female apartments, the Mahomedan masters would not much regret the enactment of any law which might give to their slaves the option of leaving the houses of their masters, or of remaining there as hired servants. At present, useless, idle slaves are in many instances retained by their masters, merely from a feeling that they ought not to drive away from their house one born and brought up under their roof; and they know that if they were to do so, their good name would in some degree suffer in the estimation of their friends and neighbours. There is also some consequence and respectability attached in the eyes of the natives to the possession of slaves, and this also induces some individuals to keep them, while it will, at the same time, be almost always admitted, that free servants are more useful and less troublesome than the present race of slaves.

12. Instances of cruelty to slaves are stated by the natives to be very rare indeed, and if chastisement is resorted to, it is not marked by severity, and the general testimony is, that slaves in this district are as well fed and as well clothed as free servants who are employed in similar occupations.

13. Throughout the Bengal presidency slavery certainly exists to a considerable extent, and though it is seen in its mildest form, yet still it is slavery; and a new code of criminal and civil law, such as that now preparing by the law commission, will no doubt include in its pages enactments which will secure liberty for the persons, and security for the property, of all slaves throughout the British possessions in India.

No. 21.

ANSWER of Mr. *Taylor*, Officiating Magistrate of Zillah Burdwan, dated 5th February 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. No case of the nature specified in the several paragraphs of Mr. Millett's letter, or in any way calculated to throw light on the question under discussion, being discovered in the records of the office, I am unable to state what is the practice of this court.

No. 22.

ANSWER of Mr. *W. H. Elliott*, Officiating Magistrate, Bancoorah, dated 30th April 1836, to the Register of the Nizamut Adawlut, Fort William.

I REGRET to state that I do not feel competent to offer any remarks on the subject treated of in Mr. Millett's letter.

2. I can only find one instance in which the question of slavery has been brought into this court, and that was one of a most simple nature. In 1830, a person complained that a female slave whom he had made over to his sister as her private attendant had been enticed away from the house by a burkundaze. This being proved, the slave was restored to her mistress, and the burkundaze reprimanded.

ANSWER of Mr. *J. H. D'Oyly*, Civil and Session Judge of Zillah Birbhum, dated 7th November 1836, to the Register of the Court of Sudder Dewanny and Nizamut Adawlut, Fort William. No. 23.

3. No case in which slaves are concerned has ever, as far as I can discover, been brought before this court.

Section 15, Regulation IV. of 1793, for observing the Mahomedan and Hindoo laws in suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, is rendered applicable to all cases of slaves, although they are not by name alluded to.

Regulation VIII. of 1799 empowers the courts to pass sentence for heavy offences on all without distinction.

4. I am not aware of any rules which would empower our courts to make a difference between a freeman and a slave in awarding punishment for crime, nor should I, in such a case, be either inclined to grant indulgences to a slave because he were a Mussulman, or to afford less protection to a slave than to a free-born against wrong-doers.

5. In trifling cases, however, where the parties are either Mussulmans or Hindoos, I conclude the magistrate should be guided by the Mussulman law or Hindoo Shastres in allowing chastisement to be inflicted, if it do not amount to barbarous treatment, which would bring it under our own regulations.

6. In answer to the first part of the last paragraph of Mr. Secretary Millett's letter, I should think that the English courts would be bound to support the Mussulman's claim to the services of a Hindoo slave, because the pundit would give his bewusta to the effect that slavery is permitted by the Shastres, and with reference to Regulation VII. of 1832, section 9, the law of the defendant should be acted upon.

Where the Hindoo master sues for the Mahomedan slave, the Mahomedan law would declare that a Mussulman cannot be a slave unless taken prisoner in battle or the descendant of such; and, therefore, the Hindoo plaintiff must necessarily be cast, unless the Mussulman be proved to be a slave of the above description.

This appears to me to be the law as it stands, although I am not prepared to admit that it is justice; and the practice above stated must be legal in my opinion until a new enactment be made.

7. In reply to the last part of the above paragraph, I should say, that as slavery is not sanctioned by any law operating in our courts, except by the Mahomedan and Hindoo, a person neither a Mussulman nor a Hindoo could not establish a claim to property, possession, or service of a slave not being a Hindoo or a Mussulman, and that the fact alone of slavery not being recognized by the British Government (with the above exceptions) would in itself be sufficient to justify such a practice in an English court of justice.

ANSWER of Mr. *W. J. H. Money*, Acting Magistrate, Birbhum, dated 30th January 1836, to the Register of the Court of Nizamut Adawlut, Fort William. No. 24.

1. No cases connected with masters or their slaves have occurred in this district, so as to form a practical ground of opinion: but I should say, in the event of such complaints pending in this court, the legal rights of masters over their slaves, with regard to their persons, would be recognized as entire, provided no cruel treatment had been proved against the master: and in the same way with regard to their property, until otherwise decided by the civil court, to which the slaves would be referred for redress.

2. The court would recognize the relation of masters and slaves so far as to justify the moderate correction of their slaves, and in like manner protection would be extended to slaves on complaints preferred by them of cruel treatment, or of conduct exceeding those justifiable acts of slight chastisement.

3. The court would not afford less protection to slaves than to free persons against other wrong-doers than their masters.

4. The maltreatment of a Hindoo slave by his Hindoo master, though not specially provided for by any enactment, would, I should say, be considered in the light of a misdemeanor, and punished accordingly by the regulation prescribed for such an offence.

5. With reference to section 9, Regulation VII. of 1832, the claim of a Mussulman master over his Hindoo slave, in the case alluded to in the 5th paragraph of the letter from the secretary to the law commission, would not be supported; but, *vice versâ*, the claim of a Hindoo master would be upheld.

6. The court would not admit or enforce any claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo claimant, or against any other than a Mussulman or Hindoo defendant.

Appendix II.

Returns.

No. 25.

ANSWER of Mr. *H. J. Middleton*, Judge of Moorshedabad, dated 4th February 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.

2. SLAVERY, I believe, exists in Bengal as in the upper provinces, and, as far as I can learn, Mahomedans, Hindoos, Armenians, Jews and East Indians all hold slaves.

3. With respect to the 1st question of the law commission, as to the legal rights of masters over their slaves, &c., it may be remarked, that, as in the administration of criminal justice, the government has directed that the courts shall be guided by Mahomedan law, excepting in cases wherein a deviation therefrom may have been expressly authorized by the regulations, the rights over slaves can be no other than those conferred by the said law and the regulations.

4. On the 2d question of the law commission I have to state, that in cases of murder of a slave by his owner, the Mahomedan law, which exempted the master from kissas, has been modified by Regulation VIII. of 1799. The making of eunuchs has been declared a heinous crime, subject to exemplary punishment by circular orders of the Nizamut Adawlut, dated 27th April 1796. But for the homicide (short of murder) or cruel treatment of a slave, there is, I believe, no enactment for regulating the practice of the magistracy; and I should imagine that, as in petty cases there would be no futwah taken by the magistrates from the Mahomedan law officers, the Foujdary court would punish the offender as though his offence had been against his servant, and not his slave. In more serious cases of maltreating a slave tried by the sessions court, I consider no great latitude would be permitted to the owner of a slave than to the master of a servant, nor would any judge, I think, agree in a futwah which declared the fact of the injured party being a slave a ground for mitigating the punishment to which the owner had on trial been declared amenable, since the sympathy of the European presiding officer would always, in consideration of his defenceless condition, be arrayed on the side of the slave. Magistrates, I believe, would not generally grant the privileges and indulgences made in behalf of slaves, and noticed in the Hedaya (see Hamilton's Index, article "Slaves,") and consequently, if a slave committed an assault upon or destroyed the property either of his owner or of a stranger, such slave would, I suppose, by our courts be punished by imprisonment.

5. In reply to the 3d question of the law commission, I beg to say, that a slave can be a slave only with reference to his owner. Whatever immunities the Hindoo or Mahomedan law may give that owner, such could never, in criminal matters, place a slave under any special outlawry with reference to strangers. Hence I doubt whether a case coming within this question has ever occurred in our courts. A British magistrate would never allow a master to injure a slave with impunity, much less a stranger; and the latter would certainly be punished like a wrong-doer to a party other than a slave.

6. With respect to question 4th, in paragraph 4 of the law commission's inquiry as to by what law or principle the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the criminal courts, it may be stated, that, as the Hindoo criminal law has been placed in abeyance by the regulations of government, the offence glanced at in the question would be punished under the regulation "Criminal Law."

7. I find it difficult to offer any answer to the 5th question contained in paragraph 5 of the law commission's inquiry, viz., whether, with reference to section 9, Regulation VII. of 1832, the courts would support the claim of a Mussulman master over a Hindoo slave, when, according to Hindoo law, the slavery is legal, but according to the Mahomedan law, illegal, and *vice versâ*. The explanatory provisions detailed in that section are of recent origin, nor can any cases be traced in the published reports which can directly or constructively be brought to bear on this subject. Until, therefore, the question be set at rest by some regular suit, appeal or construction of the superior court, a great diversity of practice will probably obtain in the subordinate courts, by reason of each taking a dissimilar view of the provisions in question. The following would, I conceive, be what the civil courts here would do in such cases. Suppose a Mahomedan to claim the property, possession or service of another (be he Mahomedan or Hindoo) as his slave, and the latter to deny the claimant's right, the claimant would be required to prove that the person so claimed is his slave according to the provisions of the law acknowledged by the claimant, and in default of such proof his claim would be dismissed, and the alleged slave declared free (on the principle that the claimant has no right to that which is denied him by the laws of his own persuasion), and *vice versâ* in the suit of a Hindoo claimant. But in a similar suit, brought by a claimant originally a Hindoo, and since converted to Islamism, we should, with reference to section 9, Regulation VII. of 1832, pass judgment in his favour (provided Islamism be proved), that he was entitled to the alleged slave by succession or inheritance either before or after his apostacy, and that the slave in question was a legal bondsman agreeably to the Hindoo law. Also in suits instituted by claimants originally Hindoo or Mahomedan, but at the time of bringing the action professing the Christian or any other religion, for the possession of a slave, such slave being proved a legal bondsman according to the law from which the claimant has seceded, I think the claim must, under the section above cited, be maintained. Supposing, however, a claim to a slave to be advanced by a party neither Mahomedan, Hindoo nor seceder from either of those faiths, I consider the courts could not uphold such, in that slavery is not sanctioned by any system of law which is recognized by the government, except the Hindoo and Mahomedan laws.

8. I subjoin

8. I subjoin extracts from a memorandum, prepared at my request, by Mr. G. Myers, the principal sudder ameen, a gentleman of great intelligence and observation, and whose career has been followed in the upper and western provinces, as well as those of Bengal; and, in doing so, I imagine, I meet the suggestion contained in the communication of the court (dated the 13th of last November) now acknowledged.

No. 26.

EXTRACTS of Notes and Observations on Slavery, as existing in Bengal, Behar, Benares, and the Ceded and Conquered Provinces. (By Mr. *G. Myers*, Principal Sudder Ameen.)

THE sources by which slavery is perpetuated are chiefly the following:—

1. Importation by sea or land. This source has been much crippled by the Act 51 Geo. 3, chap. 23, and Regulations X. of 1811, and III. of 1832. The Arab ships, which 20 years ago were wont to import into Calcutta from 10 to 30 slaves in almost every ship, seldom bring now more than a fourth of that number on each vessel. I have seen male and female, Abyssinian and other negroes, to have been sold in former times, at Calcutta, from 50 to 100 rupees, but they cannot be procured now for less than 200 to 400 rupees.

The exportation for traffic of country slaves from one province of the British territories to another was prohibited, by a proclamation of government, so long ago as the 22d July 1789; and though (with the exception of section 74, Regulation XXII. of 1795, for the province of Benares) the rules of this proclamation appear not to have been embodied in the code of regulations enacted in 1793 for the province of Bengal, nor in that of 1803 for the ceded and conquered provinces, yet the magistrates have, in the spirit of it, universally discountenanced such a commerce. That the practice still prevails to a limited degree in the Mofussil, I have not the least doubt. In the year 1809, or 1810, perhaps, when I was at Hurdwar with the board of commissioners, I remember very well seeing a large number of children of both sexes brought down by the adjacent mountaineers for sale at the fair; and I have good reasons for believing that the inhabitants of the chain of mountains bounding the north and north-eastern parts of Bengal are in the habit of clandestinely importing slaves for sale into the adjoining Bengal districts, particularly young boys and girls. These importations are, however, invariably checked by the magistrates whenever they chance to hear of them. With respect, however, to the town of Calcutta, I can say, from personal knowledge, that the practice of annually bringing boat loads of children for open sale in the town from the interior of the country, adverted to by Sir W. Jones in his charge to the grand jury delivered on the 10th June 1785, does not exist at present.

2. Kidnapping children and selling them into slavery. This source is, from its nature, limited, and, when detected, the perpetrators are liable to punishment under the regulations.

3. Sales of children by their parents or relations, from poverty or inability to maintain them in times of famine, or other general calamity, as in the year 1833, when, owing to the disastrous inundations experienced in the southern parts of Bengal, hundreds of half-starved, helpless wretches thronged the suburbs and streets of Calcutta and the adjoining districts, offering themselves and their children for sale for a few measures of rice only. This source of slavery is the most prolific; and the origin of almost the whole slave population in the provinces above indicated may be traced to this and the following.

4. Birth, as the offspring of a slave, commonly denominated "Khanazad."

5. Voluntary sale or pledge by a person of full age to serve his creditor as a slave, in liquidation of, or till the redemption of, a debt, or in consideration of money borrowed to discharge the debt of another creditor. This source is, as may readily be imagined, very confined; but I have known men so infatuated, especially in the upper provinces, as to render themselves slaves by written engagements to their creditors, when otherwise unable to liquidate the debts contracted by them; and even of parents pledging their children, and husbands their wives, as security for money borrowed,—the persons so pledged being maintained by the pawnee, and rendering him the ordinary services of a domestic.

Before I proceed to the questions propounded by the law commission, I shall make a few observations in illustration of the manner in which slaves are generally treated in this country by their owners. That slavery, however modified or restricted by law, is a crying evil, is unquestionable, and the sooner abolished the better for mankind. From all, however, that I have seen, or heard, or read, I have no hesitation in declaring that the East India slaves are, in every particular, better treated than their unfortunate brethren of the west. The slaves in this country form, in fact, a class of cheap, and are treated by their owners as, domestic servants. More confidence is often reposed in, and greater consideration sometimes shown to persons of this class by their owners, as being their property and khair khas, than to hired free servants, who are often termed "ghair" and "begana." Let me not, however, be understood as asserting that owners do not often maltreat their bondsmen. There are, in this country, as many monsters in human shape, dead to every generous and noble feeling, as in other parts of the world. The redeeming feature of this country slavery is, that the slaves are not so systematically worked up, nor so cruelly whipped and punished as in the American slave-holding districts. The rising and resistance of slaves against their owners have occurred in America and elsewhere; not so in India. A servile war is an event, I believe, unknown in the history of this country. The picture, however, drawn of slavery by Sir W. Jones, in his charge above alluded to, viz., "Nevertheless I am assured from evidence, which, though not all judicially taken, has the strongest operation on my belief, that the condition

Appendix II. Returns.

of slaves within our jurisdiction is beyond imagination deplorable, and the cruelties are daily practised on them, chiefly on those of the tenderest age and the weaker sex, which, if it could not give me pain to repeat and you to hear, yet, for the honour of human nature, I should forbear to particularize," is, in my humble opinion, too highly coloured: whilst, on the other hand, the description given by Mr. Macnaghten,* that "in India, generally speaking, between a slave and a free servant there is no distinction but in the name and in the superior indulgences enjoyed by the former. He is exempt from the common cares of providing for himself and family; his master has an obvious interest in treating him with lenity; and the easy performance of the ordinary household duties is all that is exacted in return," though rather favourable, is yet, on the whole, nearer the fact, as far as my observation goes, than the former. The natives of this country are not prone to beating their servants or slaves for trivial offences. Abusive language and threats are the correctives usually applied on these occasions. To sell a slave is universally considered infamous; and the profession of a slave-dealer is justly held in execration both by Hindoos and Mahomedans. I cannot charge my memory with an instance of a respectable native selling his slave. If the owner is reduced to poverty, the slaves are set at liberty. Much affection often subsists between a Khanazad and the offspring of his owner. I have known several instances of slaves set at liberty by their masters, from inability to provide for them, to become in their turn the supporters of their masters. An instance of this kind has recently come to my knowledge, of a woman, who was formerly a slave serving in the family of an officer of high rank, at this station, in the capacity of an ayah, or child's-maid, and maintaining her former mistress, at Calcutta, from the savings of her wages. I cannot, however, say whether the class of slaves termed *adscripti glebæ*, where they do exist, as in some of the upper provinces, are sold along with the land. But from the general repugnance of respectable natives to the practice, and from the circumstance of my never yet having a deed of sale of lands in which this description of property is even remotely alluded to, or read an instance of this kind in any historical work on British India, I should suppose, if ever they occur, such transfers to be rare. I am also not aware whether the custom of hiring out slaves to strangers by the day or month is prevalent in this country.

No. 27.

ANSWER of Mr. *R. Torrens*, Magistrate of Moorshedabad, dated 21st March 1836, to the Register to the Sudder Nizamut Adawlut, Fort William.

THE subject† is one in which I have had no experience in the civil court, or in the criminal.

2. I have only to observe, that I consider it my duty as a magistrate to punish any assault committed by a master on the person of a slave with the same severity as if it were inflicted on the person of a freeman.

No. 28.

ANSWER of Mr. *C. R. Martin*, Officiating Judge, Zillah 24-Pergunnahs, dated 13th May 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.

I HAVE in no one instance been required, in my official capacity, to give my attention to any one of them.‡ I have had no practical experience in any court whatever in the decision of questions in which the relation of master and slave has been a subject of legal consideration. Both the Mahomedan and Hindoo laws recognize this relation, and the rights of masters over their slaves extend very far. Masters may sell their slaves to any person, and at any price, without the consent of the latter, may give or bequeath them as any other property or possessions, and may also pledge them as security for debt. They may compel them to labour or give them their liberty; the latter can possess no property; all their acquisitions become the property of the former; but it should be observed that these rights were formerly recognized only in cases where persons became slaves in consequence of having been made prisoners of war, and of being descended from such prisoners. To such persons, the term "slave," in its strict and unlimited extent, appears only to have been applied. The term, when applied to any other person, was considered a term of reproach, and any person so using it was liable to punishment.

2. The authority of the master over his slave is quite absolute, according to the Mahomedan law; and protection cannot legally be extended to the latter in case of cruelty or hard usage. But, notwithstanding the law at the present time is so much on the side of the master, it is an acknowledged power of the courts to award penalties on the master if he do not feed and clothe his slaves well, do not allow them to marry, or punish them without cause. The courts would also protect slaves equally with free persons against other wrong-doers than their masters; though in small matters, such as those of petty assaults, for instance, the slave is less likely, according to the custom of the natives, to obtain redress in the court than the free person.

3. In reference to the particular case referred to in Mr. Millett's letter, viz., the emancipation of Zuhoorun, I am wholly uninformed in respect to the law by which the court was authorized to decree the emancipation. I have said that the court exercises discretionary power

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* *See* printed Remarks, Principles and Precedents of Mahomedan Law, p. 39.

† Slavery.

‡ Topics of inquiry.

power in cases where slaves are punished by their masters without cause; but I am not aware that it can extend so far as to emancipate a slave. Maltreatment is not legally a sufficient cause for emancipation. The decisions on such questions, however, would depend very much on the interpretation of the Mahomedan and Hindoo laws given by the native functionaries of the court.

In conclusion, I beg to observe, that if the matter regarding slaves was well sifted, very few would come under that denomination, and those that are so are treated more as members of the family in which they reside than as bondsmen.

No. 29.

ANSWER of Mr. *Laurell*, Officiating Magistrate of Zillah 24-Pergunnahs, dated 3d February 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. I REGRET extremely my inability to furnish the superior court with any information that may tend to throw any light on the various points of the question now mooted; as, in the first instance, I have never myself met with any case bearing at all upon the subject (slavery); and secondly, because, after a careful search and investigation amongst the records of this office, I can find no instance of a case having occurred which might guide me as a precedent in the event of any such as are noticed in the letter of the secretary to the law commission coming before me, or from which I can glean any information on the subject in general.

3. Under these circumstances, with no specific regulation of government to direct me, with no precedent in the office upon which I might, if it so seemed expedient, ground the basis of my own proceedings in the event of my being called upon to act in a case of the description now under discussion (coupled to the circumstance of my never having yet been called upon to act in any such case), I trust the court may be inclined to make every allowance for the scanty and imperfect information with which I am enabled to furnish them, and that they will not attribute the same to any want of zeal and perseverance on my part in my endeavours to obtain *data* from which I could have gathered more ample and satisfactory information, preparatory to submitting it for their consideration.

4. I cannot, however, omit the opportunity to state, for the information of the court, that although I cannot point out any specific rule which I might take for my guidance, nor am I enabled from the records of my office to adduce, as a precedent, any case where a master and slave have been the opposing parties to each other; yet I have no hesitation in saying, that were a slave to prefer a complaint in any court where I might happen to preside, against his master or owner, or any other than his master, I should feel myself bound, both in reason and in justice, to grant my protection to such slave, both as regards his property and his person, in the same way, and to the same extent, as I should be authorized to do by law and regulation, in the case of any other individual under the jurisdiction of British courts.

5. I should, moreover, notwithstanding that, according to the Hindoo law, "a Hindoo master appears to have still more absolute and unlimited power over his slave than a Mahomedan has by his law over his;" I should, I say, still be inclined to treat Mahomedan and Hindoo masters and slaves precisely in one and the same manner; as "by the Act (as quoted in the 3d paragraph of Mr. Millett's letter) 51 Geo. 3, cap. 23, and Regulations X. of 1811, and III. of 1832, the importation of slaves, by sea or land, from foreign countries, and the removal of slaves for the purposes of traffic from one part of the British territories dependent on the presidency of Fort William (including Agra), to another," is specifically prohibited; and although the confirmation, by the Governor-general in Council, on the 12th April 1798, of the construction put by the Sudder Dewanny Adawlut, in the same year, on section 15, Regulation IV. of 1793 (which was again fully recognized by the resolution of the honourable the Vice-president in Council, under date 9th September 1827, and afterwards extended to Benares and the western provinces) would seem in some measure to be contradictory to and at variance with the spirit of the Act of Parliament and of Regulations X. of 1811, and III. of 1832; still I am not aware that these latter have been abrogated or specifically rescinded by any subsequent act or regulation; and my opinion, therefore, naturally is, that, to all intents and purposes, the system of slavery has been legally abolished, and that, consequently, any principle tending to deprive a slave of any right or privilege in a court of justice, which a freeman enjoys, should not for a moment be recognized in any court; but that the same indulgence and protection should be indiscriminately and impartially allowed and extended to all,—to slaves (or those who are so considered) as well as to freemen.

6. My view of the case, as above set forth, may very possibly be erroneous, but, such as it is, I respectfully beg leave to submit it for the consideration of the court, and beg leave to add my hope, that they will be good enough to bear in mind, that I have merely stated the way, I conceive, I should myself act, in the event of a slave (or any person so denominated) claiming my protection in my capacity of a magistrate or other judicial officer, against his master, or any other individual, under the present (as it appears to me) contradictory and undefined state of the law and regulations regarding slavery in this country.

ANSWER

Appendix II.

Returns.

ANSWER of Mr. *G. W. Battye*, Joint Magistrate of Baraset, dated 6th July 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

No. 30.

I MUST declare my inability to afford any information as to the practice of the civil courts in questions of slavery.

2. With reference to the custom prevailing in the criminal courts, I can speak more from inquiry than actual experience, as I do not remember ever having received a complaint from master or slave in any of the offices to which I have been attached. The existence of slavery, however, among both the Mussulman and Hindoo population is notorious, and it is perhaps extraordinary that so few instances should occur in which either party ever come into the courts. As regards, however, the proprietors, it is not so much cause of astonishment, as, although the regulations of government are, with the few exceptions quoted in Mr. Millett's letter, silent on the subject, yet the general feeling known to exist in the breast of every Englishman may of itself deter them applying for aid to the courts.

3. In the absence of any distinct prohibition of slavery, I should have, perhaps, been doubtful what was my duty, had not the case of Nujoom-oon-nissa afforded a precedent for the authority of government to emancipate slaves when any act of cruelty was established.

4. Giving, therefore, an extended meaning to Regulation III. of 1832, and supported by the decision of the court above quoted, I should not hesitate to set at liberty any slave who sought protection of the court; and, in doing so, I imagine I should only be pursuing the course usually adopted by magistrates before whom similar complaints have been instituted; at least such I am informed has been the case in districts to the eastward, where slavery is more prevalent than here.

5. The provisions of clause 23, Act 51 Geo. 3, supported by the admission (quoted by Mr. Macnaghten) of the ruling power having authority to interfere in cases of oppression, would, I conceive, justify me in extending the protection sought, and be, as stated in the preamble to Regulation X. of 1811, consistent with the dictates of humanity and with the principles by which the administration of this country is conducted.

No. 31.

ANSWER of Mr. *C. G. Udny*, Civil and Session Judge of Zillah Nuddeah, dated 13th September 1836, to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.

2. No case involving the question of the relative rights of master and slave appears ever to have arisen in this court. But I conceive that the plea of proprietary right would never be recognized as justifying acts of oppression, and that in such cases the courts would not hesitate to afford protection to slaves from the cruelty of their masters as well as of other wrong-doers.

3. With regard to the question contained in the fourth paragraph of the letter from the secretary to the Indian law commissioners, "by what law or principle the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the criminal courts," it is sufficient to state, that the act being *primâ facie* illegal, it would rest with the master to show specific grounds of exemption from the authority of the courts. In cases of this nature, more especially, the judicial authorities would no doubt be scrupulously opposed to any latitude of construction; and the circumstance that the extent of the master's power over the person of his slave is not defined by the Hindoo law would never be held to confer an unlimited and irresponsible authority over him.

4. With regard to claims preferred in our courts by a Mussulman master to a Hindoo slave, and *vice versâ*, all difficulty would be obviated by making the law of the defending party the rule of decision; for although, according to the Hindoo code, slavery is allowed, yet a Hindoo cannot legally be the slave of a Mahomedan who is considered as his inferior.

5. No claims to the property, possession or service of a slave ought, in my opinion, to be admitted or enforced by our courts, except in cases in which the claimants and defendants are either Mahomedans or Hindoos.

No. 32.

ANSWER of Mr. *H. P. Russell*, Officiating Additional Judge, Nuddeah, dated 8th September 1836, to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.

2. THE subject embraced in these communications is one with which I am not practically conversant. I do not remember any criminal prosecution on the part of a slave against his master, or *vice versâ*; the subject, therefore, is not one on which, from experience, I can afford any information.

3. With exception of a few cases which came before me when register of the zillah court of Behar, in 1823 and 1824, the above observations equally apply to the civil court. In them there was no question as to the subserviency of the slave, but merely as to the right of ownership. Under these circumstances, I am unable to state "what legal rights of masters over their slaves, with regard to their persons and property, are practically recognized by the Company's court."

4. With

4. With reference to the second paragraph of Mr. Millett's letter, as to "what extent it is the practice of the courts and magistrates to recognize the relation of master and slave, as justifying acts which would otherwise be punishable, or as constituting a ground for mitigation of punishment," viewing the slave more in the light of a servant, no magistrate, I conceive, would recognize any right of punishment on the part of the master than that of moderate correction, and that on complaints of cruelty, ill-usage or aggravation of any kind being preferred by slaves against their masters, our courts would afford equal protection to them as to any other persons; and in so doing, in case of the parties being Mussulmans, I apprehend they would be acting in perfect conformity to the Mahomedan law.

5. As regards the question contained in the fourth paragraph, viz., "by what law or principle the maltreatment of a Hindoo slave by a Hindoo master would be considered as an offence cognizable by the criminal courts," I conceive that, notwithstanding the Hindoo law makes no provision for the protection of the slave from the cruelty and ill-treatment of an unfeeling master, and the absence of any specific rule to guide our courts in such cases, that, in awarding redress to the aggrieved party, their decisions would be governed by the principles of public justice, and, as Mr. Macnaghten has remarked, that "a British magistrate would never permit the plea of proprietory right to be urged in defence of oppression."

6. In reply to the third paragraph, I am clearly of opinion that there are no cases in which the courts and magistrates would afford less protection to slaves than to freemen against other wrong-doers than their masters; no one but a master can possess any legal right or power over a slave, and there can be no question as to the latter being entitled to the same redress from our courts for injury received either in their person or property from others than their masters as other individuals.

7. With reference to the point adverted to in the first part of Mr. Millett's communication, I am of opinion that our courts would act in conformity to the law of the religion of the plaintiff; that is, that they would not "support the claim of a Mussulman master over a Hindoo slave, if according to the Hindoo law the slavery should be legal, but according to the Mahomedan law, illegal, and *vice versâ*," as it appears to me that in cases of this nature the courts would be justified in rejecting the claims of either plaintiff, if not actually bound to do so, when repugnant to the laws of their own persuasion.

8. As to whether the courts would admit and enforce any claim to property, possession, or service of a slave, except on behalf of a Mussulman or Hindoo claimant, I conceive the decision of our courts would necessarily be guided by the laws of the parties concerned.

No. 33.

ANSWER of Mr. *R. C. Halkett*, Officiating Magistrate, Zillah Nuddeah, dated 4th August 1836, to the Register to the Court of Sudder Dewanny and Nizamut Adawlut.

IN reply, I beg to state that I do not know "what the legal rights of masters are over their slaves with regard both to their persons and property, which are practically recognized by the Company's courts and magistrates under the Agra presidency," and by some courts under the jurisdiction of the abolished provincial court of Dacca, where, I am told, slavery is not less prevalent than in the upper provinces; nor do I know by what law or principle the officers of those courts are guided in deciding cases connected with slavery.

I do not remember that I have ever decided or met with any case similar to those embraced in Mr. Secretary Millett's communication; owing to which I am unable to point out to "what extent it is the practice of the courts and magistrates to recognize the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment;" but, had an action of this description been brought on my file, I would have proceeded to recognize the relation of both parties, by following the modes now adopted, to examine the relation of husband and wife, father and son, and others. In my opinion, the magistrates ought to ascertain the relation of slaves and masters; and when a master claims the legal duties to be performed by his slave, and the slave refuses to perform them, and, on the other hand, if the slave shows his readiness to perform his legal duties, and the master demands those services from him which he cannot legally demand, in both cases the magistrates ought to regulate the duties to be performed by one and those demanded by the other, punishing the deviating party. When the magistrates find that a suit has been instituted falsely, they may be at liberty, after investigation, to inflict such punishment upon the plaintiff as they would in any other case brought forward for purposes of vexation. The punishment, however, on the score of relation of the master and slave, should not be mitigated or extended.

Notwithstanding "the indulgences which in criminal matters were granted them (the slaves) by the Mahomedan law," I do not conceive that our courts can lessen or extend their protection to slaves on complaints preferred by them of cruelty or hard usage against their masters, or any other wrong-doers than to freemen.

On perusal of the printed case of Nujoom-oon-nissa, it does not clearly appear that the state of bondage of Zuhoorun was legal; and until the real fact of her bondage be ascertained, it would be presumptuous to say that the Nizamut Adawlut were guided by no law in ordering the emancipation of Zuhoorun, as by the mere term of "slave-girl" mentioned in the report, her bondage was not legally established. So few individuals at present exist who can legally be called "slaves," that I am inclined to suppose Zuhoorun must have been considered as a nominal slave-girl, and not according to law. Had her bondage been established, I should then say that the court had passed the order according to "good conscience;" having themselves laid down in their circular, that the "maltreatment

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ment is not legally a sufficient cause for emancipation, and that the ruling power has on that ground no right or authority to grant it."

Laying aside the conflicting doctrines of the laws of our native subjects regarding "the unlimited power of masters over their slaves," I am of opinion, that the maltreatment of a Hindoo or Mussulman slave by his Hindoo or Mussulman master must be considered as an offence cognizable by the criminal courts, who "would never permit the plea of proprietary right to be urged in defence of oppression," and should punish the parties as they now do for the maltreatment of a wife by a husband, and son by father.

The Hindoos, according to their own law, become slaves to individuals in the direct order of classes, but not in the inverse: such as men of the Schatria (military), Vaisya (commercial), and Sudra (servile) classes may be slaves of Brahmins, and Vaisya and Sudra of Schatrias, and Sudra of Vaisyas. But under no circumstances can a Brahmin be a slave to any of those classes of people. The Hindoo law prohibits a Hindoo to associate with Jovuns (Mussulmans), as it is laid down that the Mussulmans are lower than the lowest class of Hindoos: in consequence of which, no Hindoo, I think, can ever be a slave to a Mahomedan, though the latter may be so to the former. Mahomedan slaves could be of but very little service to a Hindoo master, for the Mussulmans are not allowed even to enter the houses of respectable Hindoos. Should a Hindoo become a slave to a Mahomedan, he loses his caste, and if he perform the services which his Mahomedan master can legally claim, he is degraded from his caste. According to the Mahomedan law, I believe, the Hindoos may be slaves to Mussulmans who can demand duties from Hindoo slaves, by the performance of which the latter become degraded. I am, therefore, of opinion that it is better for us not to maintain any claim of a Mussulman master over a Hindoo slave, and *vice versâ*; but in a suit regarding slavery, in which both the parties are of the same caste, the court should act according to that law which is followed by the parties concerned.

No. 34.

ANSWER of Mr. *C. Phillips*, Judge of Zillah Jessore, dated 11th January 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

MY experience in judicial business has been limited almost exclusively to what has come before me at Jessore. I have been here exactly five years, during which period, not one complaint or suit connected in the most distant degree with slavery, either as respects the protection of the slave or the rights of the master, has been brought forward. Neither do I find on inquiry, or from the records of the court, that cases of such a character had been previously tried and decided on by my predecessors. I am consequently unable to give the information required in regard to the practice of the zillah courts, or, indeed, any information tending to throw light on the several points noticed by Mr. Millett's letter. The subject in discussion had never before attracted my particular attention. On the questions proposed in the two concluding paragraphs of Mr. Millett's address, I beg to state, that, in investigating and deciding on such cases, I should be guided by the custom which might be proved to have existed previously, provided that, under the circumstances of the particular case, the custom appeared just and reasonable.

No. 35.

ANSWER of Mr. *Donnelly*, Officiating Magistrate, Jessore, dated 4th March 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

I BEG to state, that, so far as I can learn, there are not any slaves in this district; and the omla tell me that no case of this description has been tried in the court for 30 years. Prostitutes are in the habit of purchasing young female children, and petitions are occasionally preferred of their having absconded with their cloths, &c., but it has always been the practice of this court to declare the girls free, and to refer the plaintiff to the civil court for the recovery of the cloths. Children of both sexes are occasionally purchased from their parents, especially during seasons of scarcity; but these can scarcely be considered slaves, as, on arriving at maturity, they either stay with or leave their masters as may suit their own pleasure and convenience.

No. 36.

ANSWER of Mr. *Maxwell*, Judge of Zillah Backergunge, dated 14th September 1836, to the Register of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, Fort William.

2. THE reference made by the law commission is, I believe, more strictly applicable to the western provinces of India, where the system of slavery is understood to be comparatively in much more general practice than in the province of Bengal; and as it embraces a subject of which, during the short period of my career as a judicial officer, I have had no official cognizance, I regret my inability to report from practical experience on any of the points noticed in Mr. Millett's letter, or to supply from the records of this court any information calculated to further the inquiry undertaken by the commission.

3. From the inquiries I have made among the better-informed natives of these parts, I am induced to believe that the system of servitude or slavery practised in many parts of India is, if not almost unknown in this district, at all events much less general than in parts further eastward, and more particularly in the districts of Chittagong and Dacca, where a species

species of vassalage is understood to be pretty generally acknowledged and practised; and this belief seems to gain confirmation by the almost total absence from the records of this court of all cases involving either questions of slavery or the right and title to persons doomed to servitude of that description.

4. In this as in most other parts of the country, I believe, individuals composing this class of the community emanate and have emanated from the lowest orders of the agricultural population, who from indigent circumstances, the result on almost all occasions of unfavourable seasons and failure of crops, have been deprived of the means of supporting their offspring, and have been compelled to abandon them for protection and support into the hands of the more opulent, to whom they remain bound in voluntary servitude, until by misconduct or other contingency they forfeit their claim to the patronage of their supporters, and are driven to seek a maintenance elsewhere. That distress occasioned by the above causes has been severely felt in most parts of this district during the last few years is indisputable; but I have not heard that such contingency has contributed in any material degree to increase the proportion of persons comprised within the present inquiry.

5. I am not aware to what extent the rights of masters over the persons and property of their slaves may have been practically recognized by courts of justice in other parts of the country, where the system of slavery is more general than in this, and where questions arising out of disputes between the parties may have received judicial cognizance and investigation; and I am precluded from referring for such information to the records of this court, before which no questions of the above nature seem ever to have come under discussion. But I may be allowed to remark, that the custom and usage of the country are understood to recognize in such cases the paramount authority of the masters over both the property and person of the slave; and, as far as I have been able to learn, such usage has been generally admitted by the courts of justice as a guide to regulate their decisions in cases where the relative rights of the parties have been agitated.

6. As regards the power vested in the master over the person of the slave, the Mahomedan law, I believe, equally with the usage of the country, recognizes the right of the former to exact from the slave every species of labour proportioned to his ability and strength, and in cases of insubordination, or insolence to his superior, or of desertion from his service, the infliction of slight manual chastisement, while in other cases involving gross misbehaviour on the part of the slave, and generally, I believe, in cases of emergency, the master is at liberty to transfer his right to the latter by sale to others, on which occasions the property of the slave reverts to the master.

7. These principles have, I am informed, been recognized and admitted in most judicial decisions throughout those districts where the system of slavery is most general. But in all complaints of the wanton abuse of power or maltreatment preferred by the slave, the master (who is equally inhibited from the exercise of undue severity or oppression towards his slave, and enjoined to afford him protection and the means of sustenance and clothing proportioned to his substance) becomes, on conviction, liable to all the penalties prescribed for such violations of the law, unless it be proved to the satisfaction of the presiding authority that he was acting in the exercise of his acknowledged right of coercion for dereliction of duty; and the same principles and the same law are understood to guide the adjudication of all cases, whether the parties be of the Mahomedan or Hindoo faith.

8. Adverting to the points mooted in the concluding paragraph of Mr. Millett's letter to the register of the courts of Sudder Dewanny and Nizamut Adawlut, under the Agra presidency, I regret that my own inexperience has not prepared me to offer an opinion on the questions therein propounded, and my inability to adduce any precedents indicative of the mode of procedure adopted by the courts in cases of the nature described. After a careful review of the records of this court, two cases only relating to the present question have met my observation, and in both cases the adjudication was conducted in the first instance before the moulovy of the court, in his capacity of sudder ameen, and the claim of the plaintiff thrown out. In the former case a person, by name Koodrut Ullah, sued to obtain possession of two persons named Sheikh Manick and Teetye, whom he claimed as slaves purchased by him for the sum of 31–8 rupees. But it appeared, on investigation before the court, that the defendant, Manick, had previously sued the plaintiff for arrears of wages; and this being deemed proof positive of the worthlessness of the charge, the claim to slavery was thrown out as wholly unfounded, and this decision was confirmed in appeal to the judge on the 13th January 1821. The second case involved a claim on the part of two individuals, named Koorban Ullah and Miher Ullah, to the persons of Chundah and Asghurreah, as hereditary slaves, and the damages were laid at 64 rupees. But the claim was dismissed by the moulovy on the 7th September 1820, on the grounds that no claim to slavery on persons of Mahomedan faith could be deemed valid in the absence of a regularly-executed deed of sale, or other equally conclusive proof. This decision also was confirmed in appeal to the judge, who took occasion to remark in his proceedings, that, in the original plaint, the plaintiffs had asserted a right to a share of 8½ persons, of whom 4½ were claimed as hereditary property, and that such claims were wholly untenable as regarded the human species; and with reference also to the decision of the moulovy, who had declared that the Mahomedan law prohibited persons from consigning to slavery for an indefinite period, and restricted to a temporary transfer in form—an obligation which was alone binding on the person so consigned, and not on his heirs.

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ANSWER of Mr. *Stainforth*, Magistrate of Zillah Backergunge, dated 10th September 1836, to the Register of the Sudder Nizamut Adawlut, Fort William.

No. 37.

2. As a general rule, I conceive it to be my duty to interfere between master and slave as little as possible. I should not aid in giving possession of a slave that may have quitted his master, and of any clothes or ornaments used by him. On the other hand, I should interfere to prevent a third party attempting to take away a slave against the will of the owner.

3. In any case of maltreatment that might come before me, I should consider the relationship of master and slave analogous to that of master and servant. Refusal to perform a service due would in either case be held by me to be a palliating, and, in cases of trivial assault, perhaps a justifying, circumstance.

4. No cases of the kind alluded to in the 3d paragraph of Mr. Millett's letter are on record here.

5. I should punish a Hindoo master for maltreating a Hindoo slave under the Mahomedan law, never referring to the Hindoo law in criminal cases.

6. The questions contained in the 4th paragraph of Mr. Millett's letter relate to the civil court, from the judge of which they will doubtless elicit full replies.

7. Dealing in male slaves has nearly, if not entirely, ceased in this district; plentiful harvests, the difficulty of retaining male slaves against their will unless they are married to slave-girls, together with the circumstance of male servants being easily procurable and maintained at less expense than slaves, have contributed to cause the cessation of the traffic. The few male slaves in this district are nearly all kept only to ensure the stay of the females.

8. Females are less frequently sold, and I am not quite sure that an indistinct notion of the regulation regarding slavery may not be one of the component causes of this; for I am given to understand that the mode of obtaining girls for the purposes of prostitution is now generally mortgage for a long period,—the amount paid being without interest, the service without remuneration.

9. Many Hindoo women voluntarily become the slaves of private individuals, being Hindoos. They are widows who have not preserved their chastity, and who have quarrelled with their relations, or have no other means of obtaining a livelihood. They are taken into families whose caste allows of water being received at their hands; and if such a slave become pregnant (as her master would have the discredit of it), means are either used to cause abortion, or the woman is turned out of the house. In the latter case, she either preserves her child and becomes a prostitute, or brings on abortion; and if this is effected without being generally known, she may be admitted into some other family, or even be received back into that which she left, otherwise she becomes a wandering beggar under the auspices of Kishun.

10. Hindoo girls purchased for ordinary slaves, or who are born of married slaves, are of course given in marriage before they are sixteen years of age, for after that age, if they are unmarried, it is improper to receive water at their hands. The marriage is sometimes with a freeman; but seldom, as the match is not creditable to the husband. In other cases, as the male slaves are few, several women are married to one of them; or, lastly, they are married to Byakaras, professional bridegrooms, who, receiving three or four rupees, marry slaves, cohabit with them for a short time, and quit after the fashion of the Koolin Brahmins.

11. If the slave become pregnant when it could not have been by the Byakara, he is sought for and induced by a present to come and cohabit with her for a short time, to divert suspicion of the paternity from resting on the master. If the Byakara cannot be found, abortion is resorted to, or the woman is turned out.

12. The profession of a Byakara obtains among the Mussulmans,—the birth of a bastard child in whose house is not necessarily discreditable. A Mussulman generally marries a slave-girl born in his house to some one who will live by his house. Such husbands often serve elsewhere; but the wives, perhaps from motives of jealousy, are not allowed to do so.

13. Male slaves, born in a house, seldom marry slave-girls, but often leave their masters and marry the daughters of villagers.

14. There are no women servants in the interior of the district. They would not be preferred; as temporary servants would more frequently give rise to scandal, and be more disposed to aid and abet in intrigues.

15. The female slaves of ordinary persons are generally well treated; for they can easily run away, and they are looked upon by the children, whom they have brought up, with great affection. But it is to be feared that the slave-girls of powerful zemindars, whose houses are surrounded by their own villages, through which escape is almost impracticable, are often treated with oppression and cruelty.

No. 38.

ANSWER of Mr. *W. Dampier*, Commissioner 16th Division, Chittagong, dated 1st October 1836, to the Register of the Sudder Nizamut Adawlut, Fort William.

3. I AM not aware that the magistrates consider the relation of master and slave as authorizing any less degree of protection than that afforded by them to servants, excepting that I do not think any magistrate competent to interfere in the release of a slave from confinement in his master's house on a petition; because, if that authority was once admitted, slavery under the Mahomedan or Hindoo law would cease to exist, as a petition alleging confinement would, at any time, insure release.

4. A magistrate

4. A magistrate is, I consider, authorized to interfere in cases of cruelty or severe maltreatment only. But as no law is laid down, the practice of affording the assistance varies much,—some officers entirely separating the slave and master, whilst others deem it sufficient to take security for the future good conduct of the master.

5. I do not think that in the lower part of India many, if any, slaves held on a strictly legal tenure are to be found in the possession of Mahomedans. Those called the families of hereditary slaves have merely performed services of slavery for several generations,—the mode of acquiring a property in them not being at present known; and if they came into court, the ownership could never be maintained.

6. The slaves are, however, so exceedingly well treated in general, and there is such a necessity for having them in respectable families to attend on the females, that they may be considered, as a class, to be better off than those of their countrymen who live by labour; but there no doubt exists a great necessity for a law distinctly defining what slavery is, both with Hindoos and Mahomedans, the rights of their masters, and the powers of the criminal courts to interfere summarily in certain cases; for all magistrates differ at present in their practice, according as their feelings on the subject differ.

7. I also think it would be highly advantageous to define more particularly the power of the Hindoos to dispose of their offspring as slaves in their infancy, and the degree of right which the purchasers have over them when they reach their full age.

No. 39.

ANSWER of Mr. *Moore*, Acting Judge of Zillah Chittagong, dated 24th February 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.

2. THROUGHOUT our provinces, the claims of masters over their slaves are admitted, but a great diversity of procedure will be found to obtain. Some officers, on an application to the criminal court, issue a warrant of arrest against a runaway slave; others, again, refer the master to the civil court. By some, a distinction is made between Mussulmans and Hindoos; admitting the latter only. It will be found, also, that some magistrates reject petitions for the mere recovery of slaves, unless coupled with an accusation of theft or of having borne off the master's property in his flight.

3. But, I apprehend, when any charge of ill-treatment or cruelty is preferred by a slave against his master, then there is but one system pursued in the trial: there is no distinction of persons; the case is decided as any other between parties both freemen.

4. The above is the sum of my experience as a magisterial officer. As relates to our civil jurisdiction, I have invariably found the claims of Hindoos to the personal services of their slaves respected and upheld. A suit for the exaction of the produce of the slave's labour has never come under my notice. I know likewise that a great diversity of practice obtains, in civil courts, regarding the admission of claims made by Mussulmans; many officers admit, while others reject them as totally illegal.

5. In this zillah, such has been the case; yet the Mussulman admits his claim cannot stand the test of his law. One case only has come before me. It was a special appeal, in the suit of a Mussulman native of some respectability, for the daughter of a poor woman that had been sold to him by the mother. The officer of the lower tribunal was a Mussulman; he threw out the claim as being contrary to the code the plaintiff was bound by, allowing him to recover back his purchase-money from the mother; and even from this, a certain sum, as the hire or wages of the girl, was deducted. The principal sudder ameen upheld, and I finally confirmed, the decision of the lower court. The principal sudder ameen was a Hindoo, still a native, and therefore alive to and self-interested on the point of slavery. He performed his duty conscientiously; and we may learn that slavery would not be sanctioned, even in a country abounding with slaves, whenever a claim may be preferred by any one who ought not to foster it; and this may be sufficient answer to the question proposed in the 5th paragraph of Mr. Secretary Millett's letter. No illegal claim would be supported, provided the judge is aware of the law. I regret to add the proviso, some officers have not given the subject mature deliberation. They may probably think that custom has superseded the law.

6. Slavery in these provinces exists only in name. It is a species of servitude almost reduced to a contract, which, if not explicit, is implied. Kindness and good treatment, sustenance and a home, are the articles on one side; faithful service on the other. A slave certainly might bear some harshness without murmur. When more than ordinary, then he would seek relief in flight, or remove with his family to the estate of some zemindar, whose protection would ensure him from any molestation except a civil suit.

7. Instances of violence or cruelty are rare,—nearly unknown. The Hindoo slave is the favoured and confidential menial. Amongst the most respectable Hindoos, the slave has the control of every thing—the surdar, as they call him. His fellow-slaves have their different offices. When they become too numerous they settle out, and are independent as far as respects property. All they acquire is their own. Only now and then, at stated festivals, they are bound to attend their masters to perform offices of service. In wealthy families, when the slaves settle out, the land on which they locate is given them, that is, the spot on which their residence is fixed, and they take and cultivate lands as other free tenants; what is more, if called upon for extra services beyond the stated festivals, they are entitled to, and receive, the regulated hire of a free labourer.

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8. The custom and habits of the Mussulmans vary from the Hindoos. The slaves of this sect are not so numerous: when they quit their master's house they make themselves free: while resident, they are his domestics.

No. 40.

ANSWER of Mr. *Bruce*, Acting Joint Magistrate, Noakhollee, to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.

1. A SLAVE can scarcely be considered the absolute property of his master, as the power of the latter over the former is not unlimited. The courts of justice are as accessible to the slave as to the freeman; and possession of a slave, who has left his master, can only be recovered by a decree of court; the property of a slave is his absolute property; he may dispose of it as he pleases, and his heirs succeed to it; if he die without heirs it goes to his master.

2. As far as regards summary correction and maltreatment, the relation of master and slave, either Hindoo or Mahomedan, appears to be viewed much in the same light as that of father and son; although, after the years of childhood, even to a more limited extent.

3. The protection afforded by magistrates to slaves against other wrong-doers than their masters is the same as that afforded to freemen.

4. I have not been able to ascertain that any court has the right to grant emancipation on the grounds of maltreatment.

5. In taking cognizance of the maltreatment of a Hindoo slave by his Hindoo master, the British magistrate is guided by the limit to the power of one man over another universally admitted in civilized communities to exist, unless extended by slavery laws by the power given in the Shasters to the master to punish his slave with a slight rod, and by his feelings as an Englishman.

The foregoing remarks are the result of my inquiries relative to the practice of the courts of justice, and are in strict accordance with the feelings of the native community.

No. 41.

ANSWER of Mr. *J. Shaw*, Civil and Session Judge, Zillah Tipperah, dated 20th June 1836, to the Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.

IN offering any observations on so momentous and important a subject, I do so with considerable diffidence, having seldom had occasion to exercise my judicial functions respecting it as judge, and never having had, as far as my memory carries me, occasion to use my magisterial authority in any one instance relating to it. I therefore cannot be expected to afford or furnish any useful or advantageous information.

2. The cases which have come under my own observation have chiefly been brought forward by Hindoo masters claiming Hindoos as their slaves; and in giving the final decisions in those cases, I have been guided by the evidence, written and documentary, the circumstances attending them, and the exposition of the law by the Hindoo law officer. But these claims have been invariably instituted for the rights and possession of the person, and not for the property, of the slave. Had they been for the latter, I should have been guided in my decisions as above stated; and a similar course of proceeding has been adopted in respect to Mahomedans preferring such claims. On perusing the few cases of this nature which have been adjudicated by former public functionaries in this district, the mode of procedure above mentioned has invariably been followed and adopted; but there has never been an instance known in the Tipperah district of a Mussulman master instituting a claim for a Hindoo slave, and *vice versâ*. Were such an occurrence as the former to take place, it appears to me that the Hindoo, entering into such a compact with a Mussulman master, and becoming an in-door servant or attendant on the family, would make up his mind, in the first instance, to renounce the tenets of his own religion, and become a convert to the faith of his master, and thereby subject himself to the Mahomedan law. In the other case, it is quite, if not more, improbable to occur, it being likewise unknown in this district, viz. that a Hindoo master would take into his family a Mussulman slave. Nay, he would do every thing to avoid taking such a step, in order that he might not inflict an injury upon his own character, and affix a lasting stigma upon his caste, family and religion. However, I have been told, that in some districts such a custom prevails; but then the slaves are never allowed to enter the precincts of the family-dwelling, and are only employed in out-door occupations. And were such claims to be preferred by either of the two sects as above mentioned, or to be brought forward by any other person or persons of a different persuasion (it being a matter of doubt in my own mind whether, under the provisions of section 9, Regulation VII. of 1832, such claims could be legally supported), I would deem it expedient and proper to have the opinion of the superior court previous to passing a final decision, the meaning of the aforesaid section being vague and ambiguous. But I should certainly not admit or enforce any claim to property, possession or service of a slave against any other than a Mussulman or Hindoo defendant.

3. I cannot bring to my recollection an instance of a slave preferring a complaint against his master for cruelty or oppression during the period I was employed as a magistrate. But had such occurred, and the charge been satisfactorily established, I should have exercised the authority vested in me by the regulations in force, upon the principle of public justice, without referring to any plea of proprietary right which might have been urged by the master; and would have deemed it my duty to afford the same protection to the slave as

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to free persons under similar circumstances. But had the master merely inflicted a slight degree of chastisement, I should have felt somewhat loath to interfere in the matter; inasmuch as slaves live in a far more easy and happy condition than their fellow-labourers living in a state of freedom do, having all their wants and comforts provided for them by their masters; notwithstanding which they are said to be lazy and indolent, and often saucy and petulant when required to perform their duty, and consequently require being corrected and slightly punished.

4. I am given to understand that in this district it is a difficult matter to hire a female servant by the month, in consequence of the dislike prevailing amongst the class of that description to enter into service; and were it not for the system of slavery existing amongst the Hindoos, and hiring of persons by the respectable Mussulmans for a certain number of years (there being but few persons who could actually be enumerated under the proper acceptation of the word "slave" now in being or extant, agreeably to the Mahomedan law, in the families of the better class of Mussulmans), great annoyance and real inconvenience would be experienced in obtaining proper and adequate attendance upon the inmates of the female department.

5. The Hindoo may perhaps exact rather more labour from his slave than the Mussulman master; but their respective degrees of ease and comfort may be viewed in the same ratio; and I cannot conclude this letter in a better or more appropriate manner than by inserting the following quotation from Mr. W. H. Macnaghten's preliminary remarks (p. 39), and in which I fully concur:—"The law may interpose its authority in cases of peculiar hardship and cruelty. I believe, however, it will be found that there is little moral necessity for such interposition." In Bengal (I beg to insert instead of "India," as I am only acquainted with the lower provinces, generally speaking), "between a slave and a free servant there is no distinction but in the name and the superior indulgences enjoyed by the former; he is exempt from the common cares of providing for himself and family; his master has an obvious interest in treating him with lenity, and the easy performance of the ordinary household duties" (and I may add common out-door work, which free persons are subjected to) "is all that is exacted in return."

No. 42.

ANSWER of Mr. *C. Allen*, Assistant Joint Magistrate, Zillah Tipperah, dated 25th February 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

I HAVE the honour to inform you, that it is and appears always to have been the practice of the magistrate's court of this zillah to afford the same legal protection to slaves in every respect as to free persons. All complaints brought by slaves against their masters or others are investigated, and the defendant, if guilty, punished in the same manner and proportion as if the charges were preferred by freemen.

2. The right of control or of punishment of slaves by their masters, being not recognized by the regulations of government, is never admitted as a plea in justification of the offence, or even in mitigation of punishment.

3. Masters are not allowed to retain a forcible possession of the persons of their slaves. On any friend or relation of a slave presenting a petition to the magistrate, stating that a slave is retained against his will by his master, he instantly obtains an order for his release, and protection is extended to him, such as to insure his future freedom.

4. In fact slavery is now looked upon by the natives themselves as extinct. They see that the days of slavery are passed, and that they have almost ceased to regard their slaves in the light of property. Slavery, even in name, would speedily disappear from among the native population, were it not for the vain and fallacious notion that prevails in the upper classes of native society, that the possession of a long train of slaves increases their respectability, and enhances their importance in the eyes of the humbler classes of their fellow countrymen.

5. Slavery, as it exists at present in this part of India, assumes the very mildest form; and I have doubt whether it be not upon its present footing rather beneficial than otherwise in a country like this. Masters now well knowing that under a British administration the only hold they have over their slaves is by the engagement of their good-will and affections, being aware that any thing approximating to ill-usage or hard treatment would be resented by an appeal to the magistrate, and followed by speedy and total emancipation, they for the most part (being accessible to the dictates of self-interest, if not to the voice of humanity,) take ample care to provide for the wants and even for the comforts of this class of their dependents; and I have known not a few instances of slaves who, being bred and born in the families of their masters, have felt and expressed for them the most tender and affectionate regard.

6. Indigent parents now sell their children, whom they are unable to support, to persons who are both able and willing to maintain them, and thus I am persuaded, that in many instances much misery is alleviated, and not a little crime prevented: for now the wretched parent only sells that offspring which famine and despair might under other circumstances have urged and induced her to destroy.

Appendix II.

Returns.

ANSWER of Mr. *J. Lowis*, Commissioner of Circuit, Dacca, dated 8th September 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

No. 43.

I HAVE the honour to state, for the information of the court of Sudder Dewanny and Nizamut Adawlut, that I do not find that any slavery cases have been tried in the commissioner's court since its institution; and that I am consequently unable to describe the practice which has prevailed in the trial of such suits.

2. As the subject treated of in Mr. Millett's letter of the 10th October 1835 is one to which my attention has not been directed, I am unable to make any observations at all calculated to throw light upon it, and consequently refrain from encroaching upon the time of the court with crude speculations which would be of no value.

No. 44.

ANSWER of Mr. *T. F. G. Cooke*, Officiating Civil and Session Judge, Dacca, dated 8th January 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. ON a search made amongst the records of this court, nine cases relating to slavery have been found: one in 1827, two in 1828, one in 1830; all these cases were decreed, and the defendants ordered to perform service, the claim on them was as hereditary slaves: one in 1832, claim as hereditary, case dismissed, there being no document, the evidence of the plaintiff's witnesses not credited: two in 1833, claim by late purchase, both dismissed, the deed in one case not being produced, the transaction not credited in the other: two in 1834, in one, claim as hereditary, evidence not credited, and what service the father of defendant performed not apparent; in the other, claim as having bought the defendant of her father and given her in marriage to his slave, dismissed; same reasons as in case above as to the service of the husband. The parties in all these cases were Hindoos.

3. I have held an appointment in the judicial branch of the service since 1821; and, I believe, have never yet had occasion to pass any order, criminal or civil, regarding slaves. In the Purneah district there were two or three cases pending; but the suits were brought on written agreements for limited periods, and the object of the suit was to get the money (paid on the execution of the deed) returned with interest, or that the person should be made to perform the conditions of the bond. They were not, however, disposed of when I left.

4. I should, however, consider myself bound to act agreeably to the Hindoo and Mahomedan laws, and as not having power to pass any modified order, unless those laws did not define the power of a master over, or the rights of, a slave; and then I should act as appeared consistent with justice and reason, and not hold the opinion, that, because the power was undefined, it was unlimited.

5. In reply to the question put in the 5th paragraph of Mr. Millett's letter, if the claim of a Mussulman over a Hindoo slave was legal by the law of the latter, but illegal by that of the former, I should dismiss the claim, giving as my reason that he could not claim under a law he did not recognize; and if it was *vice versâ*, the result would be the same, but my reason, that the Hindoo could not be held in bondage according to a law foreign to him.

6. If the claimant was neither a Mussulman nor Hindoo, but the slave was of either of those religions, there being no law on one side, and law on the other, I should adjudge the claim by the law of the slave, giving the claimant merely the benefit of the custom of the country, which admitted of slavery. Should the defendant or slave be neither a Hindoo nor Mussulman, I should not entertain the claim, there being no law to authorize his bondage.

No. 45.

ANSWER of Mr. *J. Grant*, Magistrate of Dacca, dated 6th September 1836, to the Register of the Nizamut Adawlut, Fort William.

I HAVE the honour to inform you, that it has been the practice of this court to afford full protection to slaves on complaints preferred by them of cruelty or hard usage by their masters or other persons, and that the relation of master and slave has not been recognized as justifying acts which otherwise would have been punishable, or as constituting a ground for the mitigation of punishment.

No. 46.

ANSWER of Mr. *W. H. Martin*, Joint Magistrate of Furreedpore, dated 18th January 1836 to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. IT appears to have been the practice in this court to consider slaves as under the protection of the law against the ill-treatment either of their master or others; and masters have been punished for ill-treatment on complaint of their slaves. Complaints of ill-treatment are very rare, the treatment of slaves, I suspect, being generally good, and the slaves, perhaps, running away instead of complaining, when ill-treated. The greater number of slaves belong to Mussulmans, and only a very small proportion are of that description whose

whose slavery would be legal under the Mahomedan law. This is generally known, and slaves run away or absent themselves, without, in many cases, any claim being preferred for them. In fact, I am told, that the value of slaves is small, and that they are more expensive, generally, than hired servants; and but for the convenience of them, as regards the security of the haram, they would be in a great degree dispensed with altogether. The middle class of Mussulmans frequently provide against the escape of their slaves by marrying them, under the form of nekah, and thus, in the event of their running away, they can claim as wives those whom they could not, under the Mahomedan law, legally claim as slaves, though, in fact, they are nothing more.

3. With reference to the 4th paragraph of the letter of the secretary to the law commission, I conceive that ill-treatment of a Hindoo slave would be punished under the regulations, though not actually a crime by Hindoo law. With reference to the 5th paragraph, I am of opinion that, under section 9 of Regulation VII. of 1832, a Hindoo master could not claim a Mussulman slave, whose slavery was legal according to Hindoo law, but illegal according to Mahomedan law. But there seems nothing in that provision to prevent a Mussulman master claiming a Hindoo slave, whose slavery would be legal according to Hindoo law.

No. 47.

ANSWER of Mr. *Cheap*, Civil and Session Judge of Mymensingh, dated 19th September 1836, to the Register of the Sudder Dewanny Adawlut, Fort William.

*Answer to the 1st question.**—I SHOULD suppose, when the slave belongs to a Mahomedan, that law would regulate the decision, and if a Hindoo, the Hindoo law. But custom has a great deal to do with such cases, or the law established by precedents in particular zillah courts, and also those laid down by the decisions passed in the Sudder Dewanny in appeals to that court, some of which are to be found in the printed reports.

2. As to the right of a master in a slave: from the cases that have come before me, it would seem he can dispose of the slave by sale, or gift, though the former practice is very rarely resorted to, except in cases of great distress, or when the master has fallen into decayed circumstances and is unable to support his slaves. At the marriage of daughters, it is usual in respectable families to make over to her some of the family female slaves as her attendants.

3. In the division of estates, or allotting shares under decrees of court, it is also usual (if the claim is a hereditary one to an estate) to declare what proportion of the family slaves are to be transferred to the successful plaintiff. But some difficulty always arises out of this part of the order, and generally leads to another suit.

4. A slave has been considered as available personal property, to realize the amount of the decree; and in the instance of a native of India who held a decree, he put in, among the schedule of property belonging to the defendant, his slaves; but these I struck out. They are now never recognized as assets; for if the court proceeded to sell them, it would in fact become a slave-market.

5. I am informed it has not unfrequently happened that a slave has purchased the freedom of himself and family from his savings; thus establishing that the property possessed or realized by a slave in servitude is his own.

6. The property, however, of a slave reverts generally to the master at his death, and the former often succeeds (by will) to the property of his master. If there is, at the marriage of a slave, an understanding that his progeny are not to be slaves, then the children would succeed. But slaves seldom have any thing to leave of their own, their clothes and every thing they have on, or what they have for use, belong to their masters, who provide them with every thing; and unless he becomes a minion or favourite, it is impossible for him to accumulate any money.

7. The property of eunuch slaves (and who are only retained or to be found in the households of nawabs and very wealthy Mahomedans) invariably devolves, on their demise, to their masters; and many landed estates have thus reverted to the nawab nazim of Bengal, at Moorshedabad, which I learnt from the late Mr. F. Magniac, for some time Governor-general's agent, and many years judge and magistrate of that district, and under whom I was employed as register and assistant, and, being my brother-in-law, had many opportunities of hearing these particulars.

8. Magistrates rarely interfere in matters connected with slaves, whether with regard to their absconding or refusing to perform service, or any other act connected with his position as a slave, leaving the complainant to seek redress in the civil courts, to which the investigation more properly belongs; and, for the same reason, claims to the property of deceased slaves never become a subject of inquiry in a criminal court; and I have not met with a single instance of a disputed claim of this kind in this zillah court.

9. *Answer to the 2d question.**—I do not recollect a justificatory plea, that the person maltreated or abused was the defendant's slave, being ever urged for such treatment. In this district (except from girls in the houses of prostitutes, and which I shall notice hereafter)

* *See* Letter from the Law Commission, No. 1 of this Appendix.

hereafter) I cannot bring to mind any complaint of this kind brought against a master by his slave; and I hardly suppose that any magistrate would admit such plea, and the relative situations of the parties, as a mitigation of punishment.

10. The only crimes or offences in which, such a plea being urged, might possibly influence the law officer, is that of the rape or carnal knowledge of his female slave by a Mahomedan, on the plea of his conceiving her to be lawful to him;* and in this respect the Mahomedan law allows a great latitude. How far this defence would be allowed, or a bar to punishment by the Nizamut Adawlut, and excuse a man having forcible connexion with his female slave, whilst living under the protection of the British rule in India, is a point which has not, I believe, been yet determined.

11. I recollect some years ago, a Kidmutgar, or some domestic of the late Miss Thornhill's, being hanged in Calcutta for a rape on a native girl that lady had brought up, and who probably was disposed of by her parents for a few rupees. I do not insinuate she was considered or treated as a slave; but I doubt whether, under the Mahomedan law, a sentence of "hudd" or lapidation would have been warranted under the circumstances; and the crowd whom I met coming away from the execution seemed to express some surprise at the severity of the sentence. I believe in no instance has a capital one issued from the Nizamut Adawlut for rape.

12. I do not quite comprehend the latter part of the question relating to the indulgence which in criminal matters was granted to slaves by the Mahomedan law. A slave poisoning his master has had judgment of death.† But what would be held larceny in a servant, amounts only to fraud or embezzlement in a slave, under the Mahomedan law, and seems to have been allowed by the Nizamut Adawlut.‡

13. Persons are, by the English law,§ excused from those acts which are not done of their own free will, but in subjection to others; but as regards persons in private relations, this only renders a wife excusable. Neither a child nor a servant are excused the commission of any crime, whether capital or not, done by the command or coercion of the parent or master. In the case of the garrow and his bondsman,‖ the relative situations, however, appear to have operated in mitigation of punishment as regards the latter. In the Cuttack case,¶ the offence having been committed before the criminal court had jurisdiction in the province, appears to have led to a remission of punishment altogether; but, as I have already said, not exactly comprehending the purport of this question, I cannot enter more into it; and, besides, it is more a subject for the Nizamut Adawlut than a subordinate authority, with little experience, to dwell upon.

14. *Answer to the 3d question.***—I am not aware of any case in which the courts and magistrate have afforded less protection to slaves than to free persons against other wrong-doers than their masters. It would be inconsistent with that principle of equal justice which is the boast of the British rule, and which was the object of all the amendments and modifications of the Mahomedan law enacted in the regulations.

15. In an affray where a slave was killed†† and "deeut" declared to be incurred in consequence by the futwah, no distinction seems to have been made in the punishment of the prisoners convicted, because the deceased was a slave.

16. In the case of a kazee and moonsiff‡‡ of this district, who inveigled a woman and her daughter (who were Syuds) on the pretence of marrying the latter to a relation, and who instead married her to one of his slaves, the former and his moolah were both fined by me. The commissioner (Mr. Tucker) enhanced the punishment, and added imprisonment. The court of appeal, to whom the latter circumstance was reported for their information and orders, removed the moonsiff from his appointments (kazee and moonsiff), and in appeal to the Sudder Dewanny Adawlut, the court affirmed the order, remarking, however, that the provincial court had no authority to remove the kazee, whose removal or dismissal rested with the superior court only.

17. At Patna, a practice which prevailed among masters, of putting chains on their runaway slaves, was interdicted by Mr. T. C. Robertson, when officiating magistrate of that city, and used to be cited when I was employed as an assistant there in the year 1821. I believe that, in some instances, in consequence of such illegal duress and other maltreatment, the slave was both released and allowed to go at large by the magistrate, after punishing the master, leaving the latter to seek redress in the civil court. But whether declared "emancipated" I cannot state. I used to hear the subject discussed among the civil authorities, and among whom were Messrs. Fleming, Newnham, Tippet (the late), and J. B. Elliot; and the last-named is still there, and I dare say could furnish information on the subject

* If a master should have connexion with his female slave before she has arrived at the years of maturity, and if the female slave should in consequence be seriously injured or should die, the ruling power may punish him by tazeer and akobut.—Answer to the questions put to the mooftees of the Nizamut Adawlut, Alexander's Magazine for July 1834, p. 17.

† Buddeen Kuhar's case, Nizamut Adawlut Reports, vol. 2, p. 19.

‡ Case of Chumelee and Nusseem, an African. Ibid. vol. 1, p. 233.

§ Russell on Crimes, &c. vol. 1, p. 15.

‖ Case of Barong and another, Nizamut Adawlut Reports, vol. 3, p. 140.

¶ Neelcunth Mugraj and others, vol. 1, p. 160.

** *See* Letter from the Law Commission, No. 1 of this Appendix.

†† Case of Husan Alli and others, Nizamut Adawlut Reports, vol. 2, p. 381.

‡‡ Mahomed Sajeid's case, late moonsiff of Attya.

subject if required, and the nature of slavery generally at Patna and the adjoining districts.

18. *Para. 1st to 3d question.**—The rules contained in the 5th section of Regulation X. of 1811 were virtually superseded by the statute cited in Mr. Millett's letter (51 Geo. 3, cap. 23), which again has been repealed by the 5 Geo. 4, cap. 113; and sec. 9, particularly declares and enacts, that the dealing in slaves on the high seas by any subjects of his Majesty, or any persons residing or being within any of the dominions, forts, settlements, factories or territories now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the United Company of Merchants trading to the East Indies, is to be deemed "piracy, felony and robbery, and punished with death," except in such cases as are permitted by the Act.†

19. The most recent Indian enactment on this subject is Regulation III. of 1832, which makes the dealing or trafficking in slaves a misdemeanor only, punishable summarily by the magistrate by fine and imprisonment. What a difference in the offence and also the punishment!

20. But so long ago as July 1789, the Governor-general in Council issued a proclamation ‡ adverting to the practice of dealing in slaves then prevalent, and to prevent it in future, and to deter, by the most exemplary punishment, parties from being concerned in such an inhuman and detestable traffic, government resolved to prosecute, in the supreme court, or before the magistrate of the place or district in which the offence was committed, at the expense of the Company, all persons who might thereafter be concerned in such trade; (the proclamation also laid down sundry regulations for the discovery of offenders and prevention of the trade;) and on the 30th of the same month and year, a Captain Horeborrow, of the ship Friendship, appears to have been indicted and convicted, in the supreme court, for assaulting and carrying away forcibly to the Island of Ceylon, and there selling as slaves, natives of India, procured through a French resident at Chandernagore.§

21. Neither the Act of Geo. 4, or Regulation III. of 1832, lay down where the venue of the offence of trafficking in slaves is to be. But in the case of persons to be tried under the Act, questions as to jurisdiction are likely to arise, if the trading was not from the port of Calcutta. There are other places, as Chittagong, and the sides of the Bay of Bengal, where it might be carried on by the natives of India, even to Ceylon, and also to Egypt, by the Arab ships. For the offence of serving, or procuring others to serve, foreign "states," the trial is to be where it was committed, "which is the place where the party passed out of the kingdom:"‖ and so might persons charged with this traffic from the port or place they had left, or were about to leave; but then the punishment must be made to correspond, or the difference at present between the statute and regulation made to assimilate. In making the observation, I beg to be understood not to advocate or propose a punishment near so severe as that denounced under the statute.

22. For the reason stated above (at the latter part of paragraph 13th), I do not venture to give any opinion on the other topics noticed in the paragraphs or clauses appended to the third question, except that there can be but one opinion with regard to the affirmation quoted from Mr. Macnaghten's Principles of Hindoo Law, "that the courts of justice are accessible to slaves as well as freemen, and a British magistrate would never permit the plea of proprietary right to be urged in defence of oppression towards a Hindoo slave." Another authority (the late Mr. Dorin) has recorded "that the Hindoo law, as regards its ideas of criminal justice, is nonsensical,"¶—an opinion very generally entertained, I believe.

23. The construction of the Sudder Dewanny (confirmed by the government) would also appear to me to have reference only to the civil courts in suits regarding slaves, and not to the authority possessed over them "in for domestic," and exercised immoderately or unreasonably, either in the measure of it, or the instrument made use of for that purpose, by the master of a slave. *Sic orig.*

24. *Answer to the 4th question.**—The foregoing remarks apply to this question, and it may be added, that a magistrate (I presume) under the general regulations is bound to take cognizance of any complaint made by a slave, and, if well founded, to punish his master when convicted of being either a principal in the first degree, or second, or an accessory before the fact.

25. The act of indemnity obtained for the begum or relation of the nawab of the Carnatic, and who was tried at Madras for ordering her slave to be beat (who died afterwards), was not, I believe, on account of the offence not being cognizable by the supreme court there, but because the defendant would not appear personally before the court,—pleading the custom of the country as exempting her from such personal attendance, and adding, that her appearance in public would be a disgrace to the whole family of the nawab.

26. *Answer*

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* *See* Letter from the Law Commission, No. 1 of this Appendix.
† Russell, vol. 1, p. 164, *et infra.*
‡ Colebrooke's Supplement to the Digest of the Regulations, p. 444.
§ Auber's Analysis of the East India Company, 697.
‖ Russell, vol. 1, p. 92.
¶ Nizamut Adawlut Reports, vol. 2, p. 247.

Appendix II.

Returns.

26. *Answer to the 5th question.**—This is a very difficult question in all its ramifications, and I approach it with the utmost diffidence. "Fools rush in where angels dare not tread," may be applied to me for venturing to give any answer, but, as presiding over a court of primary instance, I suppose it as incumbent upon me to give an opinion.

27. In either of the two first cases† proposed, I would support the claim if the contract was made with an adult, and the claim was for the person sold on the *lex loci* and usage, and also because both parties have heretofore been allowed to sell themselves into slavery, and both have had the privilege to purchase slaves.

28. I would also, in special cases, support the claim, when the slave claimed had been in its infancy sold by his or her parents,—I mean in the extreme cases of famine and scarcity.

29. In the famine, some three years ago, in Bundelcund, the lives of numbers of children purchased, without reference to their castes, by wealthy Mahomedans and Hindoos, were saved; and if slavery had then been prohibited, it is more than probable they would have been abandoned and left to perish, or to be devoured by wolves and hyenas.

30. Mr. D. Scott has observed,‡ "that the necessity to government (meaning of India) to maintain, in times of scarcity, the starving poor, is a thing in itself perhaps impossible," and it would have been so in the case of the refugees from Bundelcund. The philanthropy of individuals (among whom I may enumerate with pleasure and pride my friends, Messrs. Shore and Rivaz), though it did much good, could not meet the exigences of the hundreds without means of subsistence §. Slavery, in the mild spirit in which it is established in India (under the British rule) was therefore on that occasion allowed to have a beneficial operation, as regarded individuals, and to the state, in saving its subjects from the horrors of famine, and its concomitants, rapine, robbery, and even murder, by the exposure of infant children.

31. It cannot be necessary for me to explain what I mean by the *lex loci*. It has its influence and weight, even where defined laws exist, and which (though made for a different people) have been transplanted to India by her Mahomedan conquerors. In the Hindoo law, as adopted in the civil courts, it has, like the common law of England, become a constituent part; and a *bonâ fide* contract entered into by an adult could not equitably be set aside, because there is no precedent in Menu for the legality of the purchase of a Mahomedan by a Hindoo.

32. The Vedas are supposed to be considerably older than the laws of Solon or even Lycurgus;‖ and the best commentaries, I believe, were written before the birth of Mahomed.

33. The present ambassador of the king of Oude, in London, or any other Mahomedan who ventured to marry one of Britain's fair daughters, whilst sojourning there, would, if before married in India, be likely to be brought up for bigamy.

34. The supreme court in Calcutta, in its ecclesiastical jurisdiction, grants probate to the wills of both Mahomedans and Hindoos; and though the conclusion may seem somewhat illogical, these well-understood operations of the *lex loci* surely would not make it wrong in a Mofussil judge recognizing or supporting a claim of the nature proposed in the fifth question, under the circumstances I have stated, and which, in my humble opinion, would be consonant both to justice and equity.

35. I beg, however, to be understood, that I should not recognize or support any claim to the progeny of such slaves, or allow that they were servile, or that the master had any hereditary claim of slavery against the offspring.

36. Neither would I admit or enforce any claim to the property, possession or service of a slave, except on behalf of a Mahomedan or a Hindoo claimant; nor would, I think, any other civil court; though there can be no doubt children are often purchased by Protestants, Roman Catholics and also Greeks, and brought up, not as slaves, but menials, in the creed of the purchaser; and the girls are christened or rejoice in the most florulent nomenclature, such as "Rosa," "Narcissa," "Jessamina," &c.

General Remarks.

37. Slavery is very prevalent in all the districts in the eastern frontier, both among Mahomedans and Hindoos, and more so in the adjacent district of Sylhet, I believe, than any other.¶ (In the time of the Moguls it is said to have been a slave-market for Bengal.)** Claims on account of slavery, or the loss of services, by masters of the Mahomedan persuasion, however, are not frequent; but Hindoo masters are constantly instituting suits in the court.

38. I attempted

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* *See* Letter from the Law Commission, No. 1 of this Appendix.

† In this district, the sale of children by Mahomedans to Hindoos is not uncommon, but not the converse. In Behar, the Kuhar caste sell themselves to both Hindoos and Mahomedans.

‡ Mr. Scott's Report, in Alexander's Magazine for August 1834, p. 125.

§ But in such cases the mooftees seem to think it would be better for "a famished man to feed upon a dead body (!) or rob another (!!) than to sell himself; and that a distressed debtor is not liable to any fine or punishment," but nevertheless they are constantly incarcerated at the instance of inexorable creditors.—*See* answers of the mooftees cited above.

‖ Opinion of Sir William Jones in his preface to the translation of Menu.

¶ *See* Mr. Scott's Report.

** Picture of India, vol. 1, p. 173.

38. I attempted to lay down some rule for regulating how the cause of action in such cases was to be calculated, and submitted the propositions for the orders of the Sudder Dewanny Adawlut. The court, however, directed me to furnish an English report; and surmising the subject was one they (perhaps) did not wish to have mooted, and having other and much more important duties, I did not like to trouble them with my crude suggestions, and which were chiefly with a view to the court establishing (by a rule of practice) how the loss of services of each individual slave was to be estimated, as often a whole family were included in one suit of perhaps eight or ten persons, and in one instance the suit was laid against so many, that the amount of action or damage did not amount to a rupee per head!

39. Suits used also formerly to be instituted for loss of service, after the lapse of many years, from the plaintiff's own showing; that is, the slave had absconded, or ceased to do service, for perhaps six or seven years, and often a longer period.

40. I put an effectual stop to the institution of these stale cases, by dismissing them (whether in a regular suit or in appeal), whenever the cause of action (*i. e.*, the default of the slave in performing service, or his absconding and leaving his master) occurred more than a year antecedent to the date of the suit being instituted, and which I was warranted in doing under section 7, Regulation II. of 1805, as the suit was always denominated one for "kissara," or personal damages, and may be viewed much in the same light as an action for seduction would be in the English courts. A stale case, under such circumstances, would be scouted. And after a slave and his family had established themselves in some respectable employment, to recognize a claim against them for slavery (and which had become dormant) appeared to be both contrary to the spirit of the section and regulation cited, and otherwise objectionable, as allowing such a claim to hang indefinitely over the head of a man, who perhaps had been manumitted by the ancestor of the plaintiff.

41. Again; another practice prevailed in the zillah, of claiming a right of slavery over the descendants of persons who had, in the first instance, on receiving a small portion of land, bound themselves down as bondsmen or slaves to the proprietor of the soil, in a menial capacity, or probably as mere cultivators of the land lying waste, the land then given in perpetuity being equivalent to such service.

42. In these cases, the original agreement between the parties (if drawn out in writing) was never produced; and it appeared to me so unjust to allow or recognize such a demand or claim of slavery against the descendants (and who in many instances did not reside on the ground thus allotted, or, if they did, could never subsist on the mere pittance of land granted to their ancestor), that I dismissed all these claims. And one having been affirmed in appeal by the Sudder Dewanny Adawlut* (by Mr. Rattray), this is now adopted as a precedent, and no suits of this description are now instituted, though, before, they formed at least one-third of the slavery causes on the file.

43. It has been the invariable and immemorial practice, in this zillah, to order, in slavery cases, when the master has got a decree, that both parties shall pay their own costs, that is, the slave defendant has never been saddled with costs, and, in fact, it would be ridiculous to suppose they could ever pay these.

44. I may also mention, that I have never seen the damages or action laid at so high a rate that the most indigent person could not defend it, or an instance of an application (on the score of inability to pay costs) to be allowed to appeal *in formâ pauperis*.

45. I have already noticed that slaves, if entered in the schedule as available assets for the execution of decrees, have always been struck out, and which, if allowed, would (as I have before observed) be making the civil courts marts for the sale of slaves.

46. I have likewise noticed how they (the slaves) have been occasionally divided or "butwarred" in the execution of decrees, when the decree-holder has a hereditary right, under such decree, to a portion of the estate, and also personal property (in which slaves are included) of his deceased ancestor.

47. I may mention that, with the exception of the suits alluded to in paragraph 40, those instituted and decided have been mostly for persons and their descendants who originally sold themselves into slavery for a specific sum of money, or to liquidate a debt due to the master, or some other debt against the person disposing of himself.

48. It will be seen from the annexed statement what proportion of suits have been decided (whether in the first instance or in appeal) from the 1st January 1828 to the 30th June 1836, (or seven and a half years), in favour of the master or slave.

49. The suit, in the first instance, was generally referred for decision to the sudder ameens; if a Hindoo claimant, to the Hindoo sudder ameen; and if a Mahomedan, to the sudder ameen of that persuasion.

50. A principle seems to have been established, in a late case decided by the Sudder Dewanny Adawlut,† which, though not applicable to the other cases, will be a great one in favour of slaves. The admission of a party in any court, I believe, is good evidence against him, but the more so if such is made on oath by the party.

51. In the case alluded to, the slave admitted, on his oath, in the Foujdary court, that he was the slave of the plaintiff, but this admission was not allowed by the superior court as evidence for the plaintiff, or admitted as contradicting or controverting the appellant's plea, that

* Kishen Chunder Dutt Chowdry, appellant, *v.* Birbul Bhundari, and others, respondents, decided the 24th November 1832. *See* Appendix III., No. 4.

† Kertee Narain Deb and others, appellants, *v.* Goree Sunkur Dutt, respondent, decided the 7th December 1835. *See* Appendix III., No. 6.

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that he was not a slave of the plaintiff or respondent. The Mahomedan law officer and sudder ameen gave the plaintiff a decree, with reference to the defendant's deposition in the Foujdary court, and this (in the absence of a precedent then to the contrary) I affirmed in appeal, seeing no reason to distrust what the defendant had admitted against himself.

52. It may not perhaps be considered unconnected with the subject to mention a marriage ceremonial very common, I understand, in this zillah, among the large Hindoo proprietors of land; and the greater part being females, the practice the more generally obtains. It appears to be confined much to this part of India, and, from the pundit's bewusta, would appear not to be authorized by the Shasters, but has the sanction of custom, on which, I believe, all Hindoo law officers place almost equal dependence.

53. It is the marrying of female slaves to a person who makes it his occupation to go about and offer himself as a husband for any slave. This is called a "Punwah Shadee." The bridegroom receives a few rupees, sometimes only two, and a cloth. He stays a night after the ceremony is performed and then departs, and is generally called upon to visit his wife after she has been confined. This nominal marriage (for of its consummation some doubts may be entertained) removes any stigma or reflection that might arise from a female slave being *enceinte*; but as her being so again would, without another visit from her avowed husband, lead to suspicion or scandal, he is again called in, as I have above stated, after her delivery.

54. Of the offspring of such marriages, the putative father (who is a freeman) may, I believe, claim every alternate child, but it is not often, I believe, that he avails himself of this privilege; for if he did, and his wives were prolific, he would find it difficult to provide for his numerous family, and paternal feelings cannot have much to do with the matter. He is, in fact, much the same as a Koolin Brahmin, and may form as many marriages,—with this difference, that the latter confers an honour on the family where he makes an espousal, and the Punwah Battur saves the reputation of a slave who may become pregnant in the household, perhaps of that very Koolin's wife's family, or any other wealthy Hindoo's.

55. A case I had in the Foujdary, where the complainant alleged his wife had been illegally detained by a young zemindar, first led to my inquiring into this practice. The case was amicably adjusted, and I never heard any more of the itinerant husband and prosecutor. The bewusta alluded to was given in this case.

56. With the exception in the above case, I believe the offspring of slaves are always regarded as the property of the father's or mother's master; that is, in all cases where the latter defray the expenses of the slave's marriage. This gives them a lien or a prospective claim to the produce of such marriage, and constitutes the only legitimate claim (among Hindoos) of hereditary slavery.

57. There is a practice, however, revolting in the extreme, and which might at once be put down; that is, the sale of female children, merely for the purpose of prostitution, to the keepers of brothels, who are to be found in every large town, and in the neighbourhood of most bazars and petty haunts in this district.

58. These unfortunate children are thus brought up, from infancy, to infamy, and often complain (when able to do so) of the treatment they receive from these commonly termed "surdarnees," or mothers. They often have good cause, but sometimes they are instigated by some paramour or favourite who wishes to get them out of the hands of the bawd; and a case being made out of ill-treatment, the girl prays not to be obliged to go back to her mistress. The magistrate tells her he cannot compel her, and the defendant or mistress is told to seek redress in the civil court, and in which she is not likely to get much, as such a claim of slavery, or a slave purchased for such purposes, is neither tolerated in the Mahomedan* nor Hindoo law, and would never be listened to in a British court of justice.

59. I found on my arrival in this district (in March 1828) that sales of this description at the sudder station used to be registered at the police thannah; and though not then aware of a precedent for the practice existing in the most civilized country in Europe,† I forbade the darogah having anything to do with the business, as his interference gave a colour or sanction to the sale, which, instead of being countenanced (as I desired him to explain to the unfeeling parents), excited among the civil authorities the greatest horror and disgust; and they deserved a brand of reprobation, instead of an acknowledgment of having entered into the contract before the police, and that it was a fair and valid transaction.

60. Excepting the cases of children sold in slavery for the above purpose, I believe the lot of others to be far from miserable. In nine cases out of twelve, it is better than the condition they were born in, and full as good as the state of the generality of the lower classes; and, to use the late Mr. D. Scott's words,‡ "it should not be forgotten, with reference to the circumstances under which children are usually sold, that the probability is, that in many cases they would not have been in existence but for that contract, which, at the expense of their personal liberty, preserved their lives or those of their ancestors."

61. During

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* *See* the mooftee's answer cited above; also a letter written by the Nizamut Adawlut to the commissioner, Mr. Tucker, at Dacca, in consequence of a reference from the magistrate, Mr. Walters. I cannot mention the date, as I have no copy.

† Vidocq, Chapter on the custom of registering prostitutes at Paris. It is also done at Lucknow; and if it is discovered that one has admitted an European or Christian, she would be brought up and mulcted with a fine, or maimed, or her hair cut off. In Nepaul, a courtezan or any woman guilty of a similar debasement of her person would be put to death.

‡ *See* his Report, para. 13.

61. During the high inundation in 1834, and partial famine in consequence, in these districts, there can be no doubt that numbers of children would have perished had they not been disposed of to the more wealthy inhabitants; and more, that the trifling sum of money received (from the supply exceeding the demand) was the means of subsistence to their parents during the scarcity, and who for a time were fed by the people who purchased their children.

62. That a supposed prohibition to sell children during a famine in the upper provinces led to very fatal consequences, and many children were abandoned by and expired in the arms of their parents, is upon record;* and unless prohibited by legislative enactment, no magistrate (as long as the opinion or order in question is in force) would venture to put a stop to the practice.

63. If slavery is to be put down on the ground of the maltreatment of slaves by their masters, a comparison should be drawn between the treatment shown by the latter to their servants who are freemen, and I question if it would be found that the slave was, or had been, more hardly used than the voluntary menial servant and labourer.

64. Nor, on the *maxima felicitas* principle, would the abolition of slavery be hailed as a boon or blessing conferred on the natives of India.

65. There are undoubtedly more slaves than masters; but taking into account the happiness and comforts of both, it will be found, I venture to say, that a state of slavery is more conducive to that of the majority of slaves, especially of females, than the reverse.

66. I need only refer to Mr. D. Scott's opinion, in his report, in confirmation of the fact. A writer in one of the papers †, after pointing out a revolting practice of "mock marriages" among prostitutes of their slave-girls, adds, "Slavery in India, in a respectable family, is well known to be of the mildest description: the slaves are treated with as much kindness as any other part of the family." More than 50 years ago it was observed, "The ideas of slavery borrowed from our American colonies will make every modification of it appear, in the eyes of our countrymen in England, a horrible evil. But it is far otherwise in this country (India); her slaves are treated as the children of the families to which they belong, and often acquire a much happier state by their slavery than they could have hoped for by the enjoyment of their liberty." This was addressed by the committee of circuit to Mr. Warren Hastings, President in Council.‡

67. In passing through Fyzabad (in Oude) last year, I heard that some of the "ladies" (now antiquated) who, driven by hunger, plundered food from the bazar, were still living in one of the muhals there; (all refractory begums and subjects are banished to Fyzabad by the court of Lucknow;) and if slavery is abolished in the British territories, it will be no uncommon sight to see the higher ranks of females going about without shoes or stockings,—a circumstance which the manager who opened the begum charge against the ex-governor above alluded to laid so much stress upon, as an aggravation of his conduct, or cruelty, or, to say the least of it, want of consideration to the customs and habits of the "enshrined" ex-begum of Oude and her female attendants.

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* Nizamut Adawlut Circulars, new edition, vol. 1, p. 109, No. 141.
† Hurkaru of the 10th August 1836. ‡ Harington's Analysis, p. 300.

ABSTRACT STATEMENT of Slave Suits pending, instituted and disposed of by the Civil Courts of Zillah Mymensingh, from the 1st January 1828 to 30th June 1836.

—	Pending 1 January 1828.	Pending 30 June 1836.	TOTAL.	Finally disposed of.					TOTAL.	Pending 1 July 1836.	REMARKS.
				In favour of			Dismissed on default.	Adjusted or withdrawn.			
				The slave.	The master.	TOTAL.					
Original suits before the judge, Mr. G. C. Cheap - -	3	–	3	2	–	2	1	–	3	–	The present judge was appointed to this district in the month of January 1828, and joined on the 15th of March following.
Ditto, before the registers (Messrs. J. Dunbar and C. Bury) stationed at Sherepore	3	–	3	2	–	2	1	–	3	–	
Ditto, before principal sudder ameen, Kazee Jelaluddeen Mahomed - - -	–	10	10	4	4	8	2	–	10	–	
Ditto, before the same when law officer and ex-officio sudder ameen - -	28	26	54	19	22	41	13	–	54	–	N.B.—The first column only shows the number of suits actually pending on the 1st of January 1828, on that file, or transferred to it from the judge's file or the file of other courts subsequent to the 1st January 1828, when determined on that file.
Ditto, before Sumbonath, sudder ameen - - -	15	63	78	23	35	58	16	2	76	2	
Ditto, before Ramdhun Pundit, ditto, ditto, when sudder ameen ex-officio - -	2	19	21	6	14	20	–	1	21	–	
Ditto, Mr. J. Reily, late ditto, ditto - - - - -	17	2	19	3	10	13	5	1	19	–	
Ditto, before Rampershaud, deceased, late ditto, ditto -	13	14	27	7	8	15	12	–	27	–	Thus, for instance, Mr. Bury did not take charge till March 1838, and was appointed purposely to dispose of the numerous appeals pending.
Ditto, before Molvee Imaduddeen, present law officer, and formerly acting ditto, ditto - - - - -	1	4	5	3	2	5	–	–	5	–	
Ditto, Oomakanth, present deputy collector, and formerly acting ditto, ditto - -	–	1	1	–	1	1	–	–	1	–	
Ditto, before Molvee Ally Reza, acting ditto, ditto, late moonsiff at Sherepore -	–	6	6	1	5	6	–	–	6	–	Again: Rampershaud, deceased, late additional sudder ameen, stationed at Sherepore, was not appointed till 1829, and the suits exhibited as on his file on the 1st January 1828, were pending before on the file of the register stationed at Sherepore and transferred to the sudder ameen's file.
TOTAL - -	82	145	227	70	101	171	50	4	225	2	
Appeals before the judge, Mr. G. C. Cheap - - -	26	57	83	37	8	45	36	–	31	2	
Ditto, before the registers (Messrs. J. Dunbar and C. Bury) stationed at Sherepore	13	6	19	12	–	12	7	–	19	–	
Ditto, before the acting register, at the sudder station, Mr. C. Bury - - - - -	24	31	55	42	7	49	5	1	55	–	
Ditto, before the principal sudder ameen, Kazee Jelaluddeen Mahomed - -	–	11	11	4	4	8	3	–	11	–	
TOTAL - -	63	105	168	95	19	114	51	1	166	2	
GRAND TOTAL - -	145	250	395	165	120	285	101	5	391	4	

Mymensingh, 19 September 1836.

(signed) *G. C. Cheap*, Judge.

ANSWER

ANSWER of Mr. *D. Pringle*, Magistrate of Zillah Mymensingh, dated the 1st February 1836, to the Register to the Nizamut Adawlut, Fort William.

1. WHATEVER be the legal rights of a master over a slave, they cannot operate in support of oppression; as during an experience of ten years, while I have been employed in Bengal, Behar and Orissa, I do not recollect a case of complaint on this ground.

2. Were such to come before me, I should sanction no greater measure of coercion than in the case of a freeman; though, were the servitude proved, I should certainly adjudge the master entitled to the services of the slave as such.

3. As respects "other wrong-doers" than their own masters, I conceive their call for protection against such would be rather increased, than lessened, by the circumstance of their condition.

4. The maltreatment of a slave I should punish as a misdemeanor under the general regulations.

5. If a British subject purchased a slave, I would uphold him in his demand on his services, if at the time of the purchase he was an infant. Of course I speak as a magistrate. I should not, however, uphold a transfer, in such case, when the subject was of age.

6. I have always deemed slavery a necessary evil in India, and yet in its present state only relatively so. I have invariably observed that no class are better taken care of and provided for than slaves. If it be otherwise, they have the easy remedy of absconding. As long as they are fed (I can scarcely add clothed) they are contented. In proof of which, I have known not a few instances of its being voluntarily entered upon by those advanced in life, particularly when circumstances of debt have involved them in difficulties. This, when carried into effect by a kabalah, or deed of sale, when required, as a magistrate, I should not think of doing otherwise than enforcing.

The construction of Regulation X. of 1811, communicated under the circular orders of the 5th October 1814, I have always considered as virtually sanctioning the sale of infants: and during two seasons of scarcity, while I was employed in Cuttack, I invariably upheld such transactions as only averting the greater calamity of starvation; for, generally speaking, few parents would otherwise resort to such practice.

ANSWER of Mr. *Charles Smith*, Officiating Civil and Session Judge, Zillah Sylhet, dated 3d June 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. FROM a careful inquiry, I find that the practice of this court, with reference to slavery, has been, that on a suit being instituted in the civil court, and the claim being, proved, an award is given declarative of the master's right to the slave: and on application from the master, the slave is apprehended and delivered to him. If the slave refuse to serve or to comply with the award, he is imprisoned so long as the master chooses to pay the subsistence money,—in the same manner as other prisoners are confined in the civil gaol under a decree in a regular suit.

3. The same process is observed against female slaves. But no action is brought forward against the daughters of slaves, as they are, in general, married to strangers, of whom the master usually receives a *douceur* of a few rupees, which is termed the "mooneebanah," or master's fee, and thereby making over his right to another. Those slaves, male or female, who are supported and live with their masters, perform the duties of menials, such as ploughing, cutting wood, tending cattle, drawing water, pounding rice, carrying loads, and in the same manner as paid servants.

4. Slaves who support themselves and live separately follow their own occupation. But their services are occasionally demanded in case of a marriage or death, and are the same as those required from the former description of slaves who are supported by their masters. They, however, receive no remuneration, but have nankar or small rent-free lands allotted to them for the purpose of erecting their houses; and, in general, the master shows the greatest kindness towards his slaves, though a few instances of ill-usage may and do occur.

5. At present, I believe, there are no cases of a criminal nature pending before the magistrate, either of complaints from the master or from the slaves, and those cases are, I may truly say, of rare occurrence; and whether the actual services to be performed by slaves are required, or otherwise, it seems to be incumbent on the master to support them and their children. I am also inclined to think favourably of the treatment of slaves in general by their masters, and we have few instances to the contrary on record.

6. The kidnapping of persons, particularly children, for the purposes of selling them as slaves, is still, I believe, carried on to some extent, and the profits derived in the traffic of human beings from this source considerable. Many a child, I apprehend, has been inveigled away or stolen, leaving the parents in a state of deep distress for the loss of their offspring. The abolition of slavery would be an effectual remedy against such calamities, and the inducements and advantages now held out in that traffic done away with. In this country, however, slavery cannot for a moment bear a comparison with the barbarous manner in which that practice was till recently carried on by European nations, and in other quarters of the globe. Indeed, I will assert, without fear of its being refuted, that slavery in Bengal exists in its mildest form.

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7. The prosecution of a slave against his master for ill-treatment is recognized in the magistrate's court, and the master is either fined, imprisoned or admonished, or put under recognizances, with reference to the nature of the crime proved. Should any slave be ill-treated by any other than his master, the same redress is afforded as to a freeman, and in those instances they have always aid and support of their masters in carrying on their prosecution. I am not aware that civil courts would give a decision declaring a slave free on proof of gross ill-treatment.

8. In such cases it might, though just, be considered arbitrary by the people as infringing on their rights, and acting in opposition to their own laws, which have been granted to them by the British Government, and further secured by the establishment of judicial tribunals in 1793. In making, however, this observation, it is far from my intention to impugn or animadvert on the decision passed by the superior court in the case of Zuhoorun against Nujoom-oon-nissa, referred to in the letter under acknowledgment.

9. The claim of a Mahomedan master against a Hindoo slave is extremely rare, and I have not been able to ascertain any instance where a person, not being of the Mahomedan or Hindoo persuasion, has instituted a suit against a slave. But I should not hesitate to give a decision in favour of the plaintiff, provided the original purchase of the slave be good and substantiated. But, where no direct law or regulation bears upon the point, the case would be decided with reference to established usage in such cases; and, notwithstanding the terms "equity and good conscience" which have been so profusely and ironically applied by persons inimical to our Mofussil courts, I should be assisted by both in passing my decision.

10. The greater portion of the inhabitants of this district are Mahomedans; and I believe their law permits only two descriptions of slaves, viz. infidels made captives in war and their descendants. It declares, further, that in no case can a person legally free become a subject of property; that all sales or purchases of children are invalid; that a freeman cannot sell his own person even in times of famine. Under this exposition of their law, it must be inferred that, in all instances in which the courts have decided against the slave without having satisfactory proof of his having descended from a captive taken in war, the decision may be considered not in accordance with law. I am not, however, certain whether the above exposition be strictly correct.

11. With reference to the slaves of Hindoos, if the purchase of the slave or his descent from one so purchased be established, the courts, I should consider, must decide accordingly. There is a practice, too, when slaves have multiplied beyond the means of the master to provide for them, to allow their earning a separate or independent livelihood, by letting them cultivate their own lands, or putting themselves out to service. If the period they have been thus independent has exceeded twelve years, in all such cases the claim of the master has been generally refused, as being barred by the rules of limitation, on the plea that slaves were personal and not real property, and could not be claimed after the lapse of twelve years.

12. But a more general reason has been, that it did not comport with equity to allow the master to claim, while he had for so long a period neglected to provide for the slave. I am of opinion that most of the Hindoo slaves were bought at seasons of scarcity, and generally for small sums, and that they have repaid the value of their purchase-money by the services they have rendered to their masters, and that the latter, therefore, would suffer no great pecuniary loss in their being free. But the respectability of a person, whether Mahomedan or Hindoo, is considered by those classes respectively in a great measure with reference to the number of his slaves.

13. If the legislative council has it in contemplation to abolish slavery, it remains to inquire how this may be accomplished with the least detriment to the people and the least violence to their rights; for such all slaves are considered by them. Out of a variety of plans, I would suggest that the first step taken on the subject be to order a registry of all existing slaves, declaring, after the manner in which the rent-free tenures were required to be registered in 1793, that the non-registry of a slave shall of itself entitle him to manumission.

14. If the prevention of litigation be a desirable object, I would make it a free requisite to registry, that in each district a qualified person be appointed registrar and justice of the peace, with written rules or laws for his guidance, empowering him to determine upon all cases between master and slave coming under the denomination of misdemeanors, subject to revision in appeal to the commissioners or Nizamut Adawlut, and that the slaves be brought before the registrar, and a descriptive roll taken and inserted of the individuals. This measure would be attended with another good effect: it would prevent the registry of unjust claims and of those who had already rendered themselves independent by earning a separate subsistence.

15. I would recommend that the children of all slaves subsequent to a certain period be declared free, and bound as apprentices until they arrived at the age of 31 years, unless proof is adduced to the satisfaction of the registrar that the parents are in such circumstances so as to be able to maintain them, and that all other slaves be free after a certain period. This seems to be the only tangible plan which suggests itself to me; but in proposing it, I still apprehend much difficulty may arise, for few persons, probably, will be induced to engage children as apprentices who are to be liberated at a period when their labour and services may prove most useful. Where the population also is so extensive, menials and other servants could be procured at a cheaper rate.

16. I am aware that slavery in India has been justified on the plea that the toleration of it

it in seasons of scarcity has saved the lives of many who would otherwise have perished. But these visitations are, by the blessings of a Divine Providence, of rare occurrence; and the benefit which a toleration of slavery might then confer must be but partial when compared to the multitude who suffer under its servitude. If the good of the few will counterbalance the evil which is done to the multitude,—if partial benefit will atone for much and perpetual misery,—then, indeed, may the point be conceded, but not otherwise. Besides, there will be time enough to meet the emergency when it does occur.

17. As I before stated, if it is the intention of government to abolish slavery, I think it may be done after a reasonable period, and in the manner I have above ventured to suggest. But it may at first create dissatisfaction and hardship, particularly in this district, where nearly one-third of the population are slaves, and the former, at a moderate calculation, may be estimated at 100,000. The rights of the people will be considered as invaded; but if remuneration be granted, in the manner pursued in the British colonies, there can then remain no ostensible ground of complaint, and the supposed injustice will be soon obliterated from the minds of the people by the desire and wish shown by the ruling power to compensate its subjects for their losses.

ANSWER of Mr. *R. H. Mytton*, Magistrate of Zillah Sylhet, dated 10th August 1836, to the Register of the Nizamut Adawlut, Fort William. No. 50.

*Answer to the 1st question.**—IN the first place, I must mention that I believe there are no slaves of the classes termed "Muckatub" and "Moodubur," in the Mahomedan law, in this district. My remarks will therefore be confined to Mr. Macnaghten's first class of "entire slaves."

The power of the master over his slave appears to be almost absolute, both in law and practice. But doubtless exceptions to the rules contained in the 11th paragraph of Mr. Macnaghten's chapter on slavery occur; for instance, a slave has by sufferance occupied a separate dwelling for some years, amassed a little property, and become in a manner independent. This person would exercise the same powers, both as to his own person and property, as any freeman. But if the question were brought before a civil court, there appears to me no doubt that the rights, as laid down in the law, would be restored to the master.

*Answer to the 2d question.**—The criminal courts do not interfere between master and slave except for ill-treatment, or any act which may militate against the law of nature. In the former case, moderate correction of a slave by his master would not be considered as a misdemeanor, but absolute cruelty to a slave would be punished in a similar manner as if the sufferer had been a freeman. Complaints of this kind, however, are very rare.

In the latter case, such as an attempt to separate an infant child by sale or otherwise from its mother, the magistrate would interfere. The latter part of this question I am unable to answer, as I have no work to refer to in which the indulgences granted to slaves in criminal matters are set forth.

*Answer to the 3d question.**—Magistrates would undoubtedly be bound to afford persons in bondage the same protection from other wrong-doers than their masters, as they would to freemen.

I now pass over the remarks which follow this question, the discussion of the points contained in which appears more legitimately to appertain to the supreme court, and proceed to answer the query contained in the concluding part of paragraph 4 of Mr. Millett's letter, viz. by what law or principle the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the criminal courts.

4. As I am not aware of any part of the Hindoo criminal law being recognized either by regulation or practice in the criminal courts, I should look upon this offence in precisely a similar light as if it had occurred in the case of Mussulmans.

5. I cannot discover that any case of the nature contemplated in the concluding paragraph of the letter noticed has been litigated in the courts here. The question, especially the latter part of it, is one difficult to answer; but I certainly should be of opinion that, in this country, where slavery is customary, it would be inequitable that the mere fact of difference in religion on the part of the master should deprive him of that which is looked upon as property.

ENCLOSURE of the above, *Mahomed Saber* versus *Badur* alias *Bahadoor, Poocha, Janoo, Hanoo, Sheik Anoo, Robeah, Sonae, Mussumat Kajili*, and *Mussumat Kunchanee*, slaves, and *Ram Sundur Doss*.

Tried before *W. J. Turquand*, Esq., Magistrate, September 7, 1834.

COMPLAINANT states, that his slaves, Badur, Poocha, Janoo, Hanoo, Sheik Anoo, Robeah, Sonae, Mussumat Kajili and Mussumat Kunchanee, 12 or 14 years ago ran away to Ram Sundur Doss. The above-named deny the slavery, pleading that they are the ryots of Ram Sundur, defendant, who supported this plea, adding that prosecutor's father made a similar charge some years previously, and was mulcted 15 rupees for false petition. From the evidence it appears that the defendants were at one time complainant's slaves, but that they lived

* *See* Letter from the Law Commission, No. 1 of this Appendix.

lived a long time on Ram Sundur Doss's land. As the offence was committed 12 or 14 years ago, it did not appear by the magistrate cognizable, and the charge was therefore dismissed.

Mahomed Zama versus *Gholam Naya*, Burkundass of Tajpoor Thanna.

Tried before *C. Tucker*, Esq. Magistrate, October 3, 1824.

COMPLAINANT states, that the defendant met his daughter on the road, and took her away to make a slave of her.

Defendant states that the child is a daughter of Ghoree, a slave of his, but that complainant took her away about two years ago. As it appeared to be a case of disputed property in a slave, the defendant was released, the case dismissed, but the girl made over to her father, the complainant.

Bujorum versus *Harkishan.*

Tried before *C. Tucker*, Esq. Acting Magistrate, September 19, 1825.

COMPLAINANT presented a petition stating that the defendant, Harkishan, having obtained a decree from the Dewanny against him and his brothers and mother as slaves, sold them against their will to Rajim Ram, whose intent it was to separate them to different parts of the country. In this case, the opinion of the Nizamut Adawlut was asked on the following question:—

"A. possesses a slave, and sells him to another person for a sum of money. The slave admits that he is the slave of the seller, but presents a petition to the magistrate, saying, that he is unwilling to remain as the property of the purchaser; he prays that the magistrate will allow him to buy his liberty from the seller at the sum the purchaser was to give, and then be absolved from slavery. Is the magistrate at liberty to act accordingly? The purchaser objects to the slave being able to effect this, and insists on his purchase being valid, and on his right of retaining the slave."

The court, after consulting their law officers, returned the following answer on the 5th of August 1825:—

"In reply, I am desired to forward to you a copy of the answer delivered by the pundits of this court (with a translation thereof) to a question which the court thought proper to propound to them, the parties concerned in your reference appearing to be of the Hindoo persuasion. From this reply, the court are of opinion, that the slaves, whom it is proposed to sell to one whose intentions they suspect and dread, may be allowed to select a purchaser with whom they are satisfied, and that in this their proprietors must acquiesce. The answer, however, does not go the length of stating that slaves are competent to purchase their freedom from their masters, against the consent of the latter."

The prosecution was subsequently withdrawn, and no further proceedings held.

Sheik Sookae versus *Mahomed Sabir.*

Tried before *Ram Ram Pundit*, 9th November 1829.

COMPLAINANT states that the defendant, Mahomed Sabir, and others, came to his house and took away his mother, Mussumut Badlee; and his sister, Mussumut Luckee; with her children, Pool and Lung, and confined them in his premises: that he went with Shumsheer to defendant's house, and was taking Lung to her home, when the defendant beat him and Shumsheer, and took Lung away. On receiving this petition, the darogah was ordered to release the prisoners. His return reports that they were not confined. Defendant states that he did not beat the complainant, or confine the woman, but that they are his slaves, and he purchased them from Sheik Katae. From the evidence, there is no proof that complainant was beaten; and from the woman's account, it appears, that Sheik Katae sold them to the defendant and his brother, Sheik Zackee. It was ordered that defendant should give a recognizance of 50 rupees not to molest complainant, and to be released. No order was passed regarding the disposal of the women.

Har Govind Das, Gomastah for *Mahomed Nazir Chowdree*, versus *Mussumat Pultee*, *Mussumat Sheshee* and *Mussumat Ronhafzah.*

Tried before *S. Stainforth*, Esq., Magistrate, January 5, 1835.

THE complainant informed the darogah, that the defendants, Mussumat Pultee, Mussumat Sheshee, and Mussumat Ronhafzah were his slaves, and that they had run away from his house, taking with them 200 rupees. The darogah states, in his report, that it was not certain that the slaves had committed the robbery, and the complainant was directed to prosecute by petition to the court if he wished.

On the 3d January 1835, Sanae, a servant of the complainant, presented a petition, stating that the slaves had run away, and though not certain where they had gone, he suspected that they were concealed in Gyazoodeen's premises; and on the same day Gyazoodeen also presented

presented a petition, stating that the slaves were his, and that the complainant was his brother and partner, and had taken away the slaves by force, and while with him they had quitted him on account of ill-treatment. As it appeared from the petitions of both parties that it was a question of disputed property in slaves, the parties were referred to the Dewanny. This award was confirmed on appeal to the commissioner, J. Louis, Esq.

Sheik Bazir versus *Faiz Mahomed.*

Tried before Molovee *Haleem Ollah,* Cazee, February 19, 1835.

COMPLAINANT states, that defendant took away his wife, Mussumat Kutkee, who is prosecutor's slave, and would not restore her. Defendant denies having taken the woman, and states, that Bazir, the prosecutor, and Mussumat Kutkee, are his slaves, and that they were the slaves of his grandfather, Maha Hoshen, on whose death they served him and his aunt, Jhan Bebee; that a year ago the complainant ran away to Mahomed Kaleem, and now presented his petition to get his wife away from the defendant. Mussumat Kutkee says she is the defendant's slave, and consents to remain with him. It was ordered that defendant be released, and Kutkee go where she pleased.

Complainant appealed to the magistrate, J. Stainforth, Esq., who confirmed the order.

Mussumat Hera Bebee and *Sheik Sedal* versus *Mahomed Sirdar.*

Tried before Molovee *Haleem Ollah,* Cazee, March 7, 1835.

COMPLAINANT states, that the defendant, Mahomed Sirdar, wished her to give him a written agreement of servitude; and on her not consenting, the defendant took her daughter, Rhinoo, and confined her in his house. After the complaint was made, the complainant stated that she had found her daughter, and that Sedul had received her from Danae, a friend of Mahomed Sirdar, defendant. Defendant pleads that Mussumat Hera is his slave, and that she left him, taking with her a daughter called Angenah and another whose name he forgot, and that Rhinoo remained with him; that he sent Rhinoo with Danae, his friend, to appear as summoned, and in the way Mahomed Raheen and others took her away.

As the complainant only wished to recover her daughter, it was ordered that Rhinoo be made over to her mother if she desires it, and defendant to be released.

Mussumat Earamby versus *Sultan Mahomed.*

Tried before Molovee *Haleem Ollah,* Cazee, November 12, 1835.

COMPLAINANT states, that she is the slave of one Rajeeb-ooddeen, and that the defendant seized her and attempted to marry her to a slave of his own, named Rubby-oollah, against her will. Defendant pleads that complainant is the wife of Rubby-oollah, but from the evidence of witnesses, in a cross case brought forward by the said Rubby-oollah, it appears that the marriage was not legally consummated; and as, from evidence in this case, there is proof of the defendant having seized complainant for the purpose asserted, it is ordered that the defendants, Sultan Mahomed and Rubby-oollah, give a recognizance each to the amount of 50 rupees not to molest the complainant in future.

Jhan Bebee versus *Mussumat Salam.*

Before *A. C. Bidwell,* Esq., Acting Magistrate, July 8, 1836.

COMPLAINANT stated, that the defendant, Mussumat Salam, had adopted her daughter and promised to have her married; but that afterwards she tried to persuade the girl, Nowab Jhan, to prostitute herself, and on her refusing, beat and confined her. The darogah was ordered to release the complainant's daughter and to investigate the case. In his report he states, that the complainant's daughter, Nowab Jhan, was not confined, and that she was the defendant's slave, but complained of ill-treatment; and as it appeared to be a case of disputed property in a slave, she was released, and the parties were referred to the civil court.

Appendix II.

Returns.

Mussumat Sundur and *Anarkalee* versus *Mahomed Idris*, Principal Sudder Ameen.

Before *A. C. Bidwell*, Esq., Acting Magistrate, August 11, 1836.

COMPLAINANTS state, that they are the slaves of defendant, who beat them. Mahomed Idris, being required to offer an explanation, admitted that he had beaten them slightly; pleaded the custom of the country to beat slaves for disobedience or neglect. On this the sudder ameen was warned not to beat his slaves with severity.

No. 51. ANSWER of Mr. *C. W. Steer*, Commissioner of Circuit, Bauleah, dated 25th May 1836, to the Register of the Nizamut Adawlut, Fort William.

2. IN reply, I beg to state, that never having had an opportunity of giving the subject due attention, and never having had a case of the kind before me, I feel quite unprepared to offer any suggestions or remarks on the subject.

3. I should conceive that the cases likely to come before our courts would (whatever may be the precise laws on these heads as existing among the Hindoos and Mahomedans), in their civil capacity, be treated as common contracts, and in their criminal, by the rules of the master and servant, under Regulation VII. of 1819.

No. 52. ANSWER of Mr. *R. Barlow*, Judge of Zillah Rajshahee, dated 23d June 1836, to the Register of the Court of Sudder Dewanny Adawlut, Fort William.

2. I DO not remember having ever entertained a case between master and slave, either on the civil or criminal side of our courts.

3. Under the spirit, though not the letter, of section 15, Regulation IV. of 1793 (upheld by section 8, Regulation VII. of 1832), I apprehend the claim of a Hindoo to a Hindoo slave, and of a Mussulman to a Mahomedan slave, might be recognized in the Dewanny Adawlut, when the question would be disposed of according to the Hindoo or Mahomedan law, as the case might be. But in a suit, in which the parties are of different persuasions, excluding such suit from the provisions of the 15th section of Regulation IV. of 1793, and bringing it within the pale of section 9, Regulation VII. of 1832, I am of opinion, the section of the latter regulation ought to rule the decision, which should be governed by the principles of justice, equity and good conscience. In the matter of others than Mahomedans and Hindoos, the last-mentioned section appears to me to bear strongly against right of property in a slave, as slavery is nowhere recognized by our regulation law in such case.

No. 53. ANSWER of Mr. *H. T. Raikes*, Officiating Magistrate of Zillah Rajshahee, dated 11th July 1836, to the Register to the Court of Nizamut Adawlut, Fort William.

I HAVE the honour to observe, that no case involving any of the points alluded to in Mr. Secretary Millett's letter has ever been brought officially before this court. It is notorious that slaves are domesticated in the families of many of the wealthy Mussulmans in this district; but (I have every reason to believe) without the supposition that the interference of the criminal court is more circumscribed with regard to their conduct or treatment of these individuals than of any other class of the community.

No. 54. ANSWER of Mr. *J. B. Ogilvy*, Officiating Joint Magistrate, Pubnah, dated 11th January 1836, to the Register of the Court of Nizamut Adawlut, Fort William.

I HAVE the honour to state, that the records of this office do not show that the existence of slavery in this part of the country has ever come under the notice of the court. I am unable, therefore, to furnish the required explanation of the practice of this court, where none has existed, in recognizing the relative rights of slaves and their masters.

I am led to believe, however, that slavery is not known here at all.

No. 55. ANSWER of Mr. *J. Taylor*, Joint Magistrate of Bograh, dated 9th April 1836, to the Register to the Court of Sudder Dewanny and Nizamut Adawlut, Fort William.

IN reply, I beg leave to state, that, as far as I have been able to ascertain from inquiries instituted on the subject, the system of slavery in any extended sense does not prevail in this district. The only cases in which it is stated to exist being in the occasional purchase of female infants for the demoralizing purpose of prostituting their persons in mature years, and for the very best and benevolent of intentions—adoption.

On

On a reference to the records of the office, it does not appear that a single case touching the question of slavery has ever been brought to issue before this court since its establishment. I am therefore prevented from citing any particular law or principle which has hitherto been recognized by the several presiding functionaries. My own view of the question, however (and there can be no doubt that it is the prevailing one with most magistrates), has been, not to recognize any system of slavery as authorized by the regulations of government in cases brought officially before me; though such power, in the absence of any direct rule for the guidance of magistrates, can, I conceive, be considered only in the light of a discretionary one.

In reply, then, to the first paragraph of the secretary's letter, I would observe, that no legal rights of masters over their slaves are practically recognized by the magistrates, either as regards their persons or property.

On the same principle, in reply to the second paragraph, I would add, that the relation of master and slave is not recognized as justifying any acts which otherwise would be punishable in our courts; but that on a complaint being preferred by a slave, of cruelty or hard usage, he would be considered equally under the protection of the civil magistrate with any other persons residing under his jurisdiction, and that if he stated himself to be living under restraint he would be allowed to go free.

The third paragraph would seem to be replied to in the above, that a slave is considered precisely upon the same footing as regards his claim to protection with any other subject of the provinces.

Paragraph the fifth, having reference to the civil court alone, I conceive, calls for no reply from me.

In conclusion, I would beg to remark, that the prevailing idea amongst the natives now is, that slavery has long since been abolished, and the system has to all intents and purposes ceased. Should the India Law Commissioners, therefore, have it in view to prohibit the practice *in toto*, I have no hesitation in saying it might be done to-morrow without the slightest inconvenience resulting.

ANSWER of Mr. *T. A. Shaw*, Civil and Session Judge of Rungpoor, dated 22d June 1836, to the Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William. No. 56.

2. AFTER the fullest inquiry and search into the records of the civil judge's office, it does not appear that any case has been instituted in this court, in which a slave has been a principal party against his master; or, *vice versâ*, the master against his slave.

3. With reference to the rights of slaves in criminal cases: in this part of Bengal, slavery exists in its very mildest form. It is generally understood that in practice, during the British rule, the right of the slave to obtain redress in all criminal matters has been equal to that of other subjects; and herein the rights of slave-holders have become almost nominal.

4. With reference to their rights in civil matters: from some cause or other, whether it be the extreme mildness of slavery as found here, or the incompatibility of its existence where our laws are in full force, it appears that no suits involving the respective rights of masters and slaves, in all civil matters, whether of possession, of inheritance, marriage, or the like, for many years past, have been instituted in the civil courts of this district. The arbitrary sale of slaves by their masters is understood to be very unfrequent. In the execution of decrees, it is extraordinary that (although all other description of property has been sold, even to the disposal of Hindoo idols to competent Hindoos) the sale of slaves has been exempted. It appears still more extraordinary when we find that the sale of children is allowed, and used to be registered; and instances are not uncommon of Mussulmans and Hindoos selling their wives on account of enmity or for gain. But these latter cases never appear in the civil, and seldom in the criminal, courts.

In case of the contemplation of any law which shall regulate the sale of slaves, or direct its abolition, I would urgently recommend that the transfer of infants, by their parents or natural guardians, should be sanctioned (whether made with or without any consideration), without restriction as to time, whether of famine or of plenty, or as to the party offering the transfer, as none but the very poor will dispose of their offspring. This system of transfer does now exist, and is prevalent in its very worst form, that of the sale of young girls for the purpose of gain by their prostitution. This measure should be sanctioned by law (not merely not prohibited as not being immoral), as being in conformity with the habits of the people over perhaps the whole of India, and as being the sole cause of preservation of the lives of thousands of infants.

ANSWER of Mr. *H. F. James*, Magistrate, Rungpore, dated 23d June 1836, to the Register to the Court of Nizamut Adawlut, Fort William. No. 57.

I BEG to state, that, from the records of the office, I am unable to learn that any cases of slavery, or of the powers of masters over slaves, have ever been tried in this court; and that, as slavery is not recognized by the regulation, I consider that slaves ought to be allowed the same redress and afforded the same assistance from the ill-treatment of their masters as free persons.

Appendix II.

Returns.

There is one species of crime very common in this district, approximating in some degree to slavery, and which I consider, without digressing from the subject under discussion, may be mentioned in this place. It is that of parents selling their female children to prostitutes, who bring them up in the same infamous and degraded course of life as their own, and who in some measure retain a personal control (though not recognized by the courts) over them, and in some cases dispose of them again to other prostitutes.

Many cases have been brought to my notice of this nature, where the prostitutes have applied to this court to get back the children who after purchase may have absconded. In such cases I have made over the children to the parents, and punished all parties that I considered deserving of it; though I am not aware of any regulations sanctioning such proceedings.

No. 58. From Captain *A. Davidson*, Officiating Register and Magistrate, Zillah Goalparah, North-east Rungpore, dated 10 July 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

I BEG to offer it as my opinion, that our courts would fully recognize the power of the master to sell the person of his slaves, and would not admit that the slave could have separate and independent property of his own. -

Our criminal courts would not punish a master for inflicting such moderate punishment upon a slave as might appear necessary to insure obedience or diligence in the performance of his duties. But should the master have inflicted cruelty, I am of opinion he would be liable to the usual punishments of fine and imprisonment.

I am not aware of any such cases as are contemplated in the 3d paragraph.

In the district under my charge, I am of opinion, that, in ninety cases out of the hundred, those held as slaves are not so legally either by Mahomedan or Hindoo law; but their slavery has originated either by their forefathers having made themselves bondsmen by borrowing small sums of money (which bondage ought to have expired with their lives), or the descendants of cultivators who have died in debt either to the zemindars or persons holding small farms under them; as experience has proved to me, that neither would scruple to compel the widows or children of the deceased bondsmen, or insolvent deceased cultivators, to give them written engagements of being slaves or bondsmen for life; and this instrument would cause the parties and their descendants to become slaves in perpetuity.

No. 59. ANSWER of Mr. *J. Wyatt*, Civil and Session Judge, Dinagepoor, dated 25th June 1836, to the Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.

DURING my experience in India as a magistrate, and subsequently as a civil and session judge, no cases have fallen under my cognizance involving the rights of masters over the persons and property of their slaves, with the exception of two or three suits which were instituted in the civil court of zillah Mymensingh (in which district slavery, I believe, is extensive), disputing the vested property in the slave, which, to the best of my recollection, were all dismissed for want of documentary evidence; nor do any cases connected with slavery appear from the report of the record-keeper of this court even to have been instituted in it. Whence, as far as the rights are practically recognized in the civil and criminal courts to which I have been and am attached, I regret I am unable from my own experience to afford any information.

3. From all the intelligence, however, I have been able to collect from the best sources of information in this district, it would appear that there is no original slavery in this district, as described by Mr. H. T. Colebrooke. The kinds stated to exist are those arising out of the sale and gift of offspring by their free parents, in consequence of their being too poor to maintain them. This practice seems to have prevailed so far back as 1807, by the few observations made by Dr. Buchanan on the subject in his geographical, statistical and historical description of this district. He says, " Poor parents, in times of scarcity, many give their children to persons of rank as slaves, and are sometimes induced to sell them to prostitutes. This, however, is quite contrary to Hindoo law, although such parents are not liable to excommunication."

4. The Mahomedans, forming by far the greater portion of the population here, are the principal owners of these slaves, whom they, as well as Hindoos, buy (I am credibly informed) without any writing being entered into, as children of about six years old, for a few rupees, the price seldom being known to exceed 10 rupees, as it too often happens that these children, when they arrive at maturity or before, then run away from their masters, whence the latter never like to risk much upon their purchase. They feed, clothe and marry them, and the slaves look upon them as parents, and perform easy household work for them, the girls being chiefly required to attend upon the females composing the master's family. Their being more cheaply maintained than hired servants is, I suppose, the chief inducement to their acquisition, a slave, for his daily food and two sets of clothes, costing about 18 rupees per annum, while a hired servant, by getting his daily food and wages at one rupee four annas a month, costs about 30 rupees yearly.

5. Little (as it appears to me) as slaves are capable of acquiring for themselves in the shape of property, the opinions of the best-informed among the natives, both Hindoos and Mussulmans,

Mussulmans, whom I have consulted as to the rights they conceive masters to possess over the property of their slaves, seem to vary, some thinking that slaves are free to acquire any property they can without its being liable to be seized, claimed or interfered with in any way by their masters, only that on their death the master can only be looked upon as the legitimate person to whom any property left would descend; while others consider that they can create no property for themselves,—that all they make belongs to their master.

6. As to the right over their persons, but one opinion seems to prevail, viz. that they have no extraordinary right, that they can moderately punish their slaves; but if they exceed that moderation of punishment, they must, like persons who are not masters, abide the consequences, and be punishable by the magistrate.

7. It seems to be the general opinion, that very little oppression, if any, is exercised over slaves in this district; on the contrary, that they lead rather an easy life; and in the case of those masters who have inherited slaves for two or more generations, I have heard some say that they would not feel it a loss if they were deprived of their slaves by an act of liberation on the part of government, inasmuch as, from having lived long in their family, they become much less attentive and useful than hired servants, conceiving that they cannot be turned off, that their masters must support them, and so become rather a burden on their support.

8. As the decisions, however, of judicial tribunals can only be properly regulated by what the Hindoo and Mahomedan laws may prescribe in respect to the rights of masters over the persons and property of their slaves, Sir Thomas Strange, formerly chief justice of Madras, has made the following observations on the Hindoo law, as applicable to the person of the slave: "That the owner has the same power of correcting his slave that belongs to a master over his servant is implied, for he is one of the most abject kind, and a runaway slave is reclaimable." * "But, if a slave pledged refuse to work, complaint should be made to his owner, who must assign the pledgee another, such slave while in the possession of the latter not being liable to be beaten by him.† That the master has power over his slave's life nowhere appears; and here, construing 'servant' in the text cited from Menu to comprehend slave, that great legislator and Sir William Jones are agreed, that in the exercise of such power over him as by law he has, it is at his peril, if it be immoderate, according to the consequences that may ensue.‡ But, with the exception stated, it is competent to him to compel him by force, not being excessive, to do whatever work he orders him to perform, in which consists mainly the difference between a slave and a servant."§

In respect to his property, the same authority observes,—

"It is certain the latter (slave) can only acquire for the benefit of his master; possessing his person, he possesses every thing that can relate to it, nor can the slave have any property that he can call his own but by his master's consent;"‖ and in the 6th chapter of the 2d volume of his work on Hindoo law, gives several instances of judicial decisions of two of the zillah courts in respect to property.

9. But Mr. H. T. Colebrooke appears to have described the Hindoo and Mahomedan laws as possessing unlimited power over the slave, but which in regard to his person (however Mr. Colebrooke's exposition of Mahomedan law is considered not to be exact) has obtained the interposition of British authority by the enactment of Regulation VIII. of 1799, disallowing to the master exemption from kissas in case of the murder of a slave; from the time of which enactment slaves have not been considered as out of the protection of the law in cases of murder or barbarous usage.

10. No criminal cases in which have been involved the connexion between master and slave having, as I have before stated, fallen under my cognizance as magistrate or session judge, I am unable practically to speak upon the points contained in this query. But in the event of any cases implicating the conduct of master or slave coming before me in the capacity of a magistrate, I should think they were justified in committing no serious act which would not be punishable if committed by a freeman. I should likewise punish the master as I would any other offender, if convicted of cruelty or hard usage of his slave. As to the indulgences granted to slaves in criminal matters by the Mahomedan law, I am not exactly aware to what allusion is meant; but I am inclined to think no indulgences would be shown to them by magistrates, but that they would be punished to an equal extent with other offenders.

11. *Answer to the 3d question.*¶—I have never heard of any such cases. Other wrongdoers, I should think, would be equally punishable with masters for offences committed against slaves.

12. *Answer to the 4th question.*¶—Independent of what I have cited as the interpretation of the Hindoo law, by Sir Thomas Strange, in regard to the master's power over the person of his slave, by the law of Menu, which is supported by the authority of other Hindoo legislators, as Barhusputtee Missur, Rogoonunder Sharuth, Gopal Neyaipunchanund and others, it is literally laid down that "If a wife, son, slave, disciple and younger brother commit any offence, they shall be punishable by being bound by a rope, or beaten with a bamboo switch (benadul),

* Nareda, 2 Dig. 237. † Catyayana, 1 Dig. 153.
‡ Menu, 2 Dig. 209. Sir W. Jones's Charge, June 10, 1785.
§ Nareda, 2 Dig. 222. Virkaspate, Idem. 223.
‖ Menu, VIII., 416, 417. Nareda, 2 Dig. 237. 249. 1 Dig. 16. Catyayana, 2. 252.
¶ *See* Letter from the Law Commission, No. 1 of this Appendix.

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(bena-dul), or by any other mild means; but they shall not be struck on the head. Should this measure of punishment be exceeded, the inflictor shall be held responsible for it to the ruling power."

Thus it is clear that maltreatment, beyond the slight punishments prescribed by Menu, of a Hindoo slave by a Hindoo master, is legally cognizable by the criminal courts on the part of government.

13. *Answer to the 5th question.**—No. I should think the courts would not support the claim of a Mussulman over a Hindoo slave in the way the question is put, the slavery, by the Mahomedan law, being illegal, and *vice versâ*, it being necessary that the claim of the plaintiff should be supported by his law.

14. No. I should think the courts would not admit and enforce any claim to property, possession or service of a slave, but on behalf of a Mussulman or Hindoo claimant, and against a Mussulman or Hindoo defendant.

No. 60.

ANSWER of Mr. *G. T. Shakespear*, Officiating Magistrate, Dinagepur, dated 17th February 1836, to the Register to the Sudder Nizamut Adawlut, Fort William.

IN reply, I beg to state that the question, What are the legal rights of masters over their slaves? practically recognized in our courts, is one which I am not qualified for fitly answering. During the few years I have been in the service, and actively employed, I have never met with a trial involving the respective rights of masters over their slaves, or slaves from their masters. I shall confine myself, therefore, merely to remarking that, had a trial of the description alluded to come before me for decision, I think that my English mode of thinking (if I may be allowed such an expression) on the subject would have led me to afford the same protection to a slave as to a freeman, and would have hindered me from admitting the relation between master and slave to be any sufficient ground for cruelty and ill-usage shown towards the latter; and I would, in such a case, have punished the master as I would have any other person in like manner offending, and wholly unconnected with the slave. In cases of stealing a master's property, however, I should have considered a slave in the light of a servant, and awarded to him, for such an offence, the enhanced degree of punishment allowed by clause 4, section 3, Regulation XII. of 1818.

The above contains, to the best of my ability, my reply to paragraph 1st, greater part of paragraph 2d, and the commencement of paragraph 3d of the letter from the secretary to the Indian law commission. With regard to the rest of that officer's communication, I must confess my complete inability to throw any additional light on the several points touched upon and unfolded therein.

No. 61.

ANSWER of the Honourable *R. Forbes*, Officiating Magistrate, Maldah, dated 15th February 1836, to the Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.

I HAVE the honour to intimate, for the information of the superior court, that no suits, embracing any of the points adverted to by Mr. Millett, having ever been instituted in this, or, as far as I can recollect, in any other court in which I have had the honour to preside, I regret my inability to furnish the court with any information founded on my own practical experience on the subject.

No. 62.

ANSWER of Mr. *H. Nisbet*, Judge of Purneah, dated the 30th December 1835, to the Register to the Court of Sudder Dewanny Adawlut, Fort William.

2. WITH regard to the practice of the court over which I preside, in matters regarding slavery, I have to observe, that no cases involving any such matter have come before the court since I have been at the head of it. If any question of the kind were to come before me, I should endeavour to regulate my decision by what the spirit of the regulations and the impulse of humanity might dictate on the occasion, and, if necessary, I should call for a legal opinion from the Hindoo or Mahomedan law officer, as the case might require.

3. It appears by the tenor of the secretary's letter, and I am not prepared to gainsay it, that there are no definite legal provisions on the subject of slavery in the Bengal judicial code. The letter in question, however, quotes one precedent, that of Nujoom-oon-nissa; and others, I have no doubt, exist (though I am not prepared to point them out) in which, in absence of any express law, the rule of decision has been that of humanity, and the general principle of all British institutions, abhorrent of every thing like cruelty and oppression.

4. All the rights of a Mahomedan or Hindoo master, in reference to his slaves, sanctioned by the respective religious institutions of such persons, would be recognized by the courts, if they did not militate against the humane spirit of the British laws. Where they did

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* *See* Letter from the Law Commission, No 1 of this Appendix.

did, a British judge or magistrate would, no doubt, feel fully warranted in suspending the operation of the native law. The regulations have expressly done it in one instance, namely, in the provisions of Regulation VIII. of 1799.

5. With regard to the second query in the secretary's letter, the court would, I conceive, so far recognize the relation of master and slave, as to uphold the right of moderate correction by the former. In case of actual delinquency, they would, in like manner, certainly punish unjust and tyrannical conduct on the part of the master towards his slave, upon proof of the same. I am not aware what the indulgences are which in criminal matters are granted to Mussulman slaves, but certainly I should think that the circumstance of the offender being in a state of servitude would not exempt him from any consequences incident to an infringement of the rights of an indifferent individual, either in his person or property.

6. I know of no cases in which the courts and magistrates afford less protection to slaves than free persons, against other wrong-doers besides their masters.

7. In reference to the subject of inquiry in the fifth paragraph of the letter under notice, my opinion is, that where the law, binding on a claimant, did not sanction his claim upon the freedom of an individual, a British judge or magistrate would certainly not admit it. The question is a nicer one, as to whether a Christian, or the professor of another religion than the Mahomedan and Hindoo, would be allowed to maintain a claim of slavery in our courts. All are now equally bound by the laws administered in the native courts; yet I conceive a British-born subject would never, under any circumstances, be recognized as the owner of a slave, whatever might be ruled with regard to persons other than British-born subjects.

8. The principle of humanity would, I apprehend, lead a British functionary to favour the person on whom a claim of slavery was made, wherever he could do it consistently with the spirit of the regulations. The whole subject is one in which I have no doubt a large discretion is felt to be allowable, and a very loose administration of the law to be excusable. Slavery is repugnant to the feelings, national and personal, of every Briton; and if I may presume to offer my individual opinion, it is this, that slavery under a British Government is a disgusting anomaly, and that it is one of those Gordian knots in our Indian jurisprudence that ought to be cut, if it cannot be unloosed, like the infernal system of Suttee, the abolition of which we owe to the fearless virtue and straightforward policy of our late Governor-general.

ANSWER of Mr. *W. P. Goad*, Acting Magistrate of Zillah Purneah, dated 24th March 1836, to the Register of Sudder Dewanny and Nizamut Adawlut, Fort William. No. 63.

2. No case involving the rights of masters over the persons and property of their slaves appears on the records of this office from which I can ascertain the practice of the courts.

3. With reference to the second paragraph of the secretary's letter, I conceive that the relation between master and slave might be recognized, in the case of the former having recourse to moderate correction in punishing the latter for any actual delinquency. But in the event of cruel and unjust maltreatment, the same need of protection ought in justice to be extended to the unfortunate slave as to the freeman. The circumstance of an individual being in a state of slavery should not, I conceive, entitle him to any indulgent consideration in criminal matters, or exemption from the penalties incident to the infringement of the law.

4. I am not aware of the existence of any cases of the nature adverted to in the third paragraph of the secretary's letter.

5. The principles of humanity and justice would, I imagine, be the basis on which a British judge would consider himself justified in punishing a Hindoo master for the unjust maltreatment of his slave, in the absence of any express law to that effect.

6. With regard to the question as to whether the courts would support the claims of a Mahomedan master over a Hindoo slave, I am of opinion, that as the law, binding on the claimant, does not sanction his claim, the decision would be in favour of the slave; and under the same rule, the claim of a British-born subject or any denomination of Christian could not be recognized.

7. From inquiries that I have made among intelligent indigo planters, both Europeans and East Indians, who have had excellent opportunities of gaining accurate information, I am led to think that the treatment slaves receive in this country from their masters is almost universally kind and indulgent, and this will account for the paucity of complaints of oppression and tyranny. Nevertheless, the very idea of slavery existing in a country subject to the rule of the British nation is a strange anomaly, and every true Briton would rejoice to see this degrading system eradicated.

ANSWER of Captain *T. Wilkinson*, Governor-general's Agent, Kishenpoore, dated 5th August 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William. No. 64.

2. WITHIN the divisions of Hazareebaugh and Lohurdugga there are three classes of bondsmen. Slavery prevails in every purgunnah of the Hazareebaugh division, and in Pulamow and Tooree of the Lohurdugga division.

First class.—The slaves (Nuffers) whose offspring continue in slavery for ever: they are transferable and saleable property. The offspring are the property of the owner of the female, and if they run away from their masters they can be recovered in the court, as was for years the practice in the Sherghotty court previously to the formation of the agency. A male slave residing in Kurruckdea, and belonging to a person in that pergunnah, if married to a female whose master resides in Pulamow, 150 miles off, the master of the female has the right to remove her and children to his own home, separating them from the husband and father, unless he can obtain his own master's permission to accompany them. Youthful females of this class sell for from twenty-five to eighty rupees. Youthful males of this class sell for from twenty-five to forty rupees. This class are almost exclusively of the Kuhar caste, and are numerous.

Second class.—Sheewuk (commonly called Sawuk) or Kummea. This is a bondsman who sells himself for life. He receives from a person a sum of money and executes a deed, "shewuk puttra," binding himself to become that person's slave for life; he cannot be released from his bond, though he tender payment of the money he received. The deed in no way affects his children. The parent cannot sell the child to his own master, nor to any other person. The master generally pays the expenses, I believe always, of the marriage of the Kummea, and feeds and clothes him. To make the sale of a person by himself good, agreeably to the custom of the country, it is necessary he should have attained his majority. It generally happens that the son of a Kummea sells himself to his father's master. This class of slaves are transferable and saleable property; the price of one varying from ten to forty rupees. The following castes chiefly compose this class, viz., Bhoogas, Koormees, Gowallas, Kandoos, Boghtas, Khyrwars and Dosads. Sheewuks are very numerous.

Third class.—Bundick Sheewuk or Kummea. This is a bondsman, who borrows a sum of money from a person, and engages by a written deed to serve the lender until he pays the principal. The principal paid, the bondsman is released, unless where he absents himself from his work. Under such circumstances, for as long as he may be absent, it has in some cases been the practice of the court, I understand, to award interest. This class are fed and clothed by their masters, and they are entitled at the harvest to a bundle out of every twenty-one of grain, which they cut and carry to the kullyan, or place of beating out. The advances made to this class of bondsmen may vary from one to twenty rupees.

3. Over the persons of the three classes specified, the master has a legal right to the extent above indicated. By the custom of the country the master has no right over the property of the slave; and in the event of the death of one having considerable property (which is not a rare circumstance), the property is inherited by his wife and children, although they may belong to another master.

4. Neither the Hazareebaugh assistant, Lohurdugga assistant, nor I, have ever had a case before us in which a bondsman has complained against his master of cruelty or hard usage. I learn, however, from several persons who are masters of bondsmen, that, when complaints were preferred in the Sherghotty court, the same protection was afforded to the slave as to any other complainants; and I should certainly grant it, from the full conviction that the master considers the slave entitled to it.

5. There are no cases in which the courts would afford less protection to slaves than to free persons, against other wrong-doers than their masters.

6. I am not able to quote any law by which the courts have authority to interfere in protecting a Hindoo slave; but that the courts do protect them is undoubted.

7. I do not find myself able to give a satisfactory reply to the 5th* paragraph of Mr. Millett's letter. I have never had any case before me of the nature contemplated by the regulation quoted. From inquiries I have made, I learn that the three classes of slaves I have mentioned are in the possession of both Hindoos and Mussulmans, and that the same right has been allowed to the Mussulman over the Hindoo slave by the Sherghotty court that was allowed to a Hindoo over a Hindoo slave, the custom of the country having been the guide. I have not been able to hear of any instance in which a Mussulman slave of the first or second class has been in the possession of a Hindoo, although there are instances of Joolahs having become Bundick Sheewuks, who could claim their release on the repayment of the cash they borrowed.

8. In Ramgurh and Kurruckdea, I may with safety say, that one-third of the whole population are slaves, belonging to one of the three classes above mentioned. Those of the second class are the most numerous, and in none of the classes is there any provision for those slaves who from old age or from any other cause become unable to work; so that, if they happen to have no families to support them, they must depend on charity.

9. I herewith transmit the replies I received from my assistants. The assistant in charge of Maunbhoom division observes that no precedents are found in the records of the court tending to elucidate the subject under reference. From information, however, I have received from other quarters, I learn that there are both Nuffers and Kummeas in Kattrass, Jherrea, Nowagurh, and Toondee pergunnahs adjoining Kurruckdea, but not in the jungle mehal zillah.

ENCLOSURE

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* *See* Letter from the Law Commission, No. 1 of this Appendix.

ENCLOSURE to the foregoing, from Lieut. *J. Hannyngton*, Assistant to Agent of the Governor-general, Manbhoom, dated 3d February 1836.

No. 65.

I HAVE the honour to inform you that no precedents are found in the records of this court tending to elucidate the subject under reference.

ENCLOSURE of Captain *Wilkinson*'s Letter from Captain *L. Bird*, Principal Assistant to Governor-general's Agent, Hazareebaugh, dated 14th January 1836.

No. 66.

WITH reference to the first part of your letter, as I consider the several points to apply to Mussulman slaves (of which there are none in my district, as far as I have been able to ascertain), and as my very limited knowledge of what may be the practice in the Company's courts renders me by no means competent to give an opinion even if there were, I proceed to state what is the usage in my district and the practice of my court with regard to Kummeeas, by which I understand bondsmen in a modified sense.

There is no particular law by which this state of bondage is permitted or authorized, but it appears to have been the custom and usage in this district for a series of years. The several zemindars and landholders, unable to till the lands themselves, and finding, no doubt, that the cultivation in its rude state did not bring sufficient returns to afford payment for free labour, introduced the system of Kummeeas, by which, on a trifling advance and at a very little expense in the shape of grain for subsistence, they secured the service not only of the individual who bound himself, but of all his family.

The individual thus binding himself executed a sawuknama, engaging that for the money received he would serve until the amount was repaid by him; in some cases engaging only for himself, and in others for the whole of his family and descendants in perpetuity.

For the services rendered by the Kummeeas they are fed and clothed by the proprietor or master, at whose expense their children are also married; and as advances for this purpose are required, fresh sawuknamas are given in the names of their children.

Having no means of ever repaying the money advanced (as the grain given is barely sufficient to support them), the option of purchasing a release becomes a dead letter, and they remain for generations under the same proprietor and his heirs, and on the division of property they are divided in common with all quadrupeds, &c.

Formerly it appears to have been the custom to acknowledge the right of a proprietor to the bondsman, and his descendants in perpetuity, and they were made over in the same manner as any other property. But since I have assumed charge of this division, I have introduced a modification founded (in the absence of any law on the subject) on principles of justice and equity.

From the few cases of claims for possession of Kummeeas who have deserted which have come before my court, I am inclined to think that they are generally satisfied with their situation; and in no one instance has any complaint of maltreatment from Kummeeas against their proprietors or masters been brought before me, although, in my tour through my district, opportunities are not wanting to make known their grievances.

In fact this state of bondage of long established usage appears to the Kummeeas to have become the law of the land, nor do I imagine that it is either considered irksome or burthensome by them; and in this happy state of ignorance they will continue until civilization and education teach them that man is not intended to be a slave to his fellow man.

In my court I admit the claim of a proprietor to a Kummeea, if it be the individual who has executed the sawuknama, provided he was at the time of executing it of sufficient age to judge for himself, but I do not recognize his right to the possession of minors or females.

Where minors have succeeded to any property from their fathers (a Kummeea), I hold them answerable for the sum advanced on the sawuknama, subject to be tried for in the same manner as any other claim.

As I have before stated, no cases of maltreatment have ever come before me, but were any to be brought forward I should extend the same protection to Kummeeas as I would to freemen, and in aggravated cases should consider the Kummeea absolved from continuing his services to his proprietor, but answerable still for the debt to be sued for as any other debt.

Were any regulation to be framed on this subject, I would suggest that the system be permitted in this district (in the modified view I take of it), as I consider it necessary for the purposes of cultivation, the Kummeea binding himself to be constrained to serve his proprietor and his heirs during the term of his own life, provided the proprietor does not forfeit his claim by maltreatment.

Appendix II.

Returns.

LETTER from Mr. *J. Davidson*, Principal Assistant to the Governor-general's Agent in Chota Nagpoor, Camp Tomar, dated 24th January 1836, addressed direct to Secretary to the Law Commissioners, in reply to their Circular.

No. 67.

1. THE system of slavery alluded to is known by the name of "Sawuk," and prevails very extensively in Ramghur, Kurruckdeea, and Palamow. There are several kinds of Sawuks; 1st, hereditary slaves, the condition of whom is much the same as that of slaves in other parts of India; 2d, slaves for their own life only (called Bunda Sawuk), the children of this class are not slaves; 3d, slavery for debt (called Chootta Sawuk), individuals of this class are entitled to their freedom on repayment of the debt stipulated in the bond (or sawuknama).

2. Slavery in one or other of the above forms is so general in Ramghur and Kurruckdeea and Palamow, that a great majority of the agricultural labourers in those countries are slaves. Their condition in general is very miserable. They receive barely sufficient food to keep them in working condition, in some cases are obliged to find their own clothes, and in others are entitled to a piece of coarse cloth yearly.

3. Men generally become slaves by falling into arrears to their landlords, from bad seasons, or other similar accidents, or from borrowing money for the performance of marriage ceremonies. Being unable to pay, they are compelled or persuaded to write sawuknamas for the amount of their debts, and thus become slaves, frequently for life, and very often the same miserable condition extending to their children. The smallness of the sums for which these bonds are occasionally executed is almost incredible. I once had a case before me when in charge of the Hazareebaugh division, where the amount stipulated in the bond was only one rupee; and the amount of the debt for which these men sell themselves is generally less than 20 rupees.

4. It is always an object with farmers and landholders to have as many slaves as possible; and the facilities they possess of making up their claims of debts against poor and ignorant ryots are very great. The consequence, as above stated, is that a great majority of the agricultural labourers are slaves.

5. If a poor man when in debt objects to write a bond binding himself to slavery, the creditor prosecutes him in our courts; and as the claim has always some foundation although often the amount of it is exaggerated, finds no difficulty in getting a decree in his favour, after which the threat of imprisonment in execution of the decree speedily compels the unfortunate debtor to agree to the terms required, and he executes the bond. In numerous cases I have seen great unfairness used in attempting to make out a claim against a man who it was notorious had no property whatsoever, and this for the sole object of getting the debtor to bind himself as a slave in satisfaction of the decree.

6. The sons of slaves, whose condition does not extend to their children, are always advised to marry as soon as they become of age. The master of the father advances money for the performances of the necessary ceremonies, generally less than ten rupees, on condition that the boy binds himself by a bond similar to that by which his father is bound. This he almost invariably does, and so renders himself a slave for life, or until the money is repaid according to the terms stipulated in the bond.

7. To the existence of this system we have no means of applying any efficient check. According to the custom of this part of the country, the bonds do not require to be authenticated by the register or the kazee or any other authority, and are most frequently written on unstamped paper.

8. That such a system must give rise to great oppression amongst an extremely poor and ignorant population must be obvious. That it is injurious to the country, by reducing so great a proportion of the population to a condition in which they are uninterested in its prosperity is equally so.

9. Under the actual condition of Ramghur, Kurruckdeea and Palamow, I do not believe it is possible to regulate this system in such a way as to render it materially less oppressive than it is at present. I beg, therefore, to suggest, that the only effectual remedy for the evils above alluded to is to abolish the whole system, by declaring the sale or pledge of free persons, whether by their own act or that of their parents, illegal.

10. Some embarrassment would at first be felt by the farmers and landholders; but as the measure would only have a prospective effect, and would not interfere with their present stock of slaves, they would gradually, as their slaves died off, fall into the way of employing the same class of persons as free labourers that they now do as slaves; and I should not, therefore, anticipate that any great inconvenience would be felt by the slave-owners by the proposed measure.

11. Should it be determined to carry this measure into effect, I beg to suggest an exception which, I think, on the grounds of humanity, ought to be made to the prohibition of the sale of children by their parents—I mean in seasons of great scarcity, when it ought to be permitted. On such occasions there is no doubt that the lives of many children, who would otherwise perish from starvation, are saved by their parents selling them. A very few simple rules would suffice to prevent this qualified permission being abused, so as to defeat the general prohibition.

ENCLOSURE

ENCLOSURE of Captain *T. Wilkinson*'s Letter (A.) from Mr. *J. Davidson*, the Principal Assistant to the Governor-general's Agent, Camp Tomar, dated 20th July 1836.

2. IN reply to the first* paragraph of Mr. Millett's letter, I beg to state, that slavery only exists in this division in the two pergunnahs of Toree and Palamow; in respect to which the courts recognize the legal rights of the master over his slave as fully as that of an owner over any other description of property; and his right to sell, transfer or mortgage his slaves is considered unquestionable. In regard to the property of slaves, no right over that on the part of the master is recognized. It is considered to belong exclusively to the slave as completely as if he were a free person.

3. In reply to paragraph 2d, the courts recognize the right of the masters to correct their slaves moderately, provided it is not beyond what appears fairly necessary for the support of order in their families. Should the measure of correction appear to have been beyond what is fairly necessary for this purpose, the court would grant protection to the slave. But on this point I beg to state, that I have never had any complaints of ill-usage preferred against their masters by slaves. This is perhaps partly owing to their having in general little to complain of, but chiefly to the circumstance that slaves who are on any account discontented with their masters are in the habit of absconding; and the difficulty the masters find in compelling their return to servitude is a great check to any tendency towards ill-usage on their part. There are no Mussulman slaves in this division.

4. There are no such cases as those contemplated in paragraph 3d. Slaves are considered to have the same right in regard to parties other than their masters as freemen have between man and man.

5. In reply to paragraph 4th, it is difficult to cite any written law by which a magistrate is authorized to interfere in protecting a Hindoo slave from the cruelty or ill-usage of his Hindoo master; but that the courts do protect slaves under such circumstances is certain, probably under the influence of a feeling on the part of the magistrates that they are bound to afford protection to all, the free and the slaves, and without inquiry whether such interference is or is not in accordance with certain maxims of Hindoo criminal law, which have never been practically in force in India since the establishment of our courts, and which are incompatible with the existence of any rational system of law administered by men of education and humanity.

6. In reply to paragraph 5th, the courts would not support the right of a Mussulman master over a Hindoo slave in the case supposed, or *vice versâ*. In respect to the supposed case of claimants of slaves other than Mahomedan or Hindoo, the courts would not recognize the right of British-born subjects who might claim possession of slaves. But in respect to other classes, such as Parsees, for example, they would, I should say, in the absence of any law on the subject, be guided by the custom of the country, whatever on proper inquiry that might appear to be.

No. 68.

ANSWER of Mr. *C. Harding*, Commissioner of Circuit, 12th Division Bhaugulpore, dated 28 January 1836, to the Register of the Court of Nizamut Adawlut, Fort William.

*Answer to the 1st question.**—MY experience leads me to the conclusion, that the courts of justice have been generally guided more by the principles of the English law as respects master and servant, than by the rules prescribed in the Mahomedan and Hindoo codes, relative to the authority and privileges therein specified regulating the respective duties and rights of master and slave.

2. *Answer to the 2d question.*—Complaints between master and slave are of such rare occurrence, and the practice of courts so different according to circumstances, that it is impossible to reply to this question satisfactorily. If a master, without due provocation, seriously maltreated his slave, he would probably be fined and admonished; if he moderately chastised him for impudence, disobedience or neglect of duty, he would be considered justified in so doing. As above observed, the Mahomedan and Hindoo laws have not been much attended to in cases of complaints of a criminal nature between master and slave. Such cases have been disposed of according to their particular merits on the principles of substantial justice, without reference to the laws of slavery, which have ever been discountenanced.

3. *Answer to the 3d question.*—I am not aware of any.

No. 69.

ANSWER of Mr. *E. Lee Warner*, Civil and Session Judge of Bhaugulpore, dated 20th February 1836, to the Register to the Court of Sudder Dewanny and Nizamut Adawlut, Fort William.

ON the 1st* question, I reply, as far as my experience goes, there is no defined legal right, either of the person or property of masters with regard to slaves recognized by the criminal courts.

On the 2d question, there is a general understanding that the master cannot maltreat or punish with severity a slave; and if it be brought to the notice of the magistrate's court,

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* *See* Letter from the Law Commission, No. 1 of this Appendix.

Appendix II.
Returns.

court, the master would be fined or made to enter into a recognizance not to ill-use the slave; but I conceive the services of the slave, after what is customary, would be allowed to the master. I speak, of course, *cæteris paribus*, that no act of undue severity would be permitted, nor, on the other hand, would petty complaints be attended to by the court.

2. During the time I held the office of commissioner of circuit for the Monghyr division, a case came before me in appeal from the joint magistrate's order, directing persons who had been previously slaves to be released, not on any proof of the master's maltreatment, or after any inquiry made into that matter; but the order was, that the individuals in question, after the expiration of the period of imprisonment (in consequence of running away from their master), should be at liberty to go where they pleased; in other words, made free.

15th May 1830.
12th July 1830.

3. I beg to annex a copy of the superior court's orders to me and my reply, because it appears to me that some definite rule should be promulgated for the guidance of the courts, whether civil or criminal.

Monghyr, Calendar, No. 1. September 1835. Poorun Singh *versus* Akla Dhanook.

4. I also beg to notice a case which came before the session court. The prisoner was accused of murdering Hunoman Singh, the master of a slave-girl, the wife of the prisoner; and the prosecutor, son of the above master, deposed that the prisoner murdered his father, because he had objected to the wife, the slave-girl, going so often and leaving his service; and on her going away and not returning at the given time, he said he would sell her, as she was of no service; on this threat the prisoner, out of revenge, murdered his father. The prisoner was acquitted as there was no proof against him; but it shows that some law regarding the power of masters over their slaves is desirable.

Civil Court.

I have looked over the suits decided in the civil court for the past 10 years, and do not find any that require notice, as all have been decided as mere matter of sale (by Ujeernamah, generally specifying a term of 90 or 70 years), and no question of law taken. The right of selling the child from the parent, the wife from her husband, at the caprice and will of the master, appears recognized, and the only proof required is the sale having been made, and the person making it being the owner of the slave. Surely in these enlightened times it may be hoped and expected that some line will be drawn, and that children born of slaves will not be allowed to be held (from birth) the slaves of the master. Those who have (after coming to years of discretion) sold themselves, are not to be pitied; but there ought to be some restriction as regards the first. Let those who are slaves (considering the past times) remain slaves, possessing, however, a right to justice (I mean on trial) equally with all other persons, but the offsprings be declared from a given time (after proclamation) born free. This will annihilate the system of prevailing slavery, and be the eventual loss of the master for the general good of all.

There appears to have been no notice taken, with regard to the party being either Mussulman or Hindoo, in any of the cases decided by the court.

Extract from the Proceedings of the Nizamut Adawlut, under date the 25th of May 1830, referred to in the above.

PRESENT:

W. Leycester and C. T. Sealy, Esquires, Judges.

Read a return from the commissioner of circuit for the 12th division, and the proceedings in the case of Jhaul and others claimed by Runjeet as his slaves, called for by the court's precept of the 2d January last, on a petition from Jhaul and others.

The court observe that Jhaul and others, five men and five women, were ordered to be released on the 10th January 1828, by the magistrate, and that Mr. Lee Warner, on an appeal to him by Runjeet, adjudged the individuals in question to be his slaves. As the order of the commissioner is deemed to be improper and unauthorized by any regulation, the court annul the same, and direct that the commissioner instruct the magistrate to call before him Runjeet and the individuals who may have been made over to him as slaves by the commissioner's orders, and set at liberty the latter, taking from Runjeet a mochulka in a reasonable amount to abstain from illegally harassing the said persons, or any others affected by the order annulled, leaving the said Runjeet to seek his remedy in a court of civil jurisdiction.

The court regret that Mr. Lee Warner should have considered himself at liberty to interfere in a case which, even from the position of the petitioners, that in India slaves are assets the same as lands, and that large sums are expended "in the acquisition of that species of property," was clearly not within his jurisdiction, and that he should have issued an order disposing of disputed property in human beings, which he must be aware that he was not competent to do with regard to any article of property, animate or inanimate.

To the Officiating Register to the Court of Nizamut Adawlut, Fort William.

I have the honour to acknowledge the receipt of the extract from the proceedings of the Nizamut Adawlut, under date the 25th May 1830, in the case of Jhaul and others, claimed by Runjeet as his slaves, called for by the court's precept of the 2d January last, on a petition from Jhaul and others.

2. I beg

2. I beg leave to state for the information of the Nizamut Adawlut, that the orders of the court have been immediately carried into execution by transmitting the same to the joint magistrate of Monghyr, with directions to report the due completion of the orders contained in the extract above adverted to.

3. In the concluding paragraph, the judges of the court have thus recorded their opinion: "The court regret, that Mr. Lee Warner should have considered himself at liberty to interfere in a case which, even from the position of the petitioners, that in India slaves are assets the same as lands, and that large sums are expended in the acquisition of that species of property, was clearly not within his jurisdiction, and that he should have issued an order disposing of disputed property in human beings, which he must be aware that he was not competent to do with regard to any article of property, animate or inanimate."

4. Under the circumstances of this censure having been entered on the records of the Nizamut Adawlut, I trust the court will see the propriety of my reply being also filed with those proceedings, in explanation of the grounds on which I acted. And, first, I beg to state, that I know of no distinct rule by which the interference of the criminal court is restricted in such matters; on the contrary, I have been misled by an authority which I had hitherto considered universally acknowledged by all the courts of India. I allude to Mr. Harington's Analysis of the Laws and Regulations, published in 1821; and if your court will do me the favour to look at page 70, it will be found that Mr. Harington thus expresses his opinion: "On considering the regulation proposed by Mr. Richardson with respect to slavery, I entirely concur in his first proposition that all claims and disputes respecting slavery should be made cognizable by the magistrates in the first instance, subject to the established control of the courts of circuit." This quotation, I am aware, is only the opinion of that gentleman; and on it I do not exclusively rest my excuse, but on the following point recorded:—

5. Mr. Harington observes: "The following extract of a letter from the magistrate of zillah Furruckabad, under date the 17th February 1817 (which induced the Nizamut Adawlut to sanction a summary inquiry by the magistracy subsidiary to a regular suit in the civil court), may be cited as forcibly applicable to this point." Now the reasons assigned are all of a general nature, and will suit any case of slavery which may be brought before the court; and the precedent having obtained in this instance, the question became, I supposed, no longer doubtful. Moreover, I believe that if a report is called for, it will be found that the criminal courts are in the practice of determining summarily those cases. I may be wrong, but I request the court will be pleased to ascertain the fact, and if such a mode of proceedings shall be found to be in use, I hope the court, in consideration of the peculiarity of the individual case, and of a want of precedent, or rather, I may say, being led away by a wrong construction of the Analysis quoted, will be pleased to annul the order of censure from their books. No one can rejoice more than myself in having a precedent which will, in future, enable me to act up to the dictates of my own conviction of what is right, and to that feeling which is common to all Englishmen,—a detestation to slavery. I had viewed the case as an act of dispossession by the court, and in opposition to the decree of the civil court, and to that course of life they had been pursuing (by living as slaves in Runjeet's house) until the time of the theft; and I feared that an impression might go forth that a slave, to emancipate himself and relations, had only to steal his master's property and be sentenced to a limited imprisonment in gaol for the offence, when on his being released from gaol, he became at the same time, by official interference, without any inquiry into the facts, released from servitude.

6. The joint magistrate punished the individuals in question, not because the crime of theft was proved, but from having fled (mufroor) from the house; and without any assigned reason, orders (in the conclusion of his rubakaree) that after being released from gaol they may go where they please. The decree of the court states that the male and female slaves are the right of Duleep* Singh, and also uses the term "ukrobai anha," their kindred. Now it is without doubt that they are (the persons mentioned in my order) the descendants of one of the persons who is still a slave named in the decree. I state the circumstances only to show that I acted on what I thought sufficient cause; though as I have already said, I rejoice at the decision of the superior court.

7. I also beg leave to state that I do not exactly understand the meaning of the concluding part of the last paragraph; for, if taken in its literal sense, how is it to be decided whether the property which may be brought before the court in a case of theft belongs to the thief (as he says probably), or to the prosecutor? And it frequently occurs that an inquiry is necessary to determine whose the property may be in the first instance; and, as a case in point, I beg to notice the Nizamut Adawlut's orders in the case of Munneenath Baboo, page 264, Report of Cases 1829, decided by the Nizamut Adawlut, of which this is an extract:

"Mr. R. H. Rattray.—The property I would leave to the discretion of the magistrate; any deeming themselves aggrieved by his disposal of it, having an appeal to the commissioner who held the trial, and finally to this court by petition.

"Mr. Leycester agreeing with regard to the property, orders were issued accordingly."

(signed) *E. Lee Warner,*
Commissioner of Circuit.

Commissioner's Office,
12th Division, Monghyr, 12 July 1830.

ANSWER

* The father of Runjeet.

Appendix II.

Returns.

ANSWER of Mr. *J. Dunbar*, Magistrate, Bhaugulpore, dated 26th January 1836, to the Register to the Court of Nizamut Adawlut, Fort William.

No. 70.

2. As far as my own practice has gone, I have never recognized the relation of master and slave as in any degree justifying acts which would be otherwise punishable, or constituting a ground for mitigation of punishment. When a complaint is laid before me of ill-treatment, I have never considered it necessary to inquire whether the complaining party were actually a slave, over whom the accused had a legal right or not. The law has always taken its course, as it would in any other case; and if the offender claimed his accuser as his own property, I have never, as magistrate, recognized such a claim, but directed him, if he felt so inclined, to carry his claim into the civil court.

3. Slavery to a great extent exists in this district. I am not aware that the slaves are subjected to any particularly bad treatment, but I confess, as I think the system is alike repugnant to the laws of God and man, I should rejoice to see it put down by a legal enactment.

No. 71.

ANSWER of Mr. *A. Lang*, Officiating Joint Magistrate of Monghyr, dated 25th January 1836, to the Register of the Nizamut Adawlut, Fort William.

2. THE system of slavery, as at present prevalent in this country, having never been brought to my notice in any cases which I have had before me, I feel that it would be presumption were I to offer an opinion on the points mentioned in Mr. Millett's letter. I trust that I may therefore be excused doing so.

No. 72.

ANSWER of Mr. *F. Gouldsbury*, Officiating Additional Judge, Zillah Behar, dated 11th January 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. WITH regard to the legal rights of masters over the persons and property of their slaves, which are practically recognized by our courts, I beg to state, that, as far as my experience goes, it appears to be the general practice of our courts in all civil suits brought before them involving the right of a master over his slave, to be guided in their decisions by the Mahomedan or Hindoo laws, according as the parties may belong to one or other of those religious persuasions. In criminal matters, I am not aware that it is usual to make any distinction between free persons and slaves, or to afford less protection to the latter description of persons than to any other class of British subjects.

3. By the rules of our criminal code, I conceive that a slave is entitled, equally with a free person, to protection from oppression and ill-treatment, and that a magistrate would not be justified in exempting a master from the full punishment which he would deserve for cruelty or hard-usage towards his slave, merely because the Mahomedan and Hindoo codes would sanction such maltreatment. Such cases are, however, I believe, of rare occurrence, and the interposition of the authority of the law is consequently seldom required. In this country, the condition of a slave is generally superior to that of a free person, as the master has an obvious interest in treating him with kindness.

4. The only slaves recognized by the Mahomedan law are infidels made captive in war, and their descendants; consequently there are but few at present existing who can be legally denominated slaves; and the condition of those who are nominally in a state of bondage is not such as to render their emancipation either necessary or desirable. They are generally persons who were sold by their parents in their infancy in time of scarcity, and who have consequently only exchanged a state of starvation for one which secures them protection, and places them beyond the reach of want, as both duty and interest combine in rendering it incumbent on a master to cherish and protect his slave.

5. The Hindoo code recognizes no less than 15 descriptions of slaves, according as they are acquired by birth, purchase, donation, inheritance, conquest, &c., whose persons and goods are the absolute property of the master, whose power over his slaves would appear to be unlimited. The actual condition of Hindoo slaves, however, differs little from that of Mahomedans. They are almost invariably well treated by their masters, and their condition is superior to that of free servants.

6. With reference to the 5th paragraph of Mr. Millett's letter, I beg to say, that, in my opinion, a Mahomedan master's claim over a Hindoo slave could only be determined by the Mahomedan law, and *vice versâ*; and that, except in behalf of a Mussulman or Hindoo claimant, the courts are not competent to admit and enforce any claim to property, possession, or service of a slave.

No. 73.

ANSWER of Mr. *H. V. Hathorn*, Magistrate of Zillah Behar, dated 25th June 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

*Answer to the 1st paragraph.**—IN the district of Behar, the courts would appear, by their decisions, to have recognized generally the rights of masters over their slaves, to the extent of enforcing any engagements voluntarily entered into by the parties, according to the custom of these parts, and provided that they be not repugnant to the feelings of a British judge.

Answer

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* *See* Letter from the Law Commission, No. 1 of this Appendix.

*Answer to the 2d paragraph.**—In cases of complaints preferred by masters against their slaves for absconding or contemptuous refusal to work, previous to causing the apprehension of the slave, or requiring him to perform the service, magistrates have usually demanded proof of the slave's amenability, either documentary or by the slave's admission; in like manner in instances of complaints instituted by slaves against their masters for expulsion or the ill-treatment of themselves or their children. In the former case, the magistrate would not interfere, except when the master had engaged to support the ejected individual. In the latter case, on proof of ill-usage, the officer, in awarding punishment, would regard the parties in the relative position of parent and child, admitting the right of the former to correct, by moderate chastisement, the misconduct or disobedience of the latter, but protecting the slave against acts of cruelty inflicted by the master.

In cases when the slave might apply for emancipation, in consequence of maltreatment or otherwise, it would be the duty of the functionary, I conceive, without reference to Hindoo or Mahomedan law, to record the right of freedom to the applicant, upon the general principle, that in the absence of any specific rule or regulation, the courts are guided by justice, equity and good conscience; which discretionary power would immediately dictate the propriety of granting emancipation to the slave.

I am not aware of any cases in which less protection would be afforded to an injured slave than to a free subject.

In practice, I believe, the courts of criminal judicature would not draw any distinction in deciding upon cases of complaint brought by slaves against their masters, whether the parties were of the Hindoo or Mussulman persuasion, and would dispose of such cases the same as if a servant had complained against his master.

I have before stated, that I believe it to be the practice of the courts at Behar, generally, to recognize the relationship of master and slave, to the extent only of enforcing such written contracts or voluntary engagements as may exist between the parties; further it has not been usual to draw any distinction in regard to the sect or religion of the parties concerned.

I am led to suppose, that the construction of section 15, Regulation IV. of 1793, by the Sudder Dewanny Adawlut, in the year 1798, is not generally understood to have reference to criminal cases. I do not recollect any instances in which the spirit of the section above quoted was considered to be the rule of guidance in disputes between masters and slaves. On the contrary such cases would seem to have been judged according to equity and justice; treating it as a case for which no specific rule existed.

Having briefly disposed of the queries suggested in Mr. Secretary Millett's letter, I proceed to offer a few general remarks as to the state of slavery in the district of Behar.

Slavery, both among the Hindoos and Mussulmans, prevails to a considerable extent in this district; it appears to be resorted to by the higher classes as a cheap mode of increasing the number of their followers and attendants, and thereby adding to their dignity and state; and the poor people find it a ready means of obtaining a certain livelihood, and securing to themselves and families a comfortable asylum in seasons of calamity and distress.

Among the Hindoos, the caste denominated "Kuhars" are nearly all slaves. The Koormies are also mostly slaves. There are many also among the Dhanook and Jessuar caste. Among the Mussulmans, slavery is almost entirely confined to the Jolahah caste. But the slaves of this persuasion are called indiscriminately "Molazadas," which properly applies only to the descendants of slaves.

Slaves purchased are either employed as labourers or as menial servants; in the former case, the farmer or landed proprietor tills his land and gathers his harvest at less expense; and, as menials, the master ensures in his slaves greater fidelity. In years of distress arising from calamities of season, the traffic in slaves by their parents is very considerable in Behar. As long as the slave continues faithful to his master, he is fed, clothed, and well-treated, and all religious ceremonies performed at the marriage or death of the slave are defrayed by the owner. The offspring of a slave becomes the property of the master, who is obliged to afford protection.

Slaves in Behar appear to be purchased either conditionally or unconditionally. They are also taken on long and short leases; in the latter case, from 2 to 10 years; in the former, for about 80 years. Mortgages are also common, and foreclosures applied for and obtained from the courts. These contracts are usually attested by the cazies, and not unfrequently registered in the courts.

The price of slaves varies according to their age and the nature of the service for which they are purchased. The following are the average prices for which they are sold at certain ages:—From 1 to 7 years about 10 rupees; from 8 to 14, about 35 rupees; from 15 to 30, about 50 rupees; from 31 to 50, about 30 rupees; from 51 to 60, about 12 rupees.

They are usually sold, both male and female, for ordinary purposes or general work. But a slave girl, if young and handsome, and sold as a concubine, will fetch 100 or 200 rupees.

In order to acquaint the law commissioners of the nature of the cases regarding slavery adjudicated in the Mofussil courts, I have annexed an abstract of suits instituted in the civil and criminal courts of Behar within the last 10 years, showing the entire number of complaints preferred, and how they have been disposed of. It is a curious coincidence, that the number instituted in the two courts should have been nearly the same.

ABSTRACT

* *See* Letter from the Law Commission, No. 1 of this Appendix.

ABSTRACT of SUITS connected with SLAVERY instituted in the Civil Courts at Behar, from 1825 to 1835, inclusive.

Substance of Suit.	Total No. of Cases.	How decided.					Substance of Decision in particular Cases.
		Decreed in favour of the Plaintiff.	Dismissed.	Parties discharged without any specific Order.	Amicably adjusted.	Struck off the File.	
1. For right to possession of slaves.	53	31	22				
2. For possession of slaves by deed of partition or takseemnameh.	6	3	3				
3. For possession of slaves by deed of mortgage or "byebilwuffa."	1	- -	1	- -	- -	- -	- - In this case it was ordered, that the party could not obtain possession, until he had petitioned to foreclose the mortgage.
4. For possession, from one who had fraudulently sold slaves not his property.	2	- -	2				
5. For possession, on plea of having purchased to save from starvation.	1	- -	1	- -	- -	- -	- - Ordered, that the case be dismissed, as the plea advanced by the plaintiff is not recognized by any regulation.
6. For services from a slave, who had received consideration for the same.	1	- -	1				
7. For possession of a slave on mere assertion.	1	- -	- -	1	- -	- -	- - Ordered, that the slave must not consider himself emancipated, until he has repaid the money advanced to him.
8. For possession by deed of gift, without a consideration.	1	1					
9. For possession, on 18 years' lease.	1	- -	1				
10. For possession, as per sale by the mother.	1	1					
11. For possession of a slave girl purchased for prostitution.	2	- -	2	- -	- -	- -	- - Ordered, that the case be dismissed, as the regulations do not recognize purchases made for such like illegal purposes.
12. For possession by gift, for a consideration.	1	- -	1	- -	- -	- -	- - Ordered, that the case be dismissed, being contrary to the Shasters.
TOTAL - - -	71	36	34	1			

ABSTRACT of CASES relating to SLAVERY preferred before the Criminal Courts at Behar, from 1825 to 1835 inclusive.

Substance of Complaint.	Number of Cases.	How decided.						
		Ordered to be delivered over to their Master.	Referred to the Civil Court.	Parties discharged without any specific Order.	Amicably adjusted.	Punished.	Acquitted.	Struck off File.
MASTER *versus* SLAVES.								
1. For running away, and carrying off property.	4	2	2					
2. For absconding, to run away	4	- -	- -	3	1			
MASTER *versus* MASTER.								
3. For possession of slaves, with assault.	62	7	27	4	4	4	12	4
4. For enticing away slaves -	2	1	- -	- -	- -	1		
TOTAL - - -	72	10	29	7	5	5	12	4

ANSWER

ANSWER of Mr. *C. Tucker*, Commissioner of Patna, dated 12th September 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

No. 74.

2. I REGRET that it is not in my power to furnish any information on the various topics connected with the subject of slavery adverted to in the court's orders. I have never sat in a civil court since first entering on the public service, and have had no opportunity of forming an opinion as to the system of slavery which obtains in this country. Magistrates were prohibited taking cognizance of cases involving the question of right to a slave; and I do not ever remember an instance of an application being made by a slave for redress against his master for maltreatment. On general principles of equity, however, I should, as a magistrate, entertain such cases, and proceed to their trial the same as if the applicant were a freeman.

3. Under these circumstances I must at once plead my inability to supply any information that could be of the least use to the court on this subject; and in excuse for the delay which has occurred in making this declaration, beg to state, that the court's circular, of the 13th November last, reached me whilst on the move from Sarun to Gya, and in the confusion of moving was mislaid, and only produced this day.

ANSWER of Mr. *George James Morris*, Judge of Patna, dated 24th September 1836, to the Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William.

No. 75.

2. SINCE the period I have held charge of my present office at Patna, no cases connected with slavery, whether immediately for the right of property in slaves by sale, bequest or succession, or indirectly in the course of enforcing decrees of court, have come before me, although allusions to such a *status* as actually existing are of frequent occurrence. No criminal prosecutions arising out of maltreatment of slaves, or of disputes for the right of possessing them, have ever found their way into the sessions court; and I have reason to believe, that the records of the magistrate's kutcherry will be found to be equally free from them. The system of buying and selling slaves, if it prevails at all in this district, is not, as it were, openly legalized, as far as an avowed custom and unforbidden practice can legalize it. The cazees, too, I am informed, do not consider themselves at liberty to authenticate instruments for the conveyance of property in slaves. In the district of Shahabad, where I was last stationed, cases of slavery were also very rare. In Behar, on the contrary, where I held office for nearly five years, claims and actions for slaves were as common as those for any other description of property; and very many disputes came to be settled before the magistrate, by whom, in questions of disputed right, the matter was summarily disposed of, by setting the alleged slave at large on security; while the party claiming to be the master was bound over to bring a civil suit within a given time to prove the right. As many such claims had been tried and adjudged by me, I wished, therefore, before proceeding to answer the particular questions proposed by the law commission, to refer to my notes of such trials. This advantage I have missed, the note books having been made over to my successor (Mr. Dent), who is at present absent from India. As far, however, as memory will serve me, I will state the practical results to which, in the course of my experience in adjudicating such cases, I was brought.

3. I will first of all observe, generally, that nothing could have been more loose or uncertain than the practice in regard to rights claimed or exercised over slaves. I have never been able to trace the rules that were recognized and acted upon to any principle of law, whether Mahomedan or Hindoo. Local prescriptive usage, modified and limited by occasional edicts issued by the civil authorities to guard against particular abuses, seems to have been the only law to which either party, whether master or slave, looked up. In the usages which had thus become common and binding, certain principles of natural equity were more or less discernible; for instance, the right of disposing by sale of infant offspring, male or female, rested exclusively with the mother, or, failing her, with the maternal grandmother. The father or other relations on his side had no such right of disposal; nor is his consent even deemed indispensable to the validity of the sale. This custom applies mainly to two large castes, viz. the Kahars and a tribe of Koormees, who, as a body, are all counted as slaves immemorially; though it may happen that some few, here and there, being accidentally free, do sell their own children. In all other cases the children are the property of the parents' master. By degrees the practice referred to seems to have become pretty general throughout Behar, *i. e.*, whether the parents are reputed free or otherwise, no sale of children appears to be recognized as valid to which the mother, or her mother, has not in some way been made a party; and even in cases of sale of slaves, the undoubted property of the person selling them, it is customary, in order to give greater validity to the sale, to procure the assent of the mother, or her attestation to the instrument of sale. It seems to be generally admitted, that, to make the sale of a person born of free parents valid, such sale should have been made under circumstances of distress, such as dearth and the like, and that the party sold be an infant or of immature age. Another point to be remarked in connexion with slavery usages is this, that the deeds and titles under which the owners in Behar profess to hold their slaves are not, generally at least, bills of sale (qibaleh bye), but simply leases (ijarehnamah) or assignment of person and services for a fixed term (90 years), or, in other words, for the natural life. Now, upon this, two questions naturally arise; 1st. Is such lease or mortgage redeemable by payment of the money advanced on the person sold reaching maturity, and wishing to release himself from bondage?

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bondage? 2d. Can such instrument give any thing more than a life interest in the thing sold, or can it convey any right over the offspring of the person sold or leased out? Cases which turned upon the first of these questions have come before me judicially; and where there was no express condition in bar of it, and the mortgage had not been foreclosed, I have allowed the person who was sold to be a slave, in childhood, to redeem his or her freedom, on payment of the principal sum advanced, with interest. I do not call to mind having adjudged any claim in which the second case I have put was involved in the point at issue.

4. What has been stated above partly meets some of the questions proposed by the law commissioners in regard to the practice of the civil and criminal courts. I will now proceed briefly to answer those questions in the order in which they are put.

*Answer to the 1st question.**—When the sale or other conveyance is valid and complete, the legal right so acquired extends to the persons and property of the slaves themselves and of their offspring, supposing both parents to belong to one and the same master. But if they belong to different owners, then the children are the exclusive property of the proprietor of the mother. The proprietary right of the master in regard to the use, loan and sale of his slave is the same as over any other kind of personal property. If the slave be hired out, his earnings while in service belong to his master; if he runs away, he can be brought back and restored to his master; and the party sheltering or enticing such runaway slave can be sued for damages for loss of service.

*Answer to the 2d question.**—According to the Mahomedan notions, founded on the precepts of their law, the purchase of a slave for unlawful purposes, such as prostitution, thieving, &c., makes such sale null and void. If, therefore, unlawful or improper service be exacted from a slave by his master, he can, under that law, claim his release. So far, then, from the relation of master and slave justifying acts in themselves illegal and punishable, such acts go of themselves to dispute the relation. How far this principle may in practice be acted upon, I will not take upon myself to say. I have in a civil action given a slave his freedom, or, in other words, dismissed the claim of the master, when acts of cruelty and hard usage were established against the latter, believing that I was not acting contrary to the Mahomedan law, and strictly in accordance with the principles of justice and equity, which, by the regulations, in cases not specifically provided for, were to form my rule of conduct. The principle upon which slavery of persons, not infidels or taken in battle, is justified by Mahomedan law and practice, is simply to preserve life. If, therefore, the master will not feed or provide for his slave, or otherwise by carelessness or neglect endanger his life, the avoidance of the obligation on the side of the master will form a legal ground for emancipating the slave. Cases of this description I have never met with. In ordinary practice, slaves complaining against their masters will receive from magistrates the same protection as would be shown towards parties not standing in that relation; and the degree of punishment would be determined according to the mitigating or aggravating circumstances to be found in the case itself, without reference to such relative position. Slight chastisement, inflicted by a master on his slave, in like manner as on a child or servant, would certainly be looked upon as a venial offence. But, in point of fact, such cases never find their way into court; it is only habitually hard and cruel usage that forces a slave to run away, and even then he is rarely the first to complain. The indulgences to Mussulman slaves, referred to at the end of this query, are in practice never recognized or acted upon.

*Answer to the 3d question.**—In the case supposed, no distinction is ever made by civil and criminal courts between slaves and free persons. The *status* of the former has never, to the best of my knowledge, operated to exclude them from claiming protection of their natural rights, whenever those rights, whether as regards person or property, were infringed by any wrong-doers not being their masters. If any thing, the complaints of persons so aggrieved would at first sight be more favourably viewed from the natural leaning towards the weaker party.

5. In summing up, then, what has gone before, and referring moreover to the doubtful points put in the 2d and 4th paragraphs of Mr. Millett's letter, it will appear that civil and criminal courts have hitherto afforded remedy to slaves for injuries, whether affecting persons or property, not according to the strict letter of Hindoo or Mahomedan law, but according to the laws of custom and equity; for this simple reason, that parties so complaining, whether master or slave, have never pleaded to have the provisions of either law enforced.

6. In the case supposed in the concluding paragraph of that letter, the decision would, I presume, be governed by the law to which the defendant was subject. In the other cases the right of ownership would depend upon the validity of the title acquired by the purchaser, upon whom the *onus* of proof would fall to show that the slave was the child of Hindoo or Mahomedan parents, or was otherwise legally the property of the party from whom he was purchased.

No. 76.

ANSWER of Mr. *W. R. Jennings*, Magistrate, City of Patna, dated 13th August 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

I HAVE the honour to submit a statement, showing the several cases of slavery which have been brought before this court from November 1828 to June 1835, which are all that are traceable among the records of this office.

2. You will observe there is but one instance of a slave having been punished for deserting from her master's house with property, and again made over to him.

STATEMENT

* *See* Letter from the Law Commission, No. 1 of this Appendix.

STATEMENT of CASES of SLAVERY before the Magistrate of Patna, from November 1828 to June 1835.

Names of the Parties.	Charge.	By whom Tried and Order passed.	Date of Order.	Substance of Order.
Moossamut Mobarukh Kuddum, slave, *versus* Moossamut Khanumjee, mistress.	- - Cruelty by burning body.	- - Mr. R. Neave, acting magistrate.	26 Nov. 1828	- - The slave ordered to go where she pleased, and the mistress not to make any resistance; and if she has any claim, she is at liberty to sue in the Dewanny Adawlut.
Moossamut Mobarukh Kuddum and Moossamut Nunnhee, slaves of Mirza Nujjuf Ullee Khan.	- - Eloping from the house of their master.	- - Mr. H. Scott, assistant magistrate.	17 June 1830	- - The slaves ordered to go where they pleased.
Moossamut Pooneah, slave, *versus* Wife of Lolsah Tewaree and Debeechurn, her son-in-law.	- - Fettering the slave.	- - Mr. T. C. Scott, officiating magistrate.	14 July 1830	- - The defendants released, and the slave ordered to remain where she pleased.
Bolukram Pondry, master, *versus* Moossamut Murrucheah and Moossamut Lounghee, slaves.	- - Eloping from the house of their master with property.	- - Mr. T. C. Scott, officiating magistrate.	5 Aug. 1835	- - The slaves were imprisoned 14 days without labour, and then they were made over to their master.
Moossamut Etro and Moossamut Mooskee, slaves, *versus* Moossamut Jonnee Begum and Moossamut Doolhinjon, mistresses.	- - Beating and cruelty by burning body.	- - Mr. J. C. Dick, officiating magistrate.	18 July 1835	- - The slaves were ordered to remain where they pleased, and mochulka taken from Moossamut Jonnee Begum not to oppress the slaves.
Moossamut Wolauety Khanum, mistress, *versus* Moossamut Hosenneah, slave.	- - Accusation of theft of jewels and elopement.	- - Principal Sudder Ameen Ujodheapershaud Tewaree.	5 June 1835	- - The plaintiff having failed to attend the court, the case was struck off the number, and the slave ordered to remain where she pleased.

ANSWER of Mr. *J. Hawkins*, Officiating Judge, Zillah Shahabad, dated 4th July 1836, to the Register to the Court of Nizamut Adawlut, Fort William. No. 77.

I NEVER had a case of slavery before me during the whole of the time I have been in the service; nor did any system of slavery prevail in any district in which I have been employed, with the exception of that in which I at present hold office.

2. Such being the case, I can only state to the court how I should consider it necessary to act on being called upon to decide cases of the nature alluded to. Bound as are our courts to administer to the natives their own laws, I should consider myself compelled to recognize the rights of masters over slaves and their property, agreeably to the Hindoo and Mahomedan laws, as the case may be, provided that no right was claimed inconsistent with the proper, that is, kind treatment of the slave: and I should, therefore, say, with reference to the second and third paragraphs of the letter of the secretary to the legislative council, that I would mete out the same justice to slaves that I would to other persons, and consider the master responsible and punishable for acts of cruelty to the same extent as if those acts were committed against persons in whom he possessed no right of property.

3. In reply to the concluding paragraph of the secretary's letter, I do not hesitate to say, that I would not support the claim of a Mussulman master over a Hindoo slave, when, according to the Hindoo law, the slavery is legal, but according to the Mahomedan law, illegal, and *vice versâ*, unless expressly directed to the contrary. I would restrict the system of slavery to the narrowest legal limits, and I would not support a claim to property which the law the claimant would desire to have administered to him in the decision of all other questions of a civil nature pronounces to be illegal. Upon the same principle, I would not recognize the claim of any other than a Hindoo or Mussulman to a right of property in slaves.

ANSWER of Mr. *T. Sandys*, Magistrate of Zillah Shahabad, dated 9th July 1836, to the Register of the Courts of Sudder Dewanny and Nizamut Adawlut, Fort William. No. 78.

2. THERE can only be one grand principle of practice avowedly recognized in all our courts of justice, "that they are accessible to slaves as well as freemen, and a British magistrate would never permit the plea of proprietary right to be urged in defence of oppression." But

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it is questionable how far the slave, from his peculiar position (doubly enslaved by his abject and wilful submission in the first instance, and in succeeding generations rendered familiar by the distinction of caste and domestic education), will allow himself to make the court accessible to himself.

3. Importation of slaves by sea can exercise no influence in this district, either with regard to its geographical position or the state of bondage as it obtains in these provinces. That by land, also, cannot be termed importation; it confines itself, as within its own boundaries, simply to transactions of purchase, mortgage or exchange with the neighbouring districts. Slavery, therefore, as it exists here, is purely domestic, bad even as this most favourable view of slavery may be. The castes who generally engage or sell themselves as slaves are—

Mussulmans.	Hindoos.
1. Jolaha.	1. Kuhar.
2. Dhoonnia.	2. Koormee.
3. Dome, either Mussulman or Hindoo.	3. Dhanook. } Seldom except under emergency.
	4. Bharee. } Seldom except under emergency.
	5. Buruhee. } Seldom except under emergency.

The subject may be simply viewed as a mortgage of personal services for life, or 70 years, instead of daily labour at daily hire, the castes engaging being of the lowest labouring classes, their liberty in outward respects being without restraint, their employment household and domestic. The cheapness of the system compared to hired service, independent of other considerations, strongly prejudices the native master in its favour. On the other hand, the slave is saleable as other kinds of property, being constantly liable to mortgage or sale, and is frequently made the subject of litigation in the civil courts, which decree accordingly. The slave does not appear to possess the power of re-purchasing his liberty, and his release, at any time or under any circumstances, seems to remain optional with the master. Once a slave, whatever he has or may gain is his master's. Hence the speculation and value attached to the system. The children remain with the mother; nor does the father or the master exercise any right of property over them. This is the description of slavery, as I understand, ruled by the court's circular order, No. 141, wherein the court observe, "that any part of Regulation X. of 1811, is not applicable to sale of slaves not imported into the British territories."

4. Under the foregoing circumstances, cases between the master and slave, and slave and master, do not frequently come before the criminal court, the greater number of minor offences consisting of complaints of runaways, "thieving," or on mortgage or sale taking place, the slave endeavouring to avoid the exchange and obtain his release by questioning the right of bondage. But, particularly to notice serious cases as affecting the personal protection of the slave, a reference to the records of this office from 1816 to 1836 assures me, that no case of simple maltreatment, slave *versus* master, master *versus* slave, or a single instance of heinous charge on either side, has occurred.

5. With regard to the reference to section 9, Regulation VII. of 1832, I understand that a Hindoo or Mussulman slave is regulated by the usages and practices of his own caste, and not by the law of his master. This, I believe, is a mutual understanding. It is not improbable that European and East Indian subjects may employ slaves of this description, and who, under this modified system of bondage or engagement, and with the tacit consent of the slave, exercise just as much right and property over him as the Hindoo or Mussulman master; though, were the point contested in court, in my humble opinion, I should be justified, on moral grounds, and authorized by the spirit of British government, in emancipating the poor ignorant bondsman from such a slavery out of the hands of this class of subjects.

No. 79. Answer of Mr. *T. R. Davidson*, Officiating Civil and Session Judge of Zillah Sarun, dated 17th September 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

Since February 1833, I have officiated as judge in five districts, Ramghur, Etawah, Behar, Shahabad and Sarun, and it must be evident to the court of Sudder Dewanny Adawlut that I have scarcely had time to make myself acquainted with the system of slavery prevailing in each or any of these zillahs. Mr. G. T. Morris, the judge of Patna, will have placed before the court the result of his long experience in Behar, and, from the character which he bears for ability and habits of reflection, his suggestions and observations on the system of slavery in that district cannot but prove most available. I the less regret, therefore, having destroyed my notes of cases which came before me when I officiated for a short period as judge of Ramghur and Behar; and, to the best of my recollection, in no other district has a case of slavery ever come before me.

No. 80. Answer of Mr. *Luke*, Officiating Magistrate of Zillah Sarun, dated 15th September 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. The rights of masters over their slaves do not appear to have been recognized in this district; and, as more immediately connected with the magistrate's office, the records of this sherishta do not furnish a single instance where the plaintiff and defendant stood in the

the relation of master and slave; from which it may be inferred, that if ever slaves have claimed the protection of this court, their grievances have met with such redress as the regulations would have afforded to free-born subjects.

3. During my experience, it has never fallen to my lot to try a case in which master and slave were the parties concerned; were, however, such a case to come before me, I should be guided by the nature of the evidence of the witnesses, without reference to any relation existing between the parties as master and slave, and should award such punishment as the provisions of the regulations might authorize.

ANSWER of Mr. *T. J. Dashwood*, Judge, Zillah Tirhoot, dated 5th February 1836, to the Register of the Sudder Dewanny Adawlut, Fort William. No. 81.

3. THE higher ranks of Hindoos invariably keep a number of slaves, and the rajah of Durbhunga, the principal person in the district, has probably several hundreds of them in his family.

4. Brahmins, Rajpoots, and even Kaiets have them according to their means, and most of the rich Mussulmans also retain them. Slavery, however, in this country is not to be compared with that in the West Indies or America, and the ideas and prejudices regarding it which exist in Europe ought to be laid aside in considering the question here. I have no knowledge of the system in the western provinces, but in this district slavery is almost, if not entirely, confined to domestic slavery. The slaves are in constant attendance on their masters, and are employed in cleaning the house, bringing water for ablution and the use of the family, dressing the food, and performing whatever services may be required about the house; and in return they get their food, clothing and lodging from their master, by whom also the expenses incurred at their marriages and funeral ceremonies are paid. They are rarely, or I may say never, engaged in tillage of the ground on their own account, but are sometimes employed in the cultivation of the private lands held by their master.

5. If they have the opportunity of saving money or other property on their own account, it is entirely at their own disposal, and their master has no control over it, or the power of disposing of it contrary to their wishes. They are generally the most favoured servants of the family, and trusted in preference to others in important matters, and are also employed as gomastas, and managers of the estates and property at a distance from the residence of their masters.

6. No implements of terror or punishment are required for them; and, to all appearance, and, I believe, in fact, they are better off and happier than the common ryots of the country and other natives of the lower castes and rank of life. It cannot, however, be denied, that in the literal meaning of the word they are slaves; their masters have the power of buying and selling them, and they have not the power of emancipating themselves. From the good treatment they receive, few would probably wish for emancipation; but were they to desire it, they have not the power of obtaining it, except from their master's pleasure and gift. The purchase and sale of slaves is common, but is entirely confined to the limits of the district, or rather to the immediate neighbourhood of their master's residence. He would never attempt to sell a slave out of Tirhoot, and were he to do it, the slave would not remain with the purchaser, but abscond in a short time, and return to some part of Tirhoot. It is not in my power to give a reason for this fact, but I have been given to understand that such has invariably been the custom and the result of every attempt to evade it. The marriage expenses of the slaves are, as I said above, at the cost of the master. It is generally contracted with some other slave in the neighbourhood, and the parties continue to reside with and serve their respective masters.

7. With regard to the issue of the marriage, the rule is, that every male child born shall belong to and be the slave of his father's master, but the female children born are not necessarily slaves, and may, on arriving at mature age, marry as they please; but they are generally disposed of by their parents by some agreement at the time of marriage, which is never disputed, and they continue slaves. There is another custom prevalent in the district, viz. men of the lower castes (as Coormee, Dhanuk, &c., but freemen) letting themselves out by deed for a term of years, and selling any progeny that they may have as slaves for life. Poverty and inability to provide for themselves is the usual reason assigned in these kinds of deeds, and the term is generally 70 or 80 years, which is equivalent to their whole life, as the parties have already arrived at years of maturity.

8. I enclose for the inspection of the court, copies of some* deeds of this kind, some regularly drawn out by the cazee; and, I believe, that it is this way that Mahomedans mostly obtain their slaves to make their purchases legal.

9. I now come to the specific questions in Mr. Millett's letter. I have above stated, that the master has no power over the property acquired by the slave; and as to his right over his person, he has, by the native laws, the power of correction, as a master would have in England over his apprentice; but he would be liable to punishment equally there and here for any acts of cruelty. I have never had any complaints of the kind before me at the sessions: but I would not, nor do I conceive that any court would, admit the plea of being the master as a justification, or cause of mitigation of punishment, for premeditated acts of cruelty.

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* Translated in the Law Commission; *see* p. 327.

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cruelty. Against other wrong-doers than their masters, slaves would of course receive the same protection as other persons from every court in the country.

10. The clause in Regulation IV. of 1793, directing the courts to adhere to the Hindoo and Mussulman laws, refers to civil rights only; and under them the courts would be bound, and do receive claims for the proprietary right over slaves. In the criminal courts, we took for our guide the Mussulman law only, which had prevailed for years under our predecessors in the government of the country. That being the case, the Hindoo would not be allowed to claim exemption under the Hindoo law for his criminal acts, as suggested in the fourth paragraph of Mr. Millett's letter, and he would be tried under the Mussulman law. We have tempered the severity of that law by some specific enactments; but every criminal act cannot be specifically defined and its penalty awarded; and the ruling authorities had under the Mahomedan law a general discretionary power, to which our government succeeded.

11. Our ideas of justice and equity are different from theirs; and it was, I imagine, under that authority that the Nizamut Adawlut were guided, in punishing the mistress and emancipating the slave Zuhoorun. She might not be entitled to emancipation by the letter of the law; but, with our ideas of justice, she was entitled to protection as much as any free person, and the court had no means of giving to her that security for the future, except by emancipating her from the power of her mistress. Cases similar to those mentioned in the fifth paragraph of the letter must be very rare, as a Hindoo, on account of his caste, could only keep a Mussulman slave for out-door work; but they may occur, and the custom of the country would be a sufficient authority to the court to receive such claims. A British-born subject could not, however, well be allowed to claim a slave, as I imagine that he could be punished in the supreme court for having purchased him; and therefore a court could not well decree a slave to him at one moment, and then, in the next, send him down to be tried criminally for having him. But foreigners, residing in the Mofussil, who are not subject to the supreme court, but to our courts, might, under the laws of the country, claim a slave; at least I see no prohibition against it.

12. There are no other questions to reply to; but, before I conclude, I must add a few other remarks on the subject. However much we may be anxious to remove every mark of slavery, and though it exists in the mildest form, it is the duty of government to attempt it; yet care must be taken that we do not cause a greater evil than that which now exists. There is here no forcible abduction of the slave from his native soil, nor any of the severities said to be elsewhere practised, used towards him.

13. We ought not, therefore, to be urged on by mere motives of philanthropy to rash and hasty measures, but should take into consideration the general condition of the inhabitants of the country. Whatever may have been the origin of slavery here, I am convinced that their number is now kept up solely from the poverty of the lower classes. Their poverty is at all times great; but in seasons of scarcity, or even a partial failure of crops, the difficulty of providing for their families is much enhanced; and it is then that they sell themselves and their children to obtain immediate support. The total prohibition, therefore, of every kind of transfer would, I fear, at such seasons, occasion the sacrifice of many lives from starvation, if not lead to the commission of the murder of children, from want of means for their support. We must therefore wait patiently for the further improvement of the country, and increase of the means of subsistence for its inhabitants, before we can entirely prohibit slavery. But we may attempt to regulate it, and abolish it by degrees, by preventing great additions being made to the number of slaves hereafter. This, I think, might be managed by regulating the practice above mentioned, of men letting themselves out, and introducing a system of hiring in lieu of sale.

14. In one of the accompanying deeds, a man, being of age, lets himself out for 80 years, which is equivalent to his whole life, and sells his unborn heirs for ever. A man may have an abstract right to sell himself for life, and, in order to provide for his children then living, some latitude may perhaps be allowed him; but he can have no right to dispose of his unborn heirs for ever. All clauses regarding the unborn, might, I think, be at once prohibited and declared illegal. With regard to the man himself and his living children, the case is different; but, even with them, slavery for their whole life is too great a price to pay for relief from a temporary distress and difficulty. In my opinion, therefore, all sales or leases for life should be prohibited, but grown-up persons permitted to let themselves out on lease for seven or ten years, with liberty of renewing it at the close of every lease Children are generally infants when sold, so that they cannot be of any service to the purchaser for many years after he has had them, and clothed and fed them. He is therefore entitled to some remuneration, or to their services, after they have reached an age capable of serving him in some way or other. I would therefore give power to the parent to dispose of, or let the child out on lease; if under 10 years of age, for a period of 15 years, and if above 10, for 10 years, at the close of which period they would be of age, and able to earn their own livelihood in freedom, if so inclined; if not, they may let themselves out again as all grown-up persons would be allowed to do. I fear that we cannot interfere with those now in slavery, beyond extending the above clauses regarding children to be offspring of the present slaves, and giving them the period of 10 or 15 years, according to their age, from the date when the Act took effect; and thus much we might do without much injustice to their owners.

15. A register should be kept in each police division of all slaves within it, and a copy of the entries sent monthly to the magistrate's office, where a general register should be kept, and

and every slave after the passing of the Act should be entitled to his freedom, unless his name and that of his master be duly registered, and the period of his lease entered in it. By these means, we should give an opportunity of emancipating themselves to those who wish for their freedom, and thus by degrees lessen the number of slaves, and still not prevent the poorer natives from preserving the lives of their children, or their own, in time of distress. Parents would probably, if their own circumstances were improved, take back their children, or persuade them to emancipate themselves; and, at any rate, if neither of them wish for their freedom, they would become the hired servants, in lieu of being absolute slaves, and after a time, though perhaps a distant one, slavery would die of itself, and become extinct without injury or injustice having been done to any one.

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*Three Forms enclosed in the foregoing Letter.**

1st. I, Jumuni (a female Muslim), am destitute of means of support and in debt. On that account, in consideration of 75 rupees received from A. (Hindoo landholder), I have let out in hire my son, C., aged seven, and daughter, D., aged eight, years, during the term of 80 years ending 1320 Fussly. I engage and covenant that the said parties so let out in hire, receiving support, shall attend and render servile services to the said hirer. They shall not be recusant; and without his leave shall go nowhere, nor shall they run away during the term. Every child begotten or produced by the said hired persons shall be the property of the hirer; so also their remotest descendants who may hereafter be born. Neither I nor my said children shall oppose or object on any account. Therefore have I written this deed of hire for 80 years. Dated 30th August 1832, corresponding with 14th Chyt, 1239 Fussly.

2d. I, A. B. (a male Kurmi), aged 26, am in want of necessaries of life and involved in debt, and have received eight rupees from C. (Hindoo), wakil of the zillah court of Tirhoot, and let myself out to him to serve him for 85 years. I covenant and promise night and day to attend on the said hirer. All my lineal children who may be born hereafter will be the right of the hirer; and so also must their remotest descendants, to be born, attend and serve the hirer and his heirs. Hereafter, neither I nor my heirs, who shall be born hereafter, will make any claim, let or obstruction whatsoever. This, then, is written as a deed of lease. Dated 30th March 1832.

3d. Cause of writing these lines is this. A. B. (a Muslim weaver), of sound and disposing mind, appeared before me† at my office this day. He voluntarily confessed and acknowledged thus: "I could not, from poverty, support and feed my daughter, C., aged nine years; she was in danger of dying. Therefore, in consideration of five rupees, of full weight, duly received, I have let her out in hire for 74 years, ending Fussly 1302, to D. (a Muslim). It is necessary that the said C. should attend night and day on the said hirer, obeying orders and rendering services of a slave. Without leave of the hirer she is not to go any where, nor infringe his order. The hirer must support her. Her progeny and descendants, born within the term of the lease, will belong by way of profit to the hirer and his heirs. Hereafter they will attend on him as slaves. I shall have no claim on him for the party hired, or her offspring, on account of non-payment of said sum or any other account whatsoever. Therefore, these words have been written as a deed of hire to be used when occasion may require. Dated 14th of Maug, 1228 Fussly."

No. 82.

ANSWER of Mr. *G. Gough*, Officiating Additional Judge, Zillah Tirhoot, dated 24th February 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Fort William.

2. MY residence in this district has been so very limited, that I am unable to make any remarks on the system of slavery peculiar to this part of the country; but, considering the question generally, so far as the subject of slavery has come under my observation, I have always found that slavery, as it exists within the Company's territories, is of a far milder form than that which is in force in other countries, or is generally imagined, under the term "slavery," by those who have not had local experience of the fact.

3. Slavery exists to a very great extent in India, and almost every zemindar possesses slaves according to his means. These, however, are not the degraded individuals which that term is understood usually to denominate. I have invariably observed that the slaves are the most favoured and trusted servants of their masters, generally engaged in domestic duties, and frequently intrusted with the most confidential employments, in many instances, indeed, appearing more as members of their master's family than as absolute slaves. The master possesses a proprietary right over the person of his slave, which is recognized in the courts; but the sale and transfer of slaves from one master to another is not of very frequent occurrence, and never takes place when the parties live in distant parts of the country.

4. The natives of India do not look upon slavery with the same degree of repugnance with which it is regarded in other countries; and individuals of the poorer classes are frequently found willing to sell themselves, either conditionally for a certain number of years, or otherwise. And in seasons of scarcity and distress they readily avail themselves of such a mode of providing subsistence and comfort for themselves and offspring. No instance has ever

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* *See* para. 8 of this Letter, p. 325.

† Pergunnah Cazzi, who attests.

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ever come under my knowledge where a slave was reduced to that condition by any violent means. Modifications in regard to slavery may be beneficially introduced, particularly in limiting the power of the parents in the sale of their children, and restricting the period of bondage in such cases to certain limits. But great caution and consideration ought to be exercised before deciding upon the total prohibition of slavery, if such a measure be in contemplation.

5. With reference to the points questioned in Mr. Millett's letter, to the address of the register to the Sudder Dewanny and Nizamut Adawlut, of the Agra presidency, I would observe, that the master is considered as possessing a proprietary right over the person of his slave; but no sale or traffic is permitted whereby the slave would be transported to any distant or foreign country. The master does not possess any proprietary right in whatever property the slave may have accumulated, who is at liberty to dispose of such property as he pleases.

6. The master is never considered as possessing power to inflict such punishment on his slave as would be considered just ground of complaint had it been inflicted by another; and slaves are always afforded protection where cruelty and hard usage appear. No cases have ever come under my cognizance where slaves were afforded less protection than free persons against other wrong-doers than their masters.

7. I am not aware of any express law bearing on the point discussed in the 4th paragraph of Mr. Millett's letter; but I conceive that a magistrate would be fully warranted, by the general discretionary power vested in him, in taking cognizance of the maltreatment of a Hindoo slave by his Hindoo master.

8. With reference to the 5th paragraph of the letter above alluded to, I imagine that the courts would be guided by the general custom of the country in regard to slavery, and therefore support the claim of a Mussulman master to his Hindoo slave, and *vice versâ*. But as those customs are not exactly applicable to British-born subjects, I should not think that claims preferred by such individuals to proprietary rights in slaves would be recognized.

No. 83. ANSWER of Mr. *J. E. Wilkinson*, Magistrate of Tirhoot, dated 17th February 1836, to the Register to the Nizamut Adawlut, Fort William.

ON my return to the station from leave of absence, I found, amongst letters unanswered, one from your office regarding the system of slavery, and have the honour accordingly to observe, that since I assumed charge of the magistrate's office of this district, there have not been any cases connected with slaves brought before me; there are, however, slaves in almost every family (Hindoos and Mahomedans) of any respectability in the district; that masters conceive they possess a right to punish refractory slaves with moderation; that a slave running away may be brought back; and that, on complaints being made to the magistrate, the deserter may be made over to the master; that male slaves, born in the family of a Mussulman or Hindoo, become the property of the master of the father, and are fed and clothed as other slaves; that female slaves may be married out of the family to any one the parents choose; that disputes between two or more parties about a slave may be adjusted by the institution of a regular suit in the civil court, the same as for landed property; and that slaves may be bought and sold, as every other description of property within the district, by a conditional deed of sale, termed amongst Hindoos "purm bhuttur," and amongst Mussulmans, "ijaranamah."

No. 84. ANSWER of Mr. *H. B. Harington*, Officiating Register, Allahabad Sudder Dewanny and Nizamut Adawlut, dated 18th March 1836, to the Secretary of the Indian Law Commissioners, Fort William.

3. FROM the returns herewith forwarded, it will be observed, that throughout the western provinces slavery, in the legal acceptation of the term, exists in a very limited extent, and that in several of the districts it is scarcely known at all, while the whole of the authorities, civil and criminal, unite in bearing testimony to the mildness of its form where it still prevails, and to the generally happy and comfortable condition of the slaves in those places, their situation being little inferior to that of other menial servants. Indeed, in some parts of the country, the relationship existing between them and their masters is described as resembling that between parent and child. These circumstances, added to our well-known abhorrence of the system generally, the repugnance of our courts to enforce claims of every description to compulsory service, and the rules by which, when cases of that nature have come judicially before them, they would appear to have invariably been guided, never to countenance the servitude of any individual, unless there was full and sufficient proof that, according to the strict interpretation of the law, he was legally a slave, sufficiently account for the very few instances in which recourse has been had to the courts by masters, on the one hand, to recover the possession or to compel the services of their slaves, and by slaves, on the other, complaining of ill-treatment on the part of their masters, or suing to obtain their freedom. And hence it happens that the majority of the local officers who have been consulted on this occasion are unable to support their opinions by any facts which have come

come within their own experience. The same remark applies equally to the court of Sudder Dewanny Adawlut for these provinces. None of the cases made over to it at the time of its establishment in 1832, or on the abolition of the courts of appeal, involving claims of the nature of those alluded to in your letter, nor have any such been since instituted.

4. The substance of the replies received from the local authorities on the several points under inquiry (subject to some few exceptions, which do not appear of sufficient importance to require separate notice) may be thus briefly summed up:

As regards the first point, that the criminal courts practically acknowledge no legal right in the master over either the person or property of his slave, but that, considering themselves precluded, as in all other matters of a civil nature, from taking cognizance of cases involving claims of this description, their ordinary practice is to refer the parties to the civil court for redress.

On the second point, that the spirit of the rule for the observance of the Hindoo and Mahomedan laws having been expressly declared applicable to cases of slavery, the civil courts consider that no option is left to them in the matter, but that they are bound to recognize in practice the claim of the master to the possession and services of his slave, and his legal right to dispose of him either by sale, gift or otherwise. It is also generally acknowledged, in practice, that a slave, whether Hindoo or Mahomedan, can possess no property in his own right, and that whatever may fall to him by inheritance, gift or otherwise, as well as every thing that he may acquire by means of his own labour and exertions, becomes and is necessarily the property of his master.

As respects the third point noticed in your letter, that although the Mahomedan law permits the master to correct his slave with moderation, the code by which the magistrates and other criminal authorities are required to regulate their proceedings does not recognize any such power; and as the regulations of government draw no distinction between the slave and freeman in criminal matters, but place them both on a level; it is the practice of the courts, following the principles of equal justice, to treat them both alike, affording them equal protection and equal redress whenever they come before them, and whether they stand in the relation of master and slave to each other or not. *Vide* Macnaghten's Precedents of Mahomedan Law, and Hamilton's Hidaya.

It has already been stated, that, in practice, the criminal courts do not acknowledge any legal right in the owner over the person and property of his slave, whom they view in the light of any other servant, and treat accordingly; nor do they consider themselves competent to render a master any assistance in recovering a slave who may have absconded or been inveigled from his service, and they reject accordingly all applications to that effect by whomsoever preferred.

A case in point the court observe occurred at Furruckabad in the year 1816, in which the magistrate having, from a mistaken notion of his duty, compelled the return to her mistress of a girl purchased when an infant by a prostitute, it was ruled by the court at Calcutta that he had exceeded his competency, and he was cautioned against having recourse to that mode of proceeding in future. Copies of the correspondence which took place on the occasion are herewith forwarded for the information of the law commissioners.

The three preceding paragraphs fully answer the fourth point noticed in your letter.

With respect to the case of Nujoom-oon-nissa, which has attracted the notice of the law commissioners, the court observe, that the order directing her emancipation was passed by the court of Nizamut Adawlut at Fort William; and as they have not the proceedings in the case to refer to, they are unable to state the grounds which induced that court to direct her deliverance from bondage.

With reference to the question proposed in the fourth paragraph of your letter, the court observe, that although the spirit of the rule for observing the Mahomedan and Hindoo laws has been declared applicable to slavery in civil matters, in the administration of criminal justice the several courts of judicature are required to be guided by the former only, except where a deviation from it has been expressly authorized by the regulations. Such, however, is not the case with respect to the subject under inquiry; and as, by the Mahomedan law, a master guilty of oppression towards his slave, or of exceeding the limits of his power of chastisement (that is to say, of correcting him with moderation), is declared liable to exemplary punishment by "tazeer" and "akoobut," the measure of punishment being left in such cases by the regulations to the discretion of the court of circuit or the Nizamut Adawlut, according to the nature of the crime, so a Hindoo master ill-treating a Hindoo slave would be liable to precisely the same penalties as would attach to the commission of a similar offence by a Mahomedan or a person of any other persuasion. *Vide* Precedents of Law.

A case in point, as regards the liability of a Mahomedan master to punishment under the existing regulations for maltreating his slave, came before the court in the course of last year, in which the prisoner, a Mussulman, holding a responsible situation in the family of a native of rank at Cawnpore, was indicted on the prosecution of government for being an accomplice in subjecting certain children whom he had purchased during the famine in Bundelkund to personal injury, cruelty and torture; and being found guilty of privity to the acts charged against him, was sentenced by the court to imprisonment in the zillah gaol. The court further direct me to observe that the prisoner would have been liable to and would doubtless have undergone precisely the same punishment had he been a Hindoo or the professor of any other faith.

With reference to the concluding paragraph of your letter, I am directed to communicate to you the opinion of the court in regard to the cases as therein put, that the civil

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civil courts would not be authorized in entertaining any claims of the nature of those in question, such claims being directly opposed to the law of the plaintiff in both the cases stated; and further, that in all suits of the description of those alluded to in the paragraph of your letter under reply, the decisions of the courts would be regulated by the provisions of sections 8 and 9, Regulation VII. of 1832, that is, by equity, justice and good conscience.

LETTER of Mr. *W. Leycester*, Second Judge, Bareilly Court of Circuit, dated 15th April 1836, to the Register to the Nizamut Adawlut, Fort William.

I REQUEST you will lay before the Nizamut Adawlut the accompanying record of a case, apparently of great and very just interest to two individuals, involving matters of much moment to the community at large, and of infinite importance to the feelings of a government any way concerned in the encouragement of moral obligations among its subjects, and more especially involving a duty in every British subject to conform to the laws of his country, and to resist to the utmost of his power the degradation of his fellow-subjects into a state of ignominious slavery, and to bring to notice the infamous practice of hiring out by professed bawds, as a matter of revenue, the persons of female slaves for the purpose of public prostitution.

2. This case opens by the petition (No. 1 of the copied papers) of the bawd, Jumeyut, who (after setting forth that she had hired out a female slave, Gunna, a ready-money purchase of hers, to Hadi Yar Khan, and that, on a quarrel taking place, the said Khan was compelled to enter into a recognizance to have no further connexion with her) complains of the taking away of her slave, represents that there is a proposition on foot to unite her in wedlock, backed by the law opinions of a cauzee and moofty, and praying the interposition of the court.

This after a few intervening papers is followed by an order (No. 2) from the magistrate to the moherir of the thannah of Jurutpore (a stage on the Bareilly side of Futtygurh), setting forth that it would seem from the verbal representation of Jumeyut, that Gunna had proceeded towards Bareilly, and therefore ordering him to apprehend her, and in case she had passed, to pursue her.

The return endorsed herein sets forth that some officers of the cutwal of Furruckabad had previously taken up Gunna at Jellalabad (one stage nearer to Bareilly).

This is followed by the examination of Gunna (No. 3), who states that her object in coming to Bareilly was to get emancipated from public prostitution, and to obtain permission to marry, and adds, that she had previously sent a petition to the assistant to the magistrate, accompanied by the futwahs, and that an English letter in her possession she had received from Mr. Colebrooke.

The acting magistrate's proceedings (No. 4) conclude among other things by handing over, on the 17th January, Gunna to Jumeyut; and as formal a receipt (No. 5) for this person as ever was granted for the purchase of any negro slave in the West Indies is regularly accorded by Jumeyut, and duly attested by subscribing witnesses.

On the 2d February the acting magistrate's proceedings were called for by this court on a representation (No. 6) filed by the moktyar of Gunna (I do not allude to the case of nawab Hadi Yar Khan included in this record, as it is not connected with the reference).

The proceedings were accordingly sent. But on the 6th February Mr. Wright sends us an examination (No. 7) of Gunna, in which she disclaims her petition, and denies her moktyar, and this also upon oath.

On the receipt thereof, this court by its robekaree (No. 8), summoned through the magistrate all the witnesses to the moktyarnama: Gunna herself and another female slave were said to be present.

Before the process was issued at Futtehgurh, the said Jumeyut decamped with her slave-girls.

A communication is made to the magistrate of Cawnpore, before whom Jumeyut herself attends, and gives in a petition (No. 9); but we are told her slave-girls are gone across the Jumna.

The evidence of the witnesses to the moktyarnama tends to confirm the said document.

One point at issue (between Gunna on one side, and her moktyar and all the witnesses on the other) is, whether she has falsely and on oath charged the latter with forgery, supported by perjury, or not.

The papers noticed above, to which numbers are fixed, have been copied, and are sent also for the facility of reference.

It seems to me, in this case, that several of the proceedings of the magistrate have been unadvisable and objectionable.

The seizure of Gunna, when on her way to Bareilly, or, if that were doubted, the not sending her when she declared to Mr. Wright that her object was to appeal against compulsory fornication, and to obtain license to marry honestly, accompanied even by a peon, if deemed necessary, and the ultimate handing her over to Jumeyut, a professed bawd, by precluding her from all hope of emancipation, placed her not very far from the situation lately described by the chief justice of the supreme court, by which the law of England would justify a slave in effecting his liberty by proceeding to the utmost extremity necessary to obtain it.

The law of England may not be the law of our regulations, but they are intended to assimilate, and they are not diametrically opposite.

With

With regard to the legality of pursuing Gunna to Jellalabad, on the verbal representation of Jumeyut, and by the chuprasees of the cutwal, to whom no process appears to have been intrusted, I should think it very questionable, even if executed under every proper form, and by the proper officers.

But it seems impossible not to contrast the active measures pursued at first, with the less active measures taken to enforce the orders issued from hence.

The witness, Meher Ally Khan, deposes, that he heard at the magistrate's cutcherry, that he and Gunna were summoned to Bareilly, that two days after he learnt she was going away with Jumeyut, and that he informed the cutwal. The cutwal's people could be active in preventing Gunna coming to Bareilly; and as he does not seem to have had orders either way, I must infer that he ceased from his activity with the same object; and when, after the expiration of many days, process is in vain issued by the assistant in the absence of the acting magistrate, it seems unaccountable that some of the omlah (who had witnessed the previous active measures of pursuit by which Gunna was brought back from Jellalabad) could not suggest to the assistant that the same measures might be equally effectual. A proceeding, however, was sent to the magistrate of Cawnpore.

The acting magistrate's procedure of the 6th February does not seem very intelligible. For what purpose does the magistrate receive Gunna's razeenama? There was no prosecution undisposed of before him; and on what grounds does the acting magistrate proceed to take her deposition, first without oath and afterwards on oath; and on what grounds is she asked whether she had sent any petition to Bareilly? She had already on a former day told the acting magistrate she was going there herself, but he prevented her; having said she was enticed away, she is asked by whom; and among others her answer points to nawab Hadi Yar Khan, who might, and with great propriety, perhaps, be desirous of enticing away her affections, under the wish to make her his wife. But having thus taken her deposition on oath, implicating others in a charge of forgery and of a gross contempt of this court, on what grounds is she discharged without even taking a recognizance from her?

At Cawnpore, Jumeyut attends the magistrate, but we are told that Gunna and the other slave-girl are gone across the Jumna. Jumeyut is also pleased to record a petition at Cawnpore, in which she informs us that a company of forty persons depend for their livelihood on these slave-girls, expresses her utter astonishment at the proceedings of this court, and this in a petition intended expressly for the magistrate's office at Futtygurh.

But whether all this be legal or not, it seems probable that a scene so infamous was seldom before exhibited to the world in the course of the administration of justice. A young female, termed and treated as a slave, living under the protection of the British Government, which, by an act of the supreme legislature, treats slavery as a felony, but in what way acquired as a slave nobody knows, is hired out to prostitution by her mistress, a professional bawd (who dares to avow that the support of forty people depend on this and another slave-girl), and apparently, in the course of this profession, having been hired out to the nawab Hadi Yar Khan and acquired his affection, is disposed to be repentant of her former way of life and to unite herself in marriage with this respectable party, and the nawab is equally desirous for the union.

But these just pursuits are thwarted, perhaps, and probably to the girl's irretrievable injury, to say nothing of the disappointment of the nawab.

The girl is debarred from appealing to a superior court, being seized on the way to it, and ultimately given over bodily to her mistress.

In fact, here is a practical denial of justice in one of the stages our regulations allow, and I think a great wrong, which can only be remedied by the superior court.

ANSWER of Mr. *W. Wright*, Officiating Magistrate, Zillah Furruckabad, dated 15th February 1836, to the Register of the Court of Circuit for the Division of Bareilly.

I HAVE the honour to acknowledge the court's precept of the 6th instant, with the accompanying copy of an arzee.

1. The proceedings, in which 500 rupees were ordered to be levied from Hadi Yar Khan, were sent upon a former occasion, and are now before the court. But, for the court's further satisfaction and information, I do myself the honour of forwarding the proceeding, which contains a moochulka, the amount of which was to be levied from Hadi Yar Khan.

2. The court will observe that Hadi Yar Khan having, in opposition to the letter of the moochulka, forcibly detained Gunna against the inclination of her mistress, and having likewise attempted to prevent the girl being again recovered by or restored to her, rendered himself liable to the penalty which it became my duty to levy from him.

3. I should not be sorry if the court could discover cause for mitigating or altogether remitting the penalty; because I have every reason to suppose, that Hadi Yar Khan was led by the pernicious advice given him by the serishtedar of the Dewanny court to act the part he did; and that if left to himself he never would have attempted any thing so improper; he is a man of high respectability, of fair character, and of the most correct deportment, so far as I know.

4. The court cannot fail to notice the very conspicuous part which Wellayut Ally Khan has acted in the affair in question; so far from showing or expressing contrition for his highly disrespectful and improper conduct, I know that he continues still to take a very active part in the business; the arzee given in by Abdul Razak, and denied by Gunna, I firmly believe to be his composition.

5. His pertinacious adherence to the line of improper conduct he has pursued in this affair has determined me to submit, for the determination of the court, whether he ought not to be removed from office; if offending ignorance is made to suffer fine and imprisonment, what does he deserve who, with the advantages of an excellent education, long experience, a perfect knowledge of our regulations and laws, deliberately and contumaciously endeavours to resist the order of that court, of which he is a principal officer, without (if he is to be believed) being impelled to it by any motive of interest or of friendship for Hadi Yar Khan?

6. Should the court, however, be of opinion, that the punishment would exceed the offence, I beg of it to suspend any order on this point, that I may, at my earliest leisure, submit some further reasons, unconnected with this case, for the opinion I entertain, that Wellayut Ally Khan is unfit for and undeserving of the important office he fills. I did hope, that I should have been spared this invidious task, by being relieved long ago from the charge of this district; but since my expectations have not been fulfilled, and he has in a manner brought one instance of his own misconduct before the court himself, I am resolved not to suffer my individual feelings to deter me any longer from performing an unpleasant part of my duty.

7. It may be proper to observe here, regarding the razeenama I forwarded to the court a few days ago, that it was very probably executed by the desire of Gunna's mistress and of some interested persons, because she did not acknowledge it with the same degree of alacrity with which she denied on oath all knowledge of the arzee signed by Abdul Razak; and we must suppose her to possess the feelings and sentiments common to our species, and the vanity peculiar to her sex, which would be gratified by her being rescued from prostitution, and becoming the wife of a man in so respectable a situation of life as Hadi Yar Khan.

8. It was in this girl's case that I requested the opinion of the court as to the mode she should adopt to obtain emancipation, which she has been taught to hope she is entitled to by law. I hope the court may now be of opinion that it is not foreign to its office to assist my judgment in this matter, and that, in returning the proceedings to me, it will notice this point in any order it may have occasion to pass.

ANSWER of Mr. *W. Leycester*, Second Judge, and Mr. *C. Elliott*, Fourth Judge, Bareilly Court of Circuit, dated 17th February 1816, to the Acting Magistrate of Zillah Furruckabad.

WE have received your letter of the 15th instant, in reply to our precept of the 6th, together with its enclosure.

A short English return, on the back of the said precept, referring to a Persian robekaree, specifying what has been done in pursuance thereof, was the reply the precept required; in the stead of which you enter into a long discussion, furnishing extra-judicial opinions of the liability of Hadi Yar Khan in your second paragraph, stating in your third paragraph your good opinion of Hadi Yar Khan, and that you should not be sorry if we could discover the cause for remitting the penalty, under the supposititious assumption that he was influenced by Willayut Ally, expatiating further on the subject of Willayut Ally in your fourth, fifth and sixth paragraphs, observing, in the seventh paragraph, that the razeenama alluded to was probably executed at the desire of Gunna's mistress, as the vanity of the former would be gratified by being rescued from prostitution, and in the eighth that you hope we may assist your judgment in the proper mode to be pursued for the emancipation of a slave.

Many of these points might have been fit matter for discussion when you decided the case, but totally misplaced at present; and we do not wish to run the hazard of our judgment being influenced either way, by being informed of what may be your firm belief, or what you may have reason to suppose, in a case which we have had or may hereafter have before us, in any other than the known legal form of finding those sentiments in their proper place, the robekaree deciding the cause.

With regard to the eighth paragraph, the specification of the name does not alter the grounds on which we gave our opinion on the abstract question; viz. that we are not the proper authority to construe any dubious point of law. The proceedings enclosed with your letter are returned.

ANSWER of Mr. *W. Wright*, Officiating Magistrate, Zillah Furruckabad, dated 28th February 1816, to the Register of the Court of Circuit for the Division of Bareilly.

I HAVE the honour of acknowledging the receipt of the court's letter of the 17th February 1816, replying to my address of the 15th, and objecting to the time and mode of submitting certain remarks therein conveyed.

It is not my practice, when I pass orders in Foujdary cases, to detail at length the ground on which they are passed, except on particular occasions, where some explanatory remarks appear necessary; in the present instance, since I had no discretionary authority to remit wholly or in part the penalty which Hadi Yar Khan subjected himself to, and I could

could not anticipate his intention to appeal, or foresee that the case would come ultimately under the notice of the court, there was no use in recording my sentiments where they would have found a place under different circumstances.

3. Scarcely was the order passed regarding Hadi Yar Khan, when the court, in a precept issued on Gunna's appeal, called for the record, whereby a stop was put to my proceedings before the case was finally disposed of, or any order, beyond forbidding him for the present to interfere in the business of the court, was passed regarding Willayut Ally Khan.

4. Had not this been the case—had the record been before me when the court's precept was received, or had I resolved on submitting Willayut Ally Khan's conduct for the consideration and final orders of the court, the remarks objected to, and a recommendation, in Hadi Yar Khan's favour, would have been introduced into a robekaree containing the order for sending up the record to the court.

5. Thus precluded from proceeding in the case, I wrote the letter. I was not aware that the remarks being submitted in that form, or in a robekaree, was a matter of the slightest consequence: either would be a public document and a part of the record; and I must further confess my want of discernment in not perceiving that the same sentiments expressed in a Persian robekaree might have a different result in influencing the opinion of the court when it came to revise the proceedings, if they found their way into an English letter standing in the place of a robekaree.

6. As to my remark regarding Gunna's razeenama, the two cases are intimately connected and closely interwoven with each other, and the two appeals arose out of the same proceedings. The razeenama was sent up immediately, and whilst I was sitting in court. Hence to me, little circumstances, which afterwards forcibly struck me on reflection, passed unnoticed when they should have been, and I resolved, as I believed it was my duty to do, to supply the omission, that the court might be guarded against receiving or acting unreservedly on that document.

ANSWER of Mr. *J. C. Dick*, Assistant Zillah Furruckabad, dated 19th February 1816, to the Register to the Court of Circuit for the Division of Bareilly.

I HAVE the honour to enclose a copy of my Persian proceeding of this date.

ANSWER of Mr. *W. Leycester*, Second Judge, Bareilly Court of Circuit, dated 21st February 1816, to the Assistant of the Magistrate of Futtehgur.

WE have received your letter, and its enclosure, of the 19th February, in part reply to the court's precept of the 12th instant.

The court is desirous of learning whether you received that precept, and acted on it of your own authority, or in what way, and when, and how you received it, and on what day the orders directed were issued.

It has at present a very singular appearance, that of the officers intrusted with the two processes, the one party should have been so zealously active in seizing back Gunna from Jellalabad, and the other party apparently so remiss in executing the measures directed in our precept. You are directed to call on the foujdary nazir, to explain this seeming neglect of his inferior officers; and you will endeavour to ascertain and report in what mode Gunna, &c. became apprized of our address, so as to find an opportunity of escaping.

You will also report, when the flight of Gunna, &c. became first known, whether measures were taken to pursue her into the Cawnpore district, as were adopted into the Bareilly district, and if not, the cause of such different measures being taken.

Should, however, Mr. Wright in the meantime return, you will transmit the report required, of course, through him; otherwise, you will send it direct to this court, and with as little delay as possible.

ANSWER of Mr. *J. C. Dick*, Assistant Zillah Furruckabad, dated 8th of March 1816, to the Judges of the Court of Circuit for the Division of Bareilly.

I HAVE the honour to acknowledge the receipt of a letter from your court dated the 21st of February. The acting magistrate, having some public business to transact in the interior at this district, left the sudder station on the 16th of February, on which date he sent a number of papers to me, among which was the court's precept of 12th of the above month. As I wished to be informed in what manner I could best carry into execution the orders of the court, I wrote to the acting magistrate on the subject. In answer, he stated that it would be advisable to summon the parties specified in the precept through the nazir, and on their appearance, either to send them to Bareilly under burkundazes, or to take mochulkas from them for their appearance before the court of Bareilly. On the receipt of the acting magistrate's answer, I directed the nazir immediately to summon the parties. Two of them, viz. Abshoobra Suman Khan and Moher Ally Khan, appeared in court, and mochulkas of 50 rupees were taken from each for their appearance at the Bareilly court within the period of five days. Moossamut Gunna having left Jellalabad before the notice was issued, the summons

Appendix H.
Returns.

summons could not be served on her; but on obtaining information that she had proceeded to Bittoor or Rujdyhan, I summoned her through the acting magistrate of Cawnpore.

2. I regret it has not been in my power to ascertain in what manner Moossamut Gunna became apprized of your orders, so as to find an opportunity of escaping. Should the court deem this explanation not perfectly satisfactory, I trust they will not impute any defect in the execution of their precept to neglect and remissness on my part. The case of the parties summoned had never been before me, and I was consequently unacquainted with the circumstances, and had no reason to suppose that the regular mode would not ensure their appearance at the court.

ANSWER to Mr. *M. H. Turnbull*, Register, dated 16th June 1816, to the Bareilly Court of Circuit.

I AM directed by the court of Nizamut to acknowledge the receipt of a letter from your second judge, dated the 15th April last, and its enclosure, relative to the proceedings and orders of the acting magistrate of zillah Furruckabad in the case of a female slave named Gunna.

2. With a view to ascertain the accuracy of the futwah bearing the seal of cazee Mohumed Ibeg Alee, mooftee Syud Mohumed Wullee Ullah, moulvee Saeed-oodeen-khan, which accompanied the petition of Moossamut Gunna, dated the 28th December 1815, and filed by the assistant to the magistrate of Furruckabad on the 30th of that month, the law officers of the Nizamut Adawlut were desired, on the 29th ultimo, to state their opinion whether the futwah in question, assuming the facts on which it is founded, is conformable to the Mahomedan law.

3. The whole of the Persian proceedings and papers received with the letter of your second judge were also referred to the law officers for their information.

4. The answer of the Cawzy-ol-cuzat, and one of the mooftees of the Nizamut Adawlut, (the other being absent on leave) is herewith transmitted, together with the whole of the original papers of the case; and you are desired to forward it, or a copy of it, to the acting magistrate of Furruckabad.

5. It appears by the concurring opinion of the law officers of the Nizamut Adawlut, that the futwah delivered to the acting magistrate of Furruckabad, which declared the purchase of Gunna, as a slave, by Moossamut Jumeyut insufficient to establish a right of property, with reference to her not having been made captive in Jehad, or a war against infidels, and even if it were legally valid, that the purchaser has no right to compel him to an act of criminality, is strictly conformable to the Mussulman law.

6. This is also confirmed by an exposition of the Mahomedan law of slavery, received from the law officers of the Nizamut Adawlut, in answer to a reference made to them on 28th April 1808, as will be fully communicated to you by the accompanying copy of the question put to the law officers on that date, and of their answers thereto.

7. Under these circumstances, the court most deeply regret that Mr. Wright, without any judicial inquiry to ascertain the legal powers and right of Moossamut Jumeyut, should have thought himself justifiable in seizing the person of Moossamut Gunna, when on her way to Bareilly, for the purpose of being emancipated from prostitution, and marrying the nawab Hadi Yar Khan, adopting measures which had an immediate tendency to prevent such marriage, and formally delivering over Gunna to a woman who had avowedly hired her out for the purpose of prostitution, and professed her intention of doing so in future for her own support.

8. Although the court are unwilling to ascribe to the acting magistrate any other motive than a mistaken sense of duty, under the supposed legality of Jumeyut's claim, and her consequent right to prevent the marriage of Gunna, yet they cannot acquit Mr. Wright of a very incautious and unjustifiable misapplication of the authority vested in him as a public magistrate for the promotion of justice and good morals, especially after he was advised of the Mahomedan law as applicable to the case.

9. The court must further express their concurrence in the sentiment of your second judge, namely, the irregular seizure of Gunna by the chuprassy of the cutwal of Jellalabad, without any written process, as well as upon an evident remissness in not taking measures for carrying into effect the order of the court of circuit, passed the 12th February, for summoning Gunna to Bareilly, until she had left Furruckabad.

10. It appears from Mr. Dick's letter of the 8th March, that Mr. Wright left the sudder station for the purpose of transacting some business in the interior of the district on the 16th February. But, as he had previously received the order of the court of circuit, and it appears from the evidence of Meher Ally Khan, that Gunna and Jumeyut were both then at Furruckabad, the court are of opinion that he ought to have taken immediate steps for executing the order of the court of circuit, instead of sending it with other papers and without any instructions to his assistant as stated by the latter, who was consequently at a loss how to proceed; and by the delay of a reference to the acting magistrate gave the parties ordered to attend the court of circuit an opportunity of leaving Furruckabad before the requisite process was issued.

11. The court direct that a copy of this letter be transmitted to the acting magistrate of Furruckabad, for his information; and with an admonition to be careful in avoiding any similar neglect of duty, a recurrence of which would compel the court to report his conduct for the most serious notice of his Excellency the Governor-general in Council.

ANSWER

ANSWER of Mr. *F. Currie*, Commissioner 5th Division Zillah Ghazeepore, to the Acting Register of the Nizamut Adawlut, Allahabad, dated 23d December 1835. No. 85.

1. MAGISTRATES acknowledge *primâ facie* no right of one man over the person or property of another. If such right is attempted to be established by a magistrate (as in the case of a master praying for the seizure of a runaway slave, or claiming the return of property that a person stated to be his slave holds), the magistrate refers the petitioner or complainant to the civil court to establish his legal claim.

2. In cases coming within the cognizance of the magistrates in their judicial capacity, those officers are not in the habit of admitting the plea of slavery to bar the punishment to which an offender would be subject for a breach of any of the regulations of the penal code.

3. There are certainly no cases in which the magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters.

ANSWER of Mr. *G. Mainwaring*, Civil and Session Judge, Zillah Goruckpore, dated 16th February 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 86.

I HAVE the honour to state for information of the court, that on inquiry I cannot discover that the practice of slavery in any form has ever existed in this district. After a strict search, I can only find one case amongst the records of the judge's court, in which an individual sued for the recovery of a slave-girl, and in that the cause of action originated in Shahabad, and the claim of the plaintiff was dismissed. I will, however, proceed to offer such observations as have been suggested to me by the perusal of Mr. Millett's letter, and as have resulted from my experience and practice in other parts of India.

2. The legal rights of masters over their slaves with regard to their persons and property practically recognized in the several courts in which I have presided as magistrate, have never, to the best of my recollection, extended beyond that of masters over their apprentices, according to the English laws, their engagements or indentures being equally liable to be annulled on a plea of ill-usage or other good grounds shown, the denomination being in fact hypothetical, and having no affinity to the term as applied to the system prevailing or heretofore prevailing in other parts of the globe.

3. As a magistrate, I invariably gave the same consideration to complaints preferred by slaves against their owners, as I would have done to those of domestic servants against their masters; in fact, looking upon them in every point of view as much under the protection of the laws as free persons. In the Banda zillah court petitions were frequently presented to the magistrate for the apprehension of slave-girls said to have absconded. The same assistance was given as would have been afforded to a master complaining of the desertion of his private servant. But, on the plea advanced and established by the girls, that they were forcibly detained for the purposes of prostitution, they were summarily declared free, the complainants being referred for redress to the civil court, where only any observance of the Mahomedan or Hindoo law as relates to slavery is, as far as my experience goes, enforced. If asked by what law or principle I was guided in my practice as a magistrate, I would answer, by the laws of humanity, and the principles of equity and good conscience.

4. I cannot call to mind having in my practice in the civil courts ever had causes to decide involving the points adverted to in Mr. Millett's letter. In the few suits relative to slavery that have come before me, I have, to the best of my recollection, been guided by the exposition of the law by the Mahomedan or Hindoo law officer, as the case might be.

5. In Behar and Tirhoot domestic slavery prevails to a surprising extent. This fact first came to my notice when on my circuit at Mozufferpore, as commissioner of Sarun division. On examination of the registry books, I found one book entitled "Ijaranamahs" (deeds of lease or tenure) which was solely set apart for the entry of indentures, binding an individual or a whole family, in most cases for a trifling consideration, to slavery or servitude for a period tantamount to perpetuity. I have a perfect recollection of one entry, in which an individual bound himself, his wife and children, and children's children, to servitude for a period of 99 years; the consideration was 19 rupees, and the purchaser or holder of the deed was a vakeel in the judge's court. This circumstance led me to inquire whether such cases were often litigated, and, if so, by what principle the courts were generally guided in their decisions. I perused several cases sent to me by the judge of Sarun, chiefly investigated by the sudder ameens and moonsiffs, and the decisions appeared to me all to depend upon the presiding authorities' ideas of equity, without reference to law. In one I recollect the decision gave freedom to the slave (the plaintiff) on the condition of his repaying the net sum for which he had compromised his liberty (12 rupees), his services being considered as an equivalent to the interest. The decision was upheld in appeal.

ANSWER of Mr. *A. P. Currie*, Joint Magistrate of Zillah Goruckpore, dated 28th January 1836, to the Officiating Register of the Nizamut Adawlut, Allahabad. No. 87.

I HAVE the honour to inform you that no cases of the description mentioned therein* have been brought forward in this court since I have been in charge of it.

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* Mr. Millett's letter, 10th October 1835.

Appendix II.

Returns.

ANSWER of Mr. *Wellesley Barlow*, Zillah Ghazeepore, dated 28th December 1835, to the Acting Register of the Court of Sudder Dewanny and Nizamut Adawlut, Allahabad.

No. 88.

2. No case between a master and slave having ever come under my cognizance during the eight years that I have been vested with either the civil or criminal jurisdiction of different districts, I am unable to state from experience what are the legal rights of masters over slaves practically recognized by the Company's courts and the magistrates; or, in other words, what is the practice of those courts in all cases of slavery; while, as regards this district, Ghazeepore, upon reference to the civil records, I find that only one civil action of this nature has been instituted since the establishment of the zillah. This was a suit by Jaffer Ali Khan in 1823, to obtain possession of a female slave, by name Moossamut Muhtab, who had during a year of scarcity been let out on hire to him, in lieu of two rupees, for the period of 90 years, by her mother, Jhahan, the defendant in the suit. The suit was referred to the sudder ameen for decision, and was upon default of defendant decided *ex-parte*.

3. With reference to paragraph 4 of the secretary's letter, I beg to state, that under Mr. Colebrooke's exposition of the Hindoo law, and under the existing enactments regarding slavery, as cited by the law commissioners, I presume that a magistrate, when taking cognizance of the maltreatment of a Hindoo slave by his Hindoo master, would, like the Sudder Dewanny pundits alluded to by Mr. Macnaghten, "be guided by reason rather than express law;" for Regulation VIII. of 1799, the only penal regulation that would bear on the case, relates only to cases of murder, and not to maltreatment.

4. In answer to the questions contained in paragraph 5 of the letter. of the secretary to the law commissioners, I may state—

1st. That I would not support the claim of a Mussulman master over a Hindoo slave, such claim being (I adopt the law as laid down by the commissioners) contrary to the law of the claimant; and that, in doing so, I should consider myself acting according to justice, equity and good conscience.

2d. That I would admit a claim of a Hindoo master over a Mussulman slave, such claim being *primâ facie* legal (I again take the law as laid down by the commissioners); and I would decide the case according to its merits, throwing the *onus probandi* of the law upon the claimant.

3d. Slavery not being sanctioned by any system of law which is recognized and administered by the British Government, except the Mahomedan and Hindoo laws, I would not, under the discretionary power vested in the civil courts by section 9, Regulation VII. of 1832, admit or enforce any claim to property, possession, or service of a slave, except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant.

No. 89.

ANSWER of Mr. *W. Jackson*, Additional Judge, Zillah Ghazeepore, dated 16th December 1835, to the Acting Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. No cases have been made over to me, as additional judge of Ghazeepore, in the remotest degree connected with this subject. But in the course of five years, during which I performed the duties of judge and magistrate of zillah Behar, where slavery is much more prevalent than here, I had frequent occasion to notice the defective state of the law on this head. And as it was necessary to dispose of the cases which arise in some manner, my practice was to adhere strictly to the regulations, as far as they established rules for my guidance, and beyond that to follow the course which appeared to me most consistent with justice and humanity.

3. For the limits of the legal rights of masters over their slaves, after the paramount authority of the regulations, I have endeavoured to follow the precepts of the Mussulman and Hindoo laws: but I have not considered myself bound to observe them where they appeared grossly at variance with the dictates of humanity. In civil cases, I have found no difficulty in observing them strictly, but in matters of a criminal nature, although admitting the right of the master to the services of his slave, I have not considered him at liberty to enforce that right by violence or cruelty: by this rule, the only point left to the arbitrary determination of the magistrate is the limit between slight or salutary correction and cruelty; and it is but seldom that a case occurs in which it is necessary to fix the boundary with great precision. In the same manner I have considered slaves responsible for their acts to the same extent as freemen. In both instances, I have acted on the ground that the penal provisions of the regulations contain no reservation in favour of either masters or slaves. Had it been intended to recognize an authority in masters to maltreat their slaves, or to extend to slaves the indulgence granted by the Mahomedan law, the legislature would no doubt have expressed such recognitions distinctly; it would be rather a stretch of interpretation to assume this intention on the part of the government.

4. With regard to the order of the sudder court in the case of Zuhoorun, I have always viewed it in this light. Under the interpretation of the Hindoo and Mahomedan law, given in Mr. Macnaghten's treatise, violence or cruelty to a slave by his master does not authorize the ruling power to emancipate the slave; although the master is liable to fine in some cases by both laws. But the sudder court found it necessary to provide against a repetition of the

the violence; and as this could not be done effectually if the slave were returned to her master, they gave her her liberty; and in doing so, I think they were justified by the general authority vested in them by the regulations, although not by the Mahomedan and Hindoo laws.

5. If a claim over a slave were advanced before me by a Mussulman or Hindoo, and it should appear that by the law of the claimant the slavery is illegal, I should consider the claimant legally incapable of preferring such a claim, and dismiss it accordingly; on the same principle I should not admit the right of any person not being a Hindoo or Mussulman to possess slaves in British India. If a claim were advanced against a person not being either a Hindoo or Mussulman, besides scrutinizing the validity of the claim under the claimant's law, I should take into consideration any general claim to exemption from slavery advanced by the person claimed. Until the enactment of Regulation VII. of 1832, it was a principle of the regulations, that where the parties (Hindoos and Mussulmans) are of different persuasions, the law of the defendant shall be observed; but this would not prevent a judge from ascertaining whether the claimant under his own law is capable of preferring his claim. I do not at present recollect, whether cases of exactly this description have come before me: but the principles above mentioned are those on which I have acted in all cases. I have never known a claim of slavery brought against a Christian; but if he were a native of India, I see no reason of exempting him from such claims.

6. Slavery is far from being the only point in which it is necessary for judicial officers in this country to exercise a discretionary power in the administration of justice. This may at first sight appear very objectionable; but I believe there are points of this nature to be found in every system of law. The great infrequency of the occasions requiring the exertion of such a power renders the defect rather nominal than real. I believe it is considered at least doubtful whether too much detail and an attempt to be exact and complete is not the greater defect of the two in this country; where we find two systems of civil law, totally differing from each other, and each forming a part of the religion of a great portion of the natives, it is but natural that such difficulties should arise. We cannot be said to have a code of laws in India; the early regulations laid down merely forms of procedure and a few general principles; and at the same time, with a view to the future introduction of a more exact administration of justice, and to prevent inconvenience arising from difficulties unforeseen by the legislature, they established in the sudder court an authority capable of preparing new laws, and vested exclusively with the power of interpreting those which existed. Probably this method of allowing the law to grow out of the necessities of the country was the best which could be adopted for the purpose of introducing gradual improvement and avoiding the shock of a violent transition from bad to good; during the progress of improvement, however, the local officers must expect to continually find cases unprovided for, and must do the best in their power to meet such exigencies.

No. 90.

ANSWER of Mr. *E. Peploe Smith*, Magistrate, Zillah Ghazeepore, dated 26th January 1836, to the Officiating Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. IN reply to the first question, viz., What legal rights of masters over their slaves, with regard both to their persons and property, are practically recognized by the magistrates?—I would premise that, as far as my own experience goes, cases requiring the magistrate to pass an opinion on the relative rights of master and slave are of extremely rare occurrence; a circumstance which, I am told, naturally results from the mutual understanding between the parties, and generally among the people, that domestic slavery is not contrary to the law, or at variance with the practice of their British rulers; that the master has an undoubted right over the person and property of his slave, as much as over any other personal or real property purchased or possessed by himself or his ancestors; and that nothing short of gross injustice or cruelty on the part of the master towards his slave, or of treachery and dishonesty on the part of the latter towards his master, would justify an appeal to the criminal court. Such being the prevailing notions on the subject, whenever a case of collision does arise, the practice observed is, in the first place, non-interference, as far as may be possible; and ultimately, so far to respect the customs as to prevent the issue of any order of manumission* or exemption from service or other legal obligation. *Au reste*, all claimants to the person or property of any slave, under an instrument of sale, mortgage or otherwise, would of course be referred to the civil court. An example of this occurred at Ghazeepore, in the year 1829, the circumstances of which are briefly as follows:—A. charged B. with forcibly and illegally detaining from him his wife and child, praying the assistance of the magistrate to cause him to deliver them up. An inquiry was accordingly directed, from which it was elicited that the woman had been purchased by B. when an infant, and had acted as his female slave (kuneez) ever since; that on her arriving at the age of puberty, she had, with her master's consent, been united in marriage with A., without prejudice to his (B.'s) right of property over her. The court ruled that in such cases it possessed no jurisdiction, and referred the complainant to a civil action; and the commissioner, after taking the moofti's opinion on the law of the question, concurred in this decision.

3. With

* *Vide* Spirit of Regulation X. of 1811; also Construction S. N. A., No. 99, 28th April 1812; and Circular Order N. A., No. 141, dated 5th October 1814.

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3. With reference to the second question, it appears to me that the magistrate would regard the relation of master and slave precisely in the light of parent and child, as justifying in the former instance that degree of correction and reproof which is universally and avowedly exercised by the latter; provided always that the measure of punishment were within reasonable bounds. And in this way, no doubt, acts which would be unjustifiable towards a free person, and punishable under the regulations, would come to assume a different character, and either pass unnoticed by the magistrate, as warranted by the misconduct of the slave, or would be visited with a greater degree of lenity than ordinary cases. But in well-founded complaints of cruelty or hard usage, preferred by slaves against their masters, every protection would be extended to the former which could be claimed by an indifferent person, except, indeed, that of emancipation, which nothing short of the most extraordinary maltreatment would authorize. With the indulgences which, in criminal matters, the Mussulman slaves enjoyed under the Mahomedan law, the magistrate has nothing whatever to do, nor is any regard paid to such considerations in the trial of criminal cases.

4. In regard to the third question, I am decidedly of opinion that no case could arise in which, practically, less protection would be afforded to slaves than to free persons against other wrong-doers than their masters, merely on the ground of their being slaves; the amount of injury in both cases being, according to the immutable dictates of justice, equal and identical; though here we shall, I fancy, be at issue with our native subjects, according to whose notions a becoming respect and consideration is due to rank and caste, and consequently to the freeman over the slave.

5. With respect to the fourth question, I would observe, that the criminal courts of first resort are guided in their decisions solely and exclusively by the regulations; or, where they fail, by the principles of justice, equity and good conscience, the operation of the Hindoo and Mahomedan law of slavery being wholly inapplicable to the proceedings of a magistrate. Thus, whatever might be the law, or construction of the law, as given by the eminent authorities cited in the second and third paragraphs of the secretary's letter, in regard to the liabilities of a Hindoo master for maltreatment of his Hindoo slave, that offence would be (with the reservation noticed in the answer to the first query) just as cognizable by the criminal court as if the prosecution were laid under Regulation IX. of 1793, Regulation IX. of 1807, or any other criminal enactment. Nor would any plea of proprietary right be admitted in defence of oppression, or as exempting the master convicted of cruelty towards his slave from the usual penalties awarded in such cases.

6. The fifth and last questions relate exclusively to the civil courts, and therefore do not belong to this report.

7. Having answered, to the best of my ability and judgment, the questions proposed for the consideration of the court, as far as they related to my office, I will take the liberty of adding a few words as to the actual operation of the system, and its influence on the happiness of the enslaved; premising, however, that, in what may be advanced, I am not speaking my own sentiments on the subject of slavery, but merely the result of my inquiries into the actual working of the system, considered apart from the courts of justice.

8. Judging, then, from the familiar communications of several natives of both persuasions, with whom I have conversed on the subject generally, the system would appear to be most prevalent in large towns and cities, where society being more refined, the value of personal service is far greater than in the less inhabited parts of the country; that it is altogether of a domestic character, bearing a close affinity to the relation of master and servant, or parent and child; that slaves, being considered as absolute hereditary property, any act of the legislature, having for its object their emancipation, would be viewed by the masters as an interference with their private rights and interests, while the parties themselves who must be supposed to possess interest in the question, viz., the slaves, instead of being an oppressed and unfortunate race, are, generally speaking, better cared for and happier than any other class of domestic servants.

No. 91.

ANSWER of Mr. *J. Thomason*, Magistrate, Zillah Azimgurh, dated 15th December 1835, to the Officiating Register to the Sudder Dewanny and Nizamut Adawlut, Allahaba.

2. I AM not aware of any regulation which would authorize a magistrate to recognize in the master any further power over his slave than he would possess over any other servant. I should certainly punish a master for an assault on his slave; and I would decline to aid a master in the recovery of his fugitive slave. Proof of any specific contract existing between the master and reputed slave would, of course, bring the case within the contemplation of clause 4, section 6, Regulation VII. of 1819; but this is perfectly a distinct case.

No. 92.

ANSWER of Mr. *B. Tayler*, Judge, Zillah Jounpoor, dated 2d December 1835, to the Register of the Sudder Dewanny Adawlut, Allahabad.

2. I AM not aware that slavery exists at all in this district. I have never heard of complaint being preferred by a slave against his master for ill-treatment, nor of a master applying to the court to enforce the services of a slave. A practice obtains of mortgaging the services of children for a certain number of years, commensurate to the probable term of life,

life, but it is never enforced. When the children arrive at maturity, they remain with their masters or not, as they please. In all cases they receive wages and food; and in the event of harsh treatment, immediately leave their masters and seek for service elsewhere; and I do not believe any attempt would be made to compel them to return.

ANSWER of Mr. *C. Tulloh*, Officiating Magistrate, Zillah Jounpoor, dated 24th December 1835, to the Officiating Register of the Nizamut Adawlut, Allahabad. No. 93.

2. SLAVERY in this district, as far as I am aware, does not exist in its true acceptation, nor have any cases connected with slaves been brought to my notice; some there are, I believe, who are denominated slaves, *i. e.*, slave-girls; but they, I have always understood, are looked upon as belonging to the family, and are kindly treated.

3. Did slaves complain of receiving ill-treatment from their masters, I would investigate the cases alike with others, without any distinction, and punish the defendants or owners accordingly. The right of the master over the slave I would not recognize; moreover, if slaves ran away with property belonging to their owners, I would issue orders for their capture; and I would punish them as thieves, and afterwards set them at large. If slaves ran away, provided no property was stolen by them, I would take no steps to apprehend them.

4. No cases having been brought to my notice, I cannot pass an opinion on the subject; but were complaints filed in my court by either owner or slave, I would investigate them as between man and man, and not as between master and slave.

ANSWER of Mr. *W. Gorton*, Civil and Session Judge of Benares, dated 23d January 1836, to the Officiating Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 94.

2. I HAVE no recollection of any case between master and slave having come under my consideration, either in the civil or criminal court, in the course of my experience; nor have I any reason to believe that cases of this nature (that is, complaints by slaves against their masters for cruelty or ill-usage) are at all common or frequent; indeed, I rather incline to the opinion that it is the reverse, and that slaves are generally treated with great kindness and consideration; exceptions to this rule may be met with, but I think very rarely.

3. As far as I can learn, the practice of the courts does not recognize any other relation between a master and his slave than that of master and servant (not a slave) in ordinary cases, that is, in cases of cruelty or ill-treatment; nor am I aware that less protection is ever afforded to a slave than a free person under circumstances stated in the third paragraph of Mr. Millett's letter.

4. With reference to the fourth and fifth paragraphs of Mr. Millett's letter, it must depend much on the nature of the claims preferred, whether the courts would be authorized in admitting them; for, although no express law or regulation may exist, the courts are to be guided by justice, equity and good conscience in such cases.

ANSWER of Mr. *D. B. Morrison*, Magistrate of Benares, dated 20th January 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 95.

THOSE officers who have presided in the civil court will best be able to explain the principles upon which their practice has been founded; and it will be, perhaps, sufficient for me to state, that if I were called upon to decide regarding either the persons or property of slaves, I should have no hesitation, however unwilling I might be to do it, in decreeing in favour of masters in cases of clearly-established slavery; where there existed the slightest doubt of the legality of the slavery under the Hindoo or Mahomedan laws, as interpreted by Messrs. Colebrooke and Macnaghten, I should allow it to weigh in favour of the slave.

I am aware of no case in which the relation of master and slave has been recognized, in the criminal court here, as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of punishment; nor am I aware of any instance in which such relation has ever been used as a plea either of justification or mitigation. I consider always that slaves are as much entitled to protection, on complaints preferred by them of cruelty or hard usage by their masters, as any freeman; in fact, I observed that it had all along been the system at Benares to consider a slave as much as possible, in criminal matters, upon an equality with a freeman. Such a system I have endeavoured to uphold; and I am convinced that in punishing, upon clear evidence, a master for maltreating a slave, none of the native community would think that any illegal or unjust stretch of authority had been exerted. I must, at the same time, state, that the general treatment of slaves is so good, that there is hardly ever any cause of dissatisfaction; they are, in fact, upon nearly the same footing as servants, excepting that they cannot sue summarily before the magistrate for any wages or remuneration for their services, though in every other respect, as far as regards their personal treatment, they find equal protection with a free labourer.

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It is nowhere enacted in the regulations, that the condition of slavery places a man out of the bounds of that protection which the British Government has all along professed to extend to every denomination of its subjects; and the general intent of these regulations sufficiently, in my opinion, warrants a conclusion in favour of the maltreatment of any slave, be he Hindoo or Mahomedan, being cognizable by the criminal courts.

I am of opinion, that should the rule laid down in section 3, Regulation VIII. of 1795, be deemed inapplicable to such cases, no person ought to be judicially pronounced a slave unless the claimant can prove him to be one legally according to his (that is, the claimant's) own law; and I think that, with the exception of Hindoos and Mussulmans, no other class of our subjects can bring into court or expect a court to enforce any claim to property, possession or service of a slave; for, saving by the Mahomedan and Hindoo laws, slavery is not sanctioned by any system of law recognized and administered by the British Government.

No. 96. ANSWER of Mr. *H. H. Thomas*, Civil and Session Judge of Mirzapore, dated 25th January 1836, to the Officiating Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. IT has so rarely happened to me to have the trial of cases, civil or criminal, involving the relative rights of master and slave, that I can scarcely offer an opinion grounded on judicial experience; I will, however, state what would be my probable mode of proceeding in emergencies. If, for instance, a slave complained of his master's cruelty towards him, and I found, after investigation, that the master had but inflicted a slight correction for some alleged fault, I do not think that I should take further notice of the complaint; if, however, the conduct of the master were proved to have been wantonly tyrannical or unnecessarily severe, then I should not scruple to visit him with as heavy a penalty as if he had assaulted a freeman. In thus affording to the slave whatever protection was in my power, by taking strict cognizance of his master's ill-treatment, I conceive that I should act agreeably to the spirit of our regulations, which, being inimical to the whole system of slavery, could not consistently permit the plea of proprietary right to be urged as ground for mitigation of punishment.

3. But whatever plea may be set up by the master in justification of his inhumanity, and whatever weight it may have with the court, it appears to me clear that the slave ought to be fully protected from all other wrong-doers, who can have no plausible pretence for molesting him. Being in a state of bondage, and, in most instances, the property of an individual, it is highly improbable that a slave should intentionally come in collision with others than his master.

4. With advertence to the fifth paragraph of Mr. Millett's letter, I am of opinion that, in the absence of a particular law, the decision of cases of the nature therein described should be governed (as section 9, Regulation VII. of 1832, has provided) "by the principles of justice, equity and good conscience;" that is to say, justice, equity and good conscience according to British notions of those virtues, which would incline to give to the slave the benefit of any doubts or difficulties attending a claim to his person or property.

No. 97. ANSWER of Mr. *W. H. Benson*, Officiating Commissioner of Circuit, Fourth Division, dated 20th January 1836, to the Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. I SHOULD premise that the only cases connected with slavery with which I can tax my recollection as having come under my notice during my period of service (which has been passed chiefly in this presidency and in the judicial branch of the service), were, 1st, a case of attempt to dispose of a child as a slave by persons charged with having kidnapped a free child for that purpose; and, 2d, a charge of theft preferred by a proprietor against a slave, in the investigation of which the general regulations as applicable to cases in which free persons might have been concerned had free course. I have never had occasion to recognize, by any judicial act, the proprietary claim of one man over another; under these circumstances, I am unable to answer the first query as to the practice of the courts in the recognition of legal rights of masters over slaves in these provinces.

3. The same bar is opposed to my affording information regarding the second and third queries, as far as the practice of the courts is concerned; but I feel bound to state, that I should conceive it incumbent upon me, under the general regulations, in the cases contemplated in these queries, to administer the same measure of justice, and to extend equal protection, to slaves as to any other subjects of the British Government.

4. In reply to the fourth query, I may state that the regulations of government in regard to punishments for cruelty or any minor amount of bodily ill-usage, making no distinction between bond and free, I should consider myself bound by them to make no distinction in practice. One particular case of cruelty is specifically provided for by the circular order, Nizamut Adawlut, No. 4, of 27th April 1796.

5. With regard to the hypothetical case put in the first part of the fourth paragraph, the laws

laws of the plaintiff and defendant differing regarding the legality of the claim, I should unhesitatingly prefer that which should be most favourable to the slaves, more particularly as it would be contrary to reason that, in such a case, the plaintiff should be benefited by a law which he did not himself recognize; and in reply to the second hypothesis, contained in the same paragraph, I may observe, that I should reject, under the existing regulations, a claim to property in a slave instituted by any person not being a Mussulman or Hindoo, as well as a claim made by any person whatsoever against any other than a Mussulman or Hindoo: in the former case, on the ground already stated, that the plaintiff has no right to benefit contrary to the dictates of humanity by a law which he does not recognize; and, in the latter case, I should consider myself bound to be guided by the law of the defendant, which, in the absence of any direct regulation or construction, must be taken to be that of an ordinary British subject, in settlements in which slavery is not authorized by law.

ANSWER of Mr. *J. Dunsmure*, Civil and Session Judge of Zillah Allahabad, dated 8th December 1835, to the Officiating Register, Sudder Dewanny Adawlut, Allahabad. No. 98.

2. I BEG to state, that no cases connected with slavery have come before me, either in the civil or sessions courts. So far as this district is concerned, I should say that slavery exists but in name; for the term "slave" appears too harsh to apply to a class of people who are generally treated in every respect like any member of the family with whom they are living. During the late famine in Bundelkund, had the practice of purchasing children been prohibited, thousands must have died from actual starvation.

3. The courts in this district do not appear to recognize any legal rights of masters over their slaves, and would undoubtedly punish them for cruelty or hard usage, without any advertence to their relative position. I should consider myself bound to afford the same protection to a slave as to a free person, and such would appear to be the principle on which the courts have acted; but in matters connected with slavery, the local authorities have no defined law or rule of practice to proceed upon, and the course of their proceedings is guided either by what usage has sanctioned or reason may dictate.

ANSWER of Mr. *A. Spiers*, Officiating Magistrate of Zillah Allahabad, dated 23d November 1835, to the Officiating Register, Sudder Nizamut Adawlut, Allahabad. No. 99.

2. THE question relative to the laws applicable will, I presume, be answered by the court. My observations shall be chiefly confined to practice. There are two classes of persons in bondage; 1st, slaves in the usual acceptation of the word, and 2d, persons who, for a certain sum, have mortgaged their labour, and bound themselves to serve their creditors till the debt be liquidated. Many of the first class are the offspring of those who have themselves (as their fathers were) been slaves. This class are added to and acquired chiefly in time of general distress, famine, and the like. The master purchases the children from the parents. They are all brought up to profess the Mussulman faith, and none of another faith are held as slaves by Mussulmans.

The regulations of the British Government not having specifically exempted any class of persons from the protection of the magistrate, he grants, without reference to Hindoo or Mahomedan, a slave the same protection as any other person, and punishes a master to the same extent for ill-treating a slave as he would for ill-treating a freeman. As to service, the slaves would be treated as menial servants; in short, slaves are treated as freemen, and the same protection is granted to them. For several years past, the magistrates here have refused to lend their aid to apprehend and restore to a master a runaway slave. This is a considerable check on the master. Any excess of bad usage or hard work induces the slave to abscond. It is not the custom, in this part of the country, for masters to sell or otherwise dispose of their slaves. They remain in the family so long as the master can support them; if his means fail, the slaves leave and work for themselves. In one instance, I have heard of the slave supporting his late master's widow. Slaves are never hired out by their masters for the sake of gain.

In Hindoo families, the slaves are generally Kuhars, Ahurs or Chumars, who retain their distinct caste. The observations above made are generally applicable to Hindoo slaves.

The second class of persons in bondage are generally employed in agricultural labour; while those of the first class are employed in-doors. A very considerable number of the ploughmen are persons bound to labour for their creditor. The debts are at first generally between 20 and 30 rupees. They receive scanty, variable wages, and cast-off clothes. They are at liberty to work for themselves when their services are not required by their masters. Some masters claim a right of transferring them to another person, who made good to him the sum advanced. This, however, is seldom, if ever, done; the debtors generally manage to select a creditor. Most persons seem to think, that when a master becomes unable to support his hurwa, the latter may shift for himself. On the death of the original debtor, the sons become answerable for the debt in equal proportion, and are bound to serve till their share be liquidated. Daughters are not answerable for debts. Many of this class have been from generation to generation in one family. Till a few years ago, runaway hurwas were seized by the magistrate, and made over to their creditors or masters. This is not now done. Masters are referred to the civil courts for recovery of advances. When hurwas leave a

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master and go elsewhere, it is understood amongst the people that the new master should repay the sum advanced to the hurwa. Debtors of this class are treated in every respect as freemen.

The remarks made are applicable to this part of the country. I know that in Behar, and more to the east, real slavery exists: here it exists but in name.

No. 100. ANSWER of Mr. *S. Fraser*, Judge, Zillah Bundelkund, dated 15th March 1836, to the Officiating Register to the Sudder Dewanny Adawlut, Allahabad.

AFTER inquiry, I cannot discover that any cases of slavery have ever been brought forward in the civil court of this division.

2. The only cases which have ever come to my knowledge are those of slave-girls escaping from the palace at Delhi, which are always referred to the criminal court. I believe at one time it was usual, on the establishment of the claim of the owner, to restore the fugitive, but for some time past this has been discontinued, and no claim of this description is recognized, nor any right of restraint over the person of any individual, on the plea of ownership, male or female, admitted. The latter, consequently, in criminal matters, enjoy all the privileges of other members of the community.

No. 101. ANSWER of Mr. *R. C. C. Clark*, Acting Magistrate, Bundelkund, dated 2d January 1836, to the Officiating Register to the Nizamut Adawlut, Allahabad.

2. IN reply to the 1st question, it may, perhaps, without fear of contradiction be stated, that there is a general want of legal information and established course of proceeding in almost every office, entailing a proportionate degree of uncertainty in the decisions of the magisterial authorities on cases of the above nature coming before them for adjudication; and it would therefore be impossible to lay down any clear and determined rules of guidance as those practically recognized by the Company's courts, every magistrate being, I believe, in the habit of using his own discretion, subject to the dictates of reason, justice and humanity. These decisions are, doubtless, in many instances repugnant to Mahomedan law; which, while it provided for the food, clothing, marriage and protection of the slave, as stated in the bab-ool-hukkook of the imam Azzum, does not tolerate the authority of the ruling power to bestow freedom, on proof of cruelty or ill-usage, in the babool-kuza of the same lawyer. With the view of throwing further light on the subject, I might here narrate a case which occurred a few years since at Mooradabad, indicating the extent of the legal right of the master over the children and property of a deceased slave, as admitted in a magistrate's court, which would seem to be perfectly analogous to the old Roman law of inheritance regarding the vernæ, or the children of the slaves surnamed "Contubernales." A respectable native, named Allodeen Khan, of the above place, was possessed of two slaves, a man and woman, whom he married. The woman went astray; and her husband dying a short period after, and leaving two daughters and considerable effects, she came forward and claimed her offspring and the property, as the lawful heir. This being objected to by the master, the case came into court, and two futwahs were obtained, both of which were in favour of the master, on the grounds that, as he had a right of property in the parents, all that they possessed with their children must also necessarily be his, and that more especially so in a case where the mother had committed adultery. The woman was, therefore, non-suited, and the master admitted as the legal heir of his slave.

3. With reference to the 2d and 4th questions, I beg to submit, that the same protection of person is to the best of my knowledge extended to a slave as to a freeman against cruelty or hard usage, and that the relation of master and slave would not justify any act on the part of the former against the latter, which would otherwise be punishable in any other person, or be deemed a legal ground of mitigation. With regard to the indulgences alluded to in the second paragraph of the letter under reply, which I conceive to be the same as those mentioned in the bab-ool-hukkook of imam Azzum, I should deem it my duty to adhere as closely as possible to the spirit of the Mahomedan law.

4. The 3d question may be replied to in the negative, which it may be observed is in express conformity with the principles of jurisprudence laid down by the imam above quoted, who, while sanctioning exemptions of kisas in the case of a slave slain by his master, provides for the protection of the slave if ill-used or killed by any other person, in opposition to the absurd doctrine of the imam Shafee, who argues, that if a freeman kill a slave he shall pay deyut or 5,000 derums to the master, because (adds the sophist) the word kisas implies equality which does not exist between a freeman and a slave; but that if a slave slay a slave, or a slave a freeman, he shall suffer kisas, for in the former case they are equals, and that if a man be not exempt from such penalty for killing an equal, how much less ought he to be so for killing a superior? He also goes on to say, that a man shall suffer kisas for slaying a woman and a woman for a man, thereby obtaining a principle contrary to the maxim of his own doctrine of equality as above enjoined. The imam Azzum on the other hand urges that kisas has only reference to equality in the religion of the parties, for that the fact of kisas being demandable from a slave for slaying a freeman who are not equals, refutes the doctrine of its applicability to persons. Again, that the law of the Prophet

phet ordains that a man shall die for a man, a woman for a woman, a freeman for a freeman, a slave for a slave; and that as the imam Shafee admits that a man is not exempt from kisas for killing a woman, or a woman for a man, the same principle ought legitimately to be applied to freemen and slaves, on both of which last-mentioned points the law of the Prophet is neither clear or expressed.

5. With regard to paragraph 5, whether the court would support the claim of a Mussulman master over a Hindoo slave, when, according to Hindoo law the slavery is legal, but, according to the Mahomedan law, illegal, and *vice versâ*, it might with propriety be suggested, that the *onus* of proving an exclusive right over any person as a slave ought to rest with the master, and that where he is unable legally to establish such claim agreeably to the tenets and precepts of his own religion, be he Mahomedan or Hindoo, the claimant's title might with good justice be deemed inadmissible, for the Mahomedan law ordains that the followers of the Prophet shall not exercise any power over any persons as slaves, excepting those who can be proved to be such by the Mahomedan law, and it would require no great strain of inductive reasoning or moral argument to apply the same rule of guidance in adjudicating cases of that nature in which Hindoo masters might be one of the parties. Such at least would be the maxims to which I should adhere.

6. A great improvement would seem to have progressively taken place in the condition of the slave. They now rarely endure any physical *duresse*, and are generally treated as a part of the family; while formerly it would appear to have been a leading characteristic among both Hindoos and Mussulmans, to look upon them rather as transferable property than rational beings. Still the stigma that is attached to slavery is not obliterated; there is a personal restraint, and infringement of liberty; and it needs no eloquence to show that they are a degraded race, and not at their own disposal. The body may not suffer, but the moral servitude is retained, and the mind remains sordid and debased, and man still unjustly inherits that which should only be imposed on the public offender, *ob malum actionis*. The immediate emancipation of all male slaves, with a prohibitory edict against the exertion of authority in future over any man as a slave, might without fear of opposition be decided on and enforced. The present state of society, however, and the jealous suspicion with which established prejudices and customs connected with women are regarded in this country, would (it is to be regretted) appear to raise an insuperable barrier against imparting the benefits thereof to the helpless females immured within the walls of the zenana; for though they might legally be included in any such act of government, it is difficult to conceive how the advantages and privileges of freedom could be even practically extended to them or their heirs.

ANSWER of Mr. *H. Pidcock*, Magistrate of Humeerpore, dated 21st December 1835, to the Officiating Register of the Sudder Nizamut Adawlut, Allahabad. No. 102.

1st. THE right of a master over his slave is laid down at length in the Mahomedan and Hindoo codes; agreeably to which, however, cases of this nature are, I believe, never disposed of in our courts of justice; not because the magistrates are unacquainted with the native laws applicable to such cases, but because they are so directly opposed (especially the Hindoo) to our notions of reason, liberty and right. As far as my limited experience goes, I have never seen in our courts any distinction made between slaves and freemen.

2dly. I have never seen any distinction recognized by our courts between slaves and freemen; the cases arising between master and slave have always been disposed of as if no such connexion existed.

3dly. None, as far as my experience extends.

2. I have searched this office and not a single case is to be found. In fact, disputes between masters and slaves are of rare occurrence in every part of the country with which I am acquainted. Hindoo slavery is of very limited extent, and among the Mussulmans, slaves are treated almost as members of the family.

ANSWER of Mr. *R. J. Tayler*, Officiating Judge of Zillah Futtehpore, dated 22d February 1836, to the Officiating Register of the Sudder Dewanny Adawlut, Agra Presidency, Allahabad. No. 103.

2. I HAVE been but a short time in this zillah, and have not heard of any slavery existing in it; neither has my experience in other districts been more fortunate. There is the custom of hiring the services, or rather of receiving children by deeds of contract or mortgage for a certain number of years, about as many as they can be useful, perhaps about thirty-six years. I have never met with an instance of a slave complaining against the master or mistress. In general they are treated very kindly, are well fed, clothed, and receive wages. Should they be harshly treated they abscond.

3. I remember the circumstance of a procuress, at Patna, bringing a young girl before me when I was officiating magistrate of that city, charged with running away, she having been purchased from her parents and brought up by the old hag, most probably for the purpose of prostitution.

4. The girl complained that the woman had ill-treated her, and that she had in consequence ran

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ran off to a Sowar, who protected her. I ordered the girl to be released and go wherever she pleased, and refused to let the woman take her away. There was no appeal from the order, and I might have punished the procuress under the regulations, had any one brought a complaint of her buying the child for so vile a purpose.

5. The children who are bought by Mahomedans of rank are in most instances treated better than hired servants, and sometimes adopted and well provided for.

No. 104. ANSWER of Mr. *H. Armstrong*, Officiating Magistrate, Futtehpore, dated 26th January 1836, to the Register of the Nizamut Adawlut, Allahabad.

2. THE records of this office do not afford any light on the subject of slavery, owing to no complaints of cruelty and ill-usage having been brought to the notice of the magistrate. Nor do I believe there are, in this district, any slaves who have been brought and imported from foreign countries. This class of beings is only to be found on the establishments of the wealthy; and there are no persons in this zillah who are rich enough to keep them. The only description of slaves, if they can be called such, with whose cases I have ever had any experience, were the children of the inhabitants of Bundelkund, who were sold by the parents during the famine which prevailed in that country in 1833-34. In the latter year three cases of cruelty on the part of the masters and mistresses towards some of these children were brought to my notice. In two of these instances, I not only released the children on the principle that their owners were not fit or deserving to take care of them, but also punished them, in one case to the extent of my power, and in the second case, committed the owners, who were punished by the session judge. In removing the children from their owners, I considered I was acting on the principle of English justice; and although the regulations may not authorize such a measure, I should still feel I have performed my duty in accordance to the rules and dictates of humanity, if in future I released any slaves who preferred true complaints of cruelty against their masters, unless prohibited to interfere in such cases by an express regulation, or by the order of the superior court.

No. 105. ANSWER of Mr. *R. Neave*, Officiating Judge, Zillah Cawnpore, dated 25th January 1836, to the Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. WITH respect to the three first queries, I am unable to answer them specifically, from these circumstances: that during the time that I have been in the country, now comprised under the Agra presidency, I have not seen one instance where a master has come forward to call for judicial compulsion of his slave's services, or where a slave has complained against his master for oppression.

3. In this letter, save with the exception hereinafter made in regard to the description of men of or belonging to the district of Behar, called Kahars, I allude to the Mussulman population alone, since it is those only who keep domestic slaves, as far as I personally know the state of the case. The reason why such cases have never come before me is, principally, that my experience since 1833 has been wholly confined to the Delhi territory, where for a long time the name of slavery only has existed; its reality has been long extinct. This is a most important fact, as proving that the abolition of slavery may be easily accomplished, if desirable. Having been, before my appointment to Delhi, for eight years in South Behar, where I have myself, as register and civil judge, daily decided cases of purchase of whole families of predial slaves or Kahars, I was astonished to find that slavery was not recognized at Delhi. I was informed, on inquiry, that since Mr. Seton's time no claim to a slave, or to compel slaves to work, have been allowed; and I found the established practice of the court, that whenever a person petitioned that another person had claimed him or her as a slave, an azadnama or certificate of freedom was given him or her, to the effect that they were free. I gladly hailed this custom; but I pursued another course, which I deemed more effectual. It struck me that issuing these azadnamas or certificates was, to a certain extent, allowing the existence of slavery in some sort or other. When similar applications were made me, I used merely to pass an order that slavery did not exist, and informed the petitioner that if any person molested him or her he should be punished.

4. In respect to information I have acquired from other sources, I beg to submit, that many details of the practice at present in use in the courts cannot be expected; principally, I have reason to believe, because but few cases ever came before these courts. My experience has not given me conclusive evidence that the Hindoos have slaves, or carry on the practice, save in regard to the Kahars of South Behar above alluded to, and whose case I shall hereafter more specifically bring to notice. As to Mussulmans and their slaves, the reasons of but few cases coming before the courts are two-fold: first, because there are but few domestic slaves; and, secondly, those that there are are well treated.

5. The Mussulman law allows slavery in only two cases; capture in war, and purchase in times of scarcity to save parents and children from starvation. The first of these sources is almost wholly cut off, if not entirely so, since the importation of slaves has, by Regulation III. of 1832, been rendered penal; these causes render slaves scarce. Secondly, the slaves in India have every facility of escape; while, owing to the known repugnance of our courts to make a slave over to his alleged master, the master has, in case of his slave's escape,

escape, scarcely any mode of recovering him. This leads the master, from self-interest, to conciliate and make much of a servant, who, if ill-treated, has the remedy in his own hands.

6. If, after acknowledging that I have not known any cases such as those alluded to in the first, second and third questions, I was asked what practice I should follow were such cases to come before me, I should indubitably reply, that I should acknowledge no relation of master and slave to justify any acts otherwise deserving of punishment, and no case wherein I would afford less protection to a slave against his master than another man. I acknowledge the toleration of the name of slavery; but I know no regulation of government which compels a magistrate to carry the precepts of the Mahomedan law into effect on the subject of slavery. As far as this, I allude merely to the criminal jurisdiction between master and slave. Cases of property, wherein slavery is acknowledged, since it is recognized by the law of the land, may be tried in the civil courts.

7. The fourth paragraph of the secretary's letter adverts to Hindoo slavery. No cases of Hindoo slavery have ever come to my knowledge, save those in the district of Behar above alluded to; and with respect to these people, I have the honour to furnish a memorandum, drawn up from replies made a few years ago to some queries of mine. It is a curious fact, that I recollect but one case which ever came before me in the magistrate's office, where a complaint was made to me in the Ramghur or Behar districts on this subject; and this was not for maltreatment, but was an averment on the part of the plaintiff that the defendant falsely claimed him as a slave. The fact is, that the plaintiff had himself acquired a considerable fortune by traffic, and the defendant wished to avail himself of his rights as master to participate in this affluence. With the exception of this one instance, I never saw a cause in any court, where the persons sued for as predial slaves did not acknowledge the fact of being so, and the dispute used to be merely as to the fact of ownership. The slaves themselves were oftentimes called upon by the parties to declare to which side they belonged. In respect to the question put by the law commission, I can only reply, that had such a case come before me as magistrate, I should have judged the parties of the case as if they were not in such relation to one another as that stated.

8. In regard to the question proposed in paragraph fifth of the letter under acknowledgment, I beg again to say, that such cases never came to my knowledge. As the magistrate's courts have no power to decide cases of property, the courts alluded to must be the civil courts. In such cases of difficulty, where the diversity of the law created almost insuperable difficulties, and permitted a doubt under any circumstances, I should act, according as the regulation quoted has it, by justice, equity and good conscience. Abhorring, as I do, every thing in the shape or form of slavery, I should, in the two cases noticed, take advantage of the ambiguity to annihilate the cause of dispute. Where the claim is on the part of a Mussulman, and it is by his own law illegal, I should hold his claim void on his own showing; and where it was valid on his side, and not by the Hindoo law, I would dismiss the case, because the defendant could not legally be a slave. I would only hold the slavery conclusive where both laws coincided, for two reasons: first, because persons putting themselves in such positions should themselves be fully aware of the liabilities they incur, and of the insecurity of such transactions, from the natural difficulties of the case; and secondly, because such a course would reduce an evil, not likely to be otherwise removed, to a minimum.

9. In respect to the last question, as to the enforcement of any claim to the property of a slave, except on behalf of a Mussulman or a Hindoo against other than a Hindoo or Mussulman, I beg to say, that as it has been the custom of the civil courts that all parties should have their cases decided by their own laws, the only rule that could be laid down would be on the same principle, that a plaintiff whose laws allowed slavery might sue, and not otherwise; and the principle of decision would be that mentioned in the last paragraph. The case is of course a supposed one, such never occurring to me.

10. On the whole, it seems that there is little reality in the slavery of India; and that it is, with the exception of one description, more in name than reality; that there are very few principles and precedents recorded in our courts on the subject, because there are but few evils attendant on its practice; that the uncertainty of the law on this subject, and the general tendency of all judicial decisions towards loosening rather than tightening the chains of slavery, have conduced considerably to the downfal of the system, and to the mitigation of its discomforts where it exists; I further finally think, that in this instance it is wholly useless to consult the Hindoo and Mussulman prejudices, or to pay any respect to them, except that it might be advisable to effect the end proposed by a prohibition of the purchase and sale of any slaves whatever hereafter, and by a limitation of the extent of slavery for those at present in that state.

11. One more remark I wish to make, and it is of some importance: that slavery in any way may be abolished as above, I doubt not, and I wish it may be so; still, when we consider, in every year, and particularly in years of scarcity, how many lives are saved, both of children who have nothing to eat, and parents who have nothing but the food given in exchange for their hungry children, it may be a question which, though political economists and populationists may consider it foreign to the matter at issue, humanity may ask, whether a modification of an absolute prohibition of this practice may not be permitted? may not a change of the term "slavery" to "apprenticeship" take away much of the odium of an appearance of things after all very similar in themselves? might not the parents save the lives of all parties, by transferring, in case of deep distress, their children to more affluent individuals, provided there be a condition for the education of, care towards, and eventual release of, children so transferred? This subject will, I trust, be duly considered.

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ANSWER of Mr. *C. M. Caldecott*, Magistrate, Cawnpore, dated 27th November 1835, to the Officiating Register to the Sudder Nizamut Adawlut, Allahabad.

No. 106.

2. I AM not aware of any criminal regulation in force in these provinces which in any way gives a master any right over his slave beyond that which he possesses over his hired servant, with regard to offences against the person; if a slave runs away from his master, I do not authorize his being delivered over to his master again against his will; and if any charge of maltreatment were proved against a master, I would punish him to the same extent as if the person maltreated had been a common servant.

3. As to "a slave's property," I have had no practical experience; but if any case were to arise, I should uphold the person in possession, and refer the other party to the civil court; because a magistrate has nothing to do with the right to property, but merely to decide upon the fact of possession.

As, however, I have had no case of Hindoo slavery before me, my remarks apply exclusively to Mahomedan.

4. Slaves, according to Mahomedan law, may, I believe, be of two classes, absolute and conditional.

"Absolute," when acquired from a "Darol Hurb;" in this case the slave and his descendants are the property of their master; many, however, of the conditions required to constitute a "Darol Hurb" are a matter of dispute among learned Mahomedans of the present day; and the acknowledged conditions are of such a nature, that I doubt whether any slave in these provinces could be proved to belong to this class; at any rate I have never found any slave proprietor able to prove such a title; and, unless this primary objection be overcome, of course the claim must fall to the ground, even if we allow that, in such matters, our criminal courts are bound to decide strictly according to the principles of the Mahomedan law.

"Conditional," by purchase, &c from a third person, under pretext of famine or inability of the disposer to support the individual made over to slavery; in this case the receiver is not bound to ask any questions of the seller, but the slave can at any time obtain his liberty by application to the cazee, or, *mutato nomine*, the magistrate; a claim, therefore, for the recovery of a slave of this class can never be entertained; but most learned Mussulmans deny that such can even be called slaves.

5. Upon the above grounds, I have hitherto made my decisions; and to the best of my knowledge these decisions have never been upset.

6. The above remarks render any answer to questions 2 and 3 unnecessary.

No. 107.

ANSWER of Mr. *J. Cummine*, Officiating Joint Magistrate, Zillah Belah, dated 25th January 1836, to the Register of Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. DURING my few years of service, no case, involving a consideration of the relative rights either of master or slave, has come to my notice or under my cognizance. I am, therefore, unable to furnish any information on the three points alluded to in Mr. Millett's letter, which refer to the practice of the courts and magistrates in such cases.

3. I am equally disqualified from offering any remarks on the latter paragraphs of that letter, from having resided in the provinces, where I never observed any reason to believe that slavery existed, either amongst Hindoos or Mussulmans, and consequently never had occasion to give particular attention to the subject.

No. 108.

ANSWER of Mr. *C. Fraser*, Officiating Commissioner, Second or Agra Division, Muttra, dated 6th February 1836, to the Officiating Register, Nizamut Adawlut, Allahabad.

THE reports of the magistrates to the court lead to the conclusion, that no legal settlement of the relative rights of master and slave has been made in the courts of this division, and that, somewhat illegally, the former class of persons have been discountenanced, and their rights have been summarily set aside and hastily disposed of.

Our criminal legislation has been framed on the basis of the Mahomedan code, with such modifications of it as were from time to time deemed just and proper by the ruling authorities: and although no express enactment has been promulgated for our guidance in this department, in modification of the Mahomedan law of slavery, now that the question has been mooted, government have full power to introduce one as a remedy for the objectionable provisions of that law, and may declare, that in our courts masters and slaves shall be placed on the same footing, and equal justice administered to all.

Slaves, however, as defined by the Mahomedan law, are, I believe, not to be found in the provinces within this division: and, since our penal regulations have nowhere recognized them as a separate class of the community, in all trials for crimes specially noticed in them, no distinction would, I presume, be made in cases where the parties stood in the relation to each other of a master and slave. But in crimes, not thus provided for, and where we are referred to the Mahomedan law to apportion the punishment for an offence of which a master or his slave may be convicted, we are, I conceive, legally bound to abide by that law in our judgments. But such cases seem never to have occurred; and the state of bondage which prevails to a certain extent in this part of India would not come within the legal designation of slavery as understood by a Mahomedan lawyer.

All

All rights of property come before our civil courts; and the law which is to be followed in their decisions is laid down in sections 8 and 9 of Regulation VII. of 1832. But here, again, I am aware of no precedents, relating to these provinces, respecting the rights of masters and slaves, and the natives have not called for any.

When a Mahomedan should file a suit against a Hindoo slave, the law of the plaintiff would be decidedly more favourable to the defendant than his own: and, as the *onus probandi* would be cast upon the former, he would in most if not every suit fail in obtaining a decree. But in the case of a Hindoo master and a Mahomedan slave, the reverse would happen. I have never had myself to decide a suit in which the parties were thus of different religious persuasions; and I should on all occasions, where personal rights are involved, be averse to deprive a defendant of the benefit of his own law; and section 9, Regulation VII. of 1832, might be pronounced inapplicable to suits between masters and slaves.

Hindoos and Mahomedans outnumber every other class of our subjects in this division; and our courts, civil or criminal, are frequented almost solely by them. What law should be applied, when one not of those persuasions claims a slave, would depend upon the law, which may be pointed out as the one to be followed. But I suspect that a plaintiff would have little chance of discovering one which could substantiate his right, and I look upon the filing of a claim as imaginary and highly improbable.

The people in the lower Dooab would, I am satisfied, make no complaints, were an act to be passed declaring slavery to be an illegal state; and such an act would, of course, set at rest all the difficulties involved in its existence.

ANSWER of Mr. *A. W. Begbie*, Officiating Judge of Zillah Mynpoory, dated 9th March 1836, to the Officiating Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 109.

2. WITH reference to the three queries contained in the first paragraph of Mr. Millett's letter, I beg to state, that I cannot call to mind a single instance in which application has been made to me, as a judge or magistrate, either by a master or slave, by the one with the view of enforcing his authority, or by the other of seeking the protection of the law. As the above questions refer entirely to the practice of our courts, I am consequently unable to afford any information on the points at issue, founded on experience, which would alone, I presume, be considered desirable.

3. In reply to the inquiry contained in paragraph 4 of Mr. Millett's letter, I beg to observe, that, as by the construction of our courts the judges are bound in criminal cases to adhere to the provisions of Mahomedan law (as modified by the regulations), whatever may be the religious persuasion of the parties, and as, by section 15, Regulation VIII. of 1803, the persons of slaves are protected from extreme violence on the part of their masters, I should have no hesitation, under the enactment above referred to, in recommending to the Nizamut Adawlut the infliction of capital punishment on a Hindoo master convicted of the wilful murder of his Hindoo slave. Whether, in cases of maltreatment of a less aggravated nature, the criminal courts would be justified in interfering between a master and his slave, unless such interference were expressly authorized by the Mahomedan law, appears extremely doubtful. With occasional exceptions, our regulations seem to have been intended to provide for the regulation of the intercourse between freemen; and if slaves in India have found their condition meliorated since the establishment of the British supremacy, the beneficial change is, I imagine, to be ascribed rather to the well-known abhorrence entertained by the ruling power of the state and practice of slavery, than to any special provisions of the law in the behalf of this unfortunate race. To this general impression must, I think, be imputed the rarity of cases connected with slavery, which have come under official cognizance. The agitation of the subject is carefully avoided, from a fear that new laws might be made, which would materially affect the condition of the slaves, whose value (merely as property) would diminish in proportion to their rise in the scale of society.

4. With respect to the queries in the 5th paragraph, I with deference would observe, that I should consider myself fully justified in dismissing the claim of a Mussulman master to a Hindoo slave, where the title was clearly opposed to the principles of the plaintiff's own law and religion. Where the master's claim, on the contrary, was supported by his own law, but opposed to that of the slave defendant (as the courts are not bound to observe the Mahomedan law in civil suits, unless where both parties are of that persuasion), I should incline in this case also to decree in favour of the slave, on the principle recognized by clause 2, section 6, Regulation V. of 1831. In the absence of any specific enactment, I should, in the words of Regulation VII. of 1832, be governed (to the best of my judgment) by the principles of equity, justice and good conscience.

5. The last question, relative to the claims of other than Hindoo or Mahomedan masters, is difficult to be answered. Amongst the Americans and many European nations, slavery is still permitted by the law, and it has, indeed, but recently disappeared in the colonies of the British empire. So far as British subjects, therefore, are concerned, no difficulty remains. But with respect to foreigners, I should conceive that considerable doubt might reasonably be entertained. Fortunately, such cases must be of rare occurrence, and it is always in the power of the government to guard against such by a distinct legislative enactment.

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ANSWER of Mr. *H. Fraser*, Magistrate of Zillah Mynpoory, dated 30th January 1836, to the Register, Nizamut Adawlut, Allahabad.

No. 110.

2. I BEG to inform you, that there is no record in my office of any case of the nature specified. Nor does any question of the relation between master and slave appear to have been brought before the magistrate of this district. Slavery, too, is unfrequent; and I have reason to believe legal slavery under a strict construction of the Hindoo or Mahomedan laws would, comparatively, in few cases be found to exist. Under the name of "Gola'ns," however, amongst Mahomedans, and Cheeras amongst Hindoos, many families of substance have domestic servants of both sexes. But in two instances only during my official experience do I recollect complaints made in the magistrate's court to compel the return of slaves to servitude.

3. The first case was at Juanpoor, 10 years ago, by a dancing woman, on the plea that two girls had been sold by their father to her, and since absconded, when the claim was disallowed, as it appeared that the girls at the time of sale were of a marriageable age, and sold against their consent. In the second case, at Shajuhanpore, a girl had become the favourite concubine of her master and been turned out of doors by his wives; as the poor girl had no other protection, and the master appeared attached to her, a reconciliation took place, he promising to protect her from the anger of his wives.

4. With regard to the protection to be afforded to slaves, it must be confessed the present enactments are unsatisfactory. But, as the Mahomedan law has been declared, when not modified, the criminal law of the country, I should consider the penalties for maltreatment of slaves therein laid down equally applicable to Hindoo masters, and the resolutions of council quoted in Mr. Millett's third paragraph as referring only to the rights of property in slaves.

5. It is, I conceive, doubtful whether a magistrate would be justified, under any circumstances, in requiring runaway slaves to return to servitude, although the Mahomedan law and practice may authorize the proceeding; and it is probable that magistrates may have passed such order, as the enactments for their guidance hitherto have furnished rules only in particular cases, leaving other matters either to be decided by analogy and expedience, or furnishing no remedy for numerous petty wrongs of constant occurrence.

6. On the subject of the last paragraph of Mr. Millett's letter, it might be presumptuous in me to offer an opinion. But I conclude no proprietary right of slaves could be recognized in individuals, either Hindoo or Mussulman, the resolution in council above alluded to specifying no other classes. With respect again to the claim of a Mussulman over a Hindoo slave, where by the Mahomedan law the right is invalid, as the Koran and its commentaries are the only code of law recognized by the Mahomedans, no claim in opposition to its tenets could be maintained. The case again of a Hindoo master and Mussulman slave is of very unfrequent occurrence, the difference of faith rendering such a slave a very useless member of a Hindoo family, for whom they are little likely to make a claim, which I suppose would not have been admitted under a Mahomedan government.

No. 111.

ANSWER of Mr. *J. P. Gubbins*, Officiating Joint Magistrate, Zillah Etawah, dated 31st December 1835, to the Officiating Register, Nizamut Adawlut, Allahabad.

No cases in which masters or slaves were parties concerned have come before me since in charge of this joint magistracy.

2. From the inquiries I have made, I have reason to believe that slavery does not exist in this part of the country in the male sex, and as regards the female sex, it is so completely confined to the private apartments of the better class of natives, that it is not easy to ascertain the extent to which it prevails.

3. It is, however, a very rare occurrence for a female slave to leave her master's house on account of bad treatment; and in such cases I have never allowed females to be restored to their masters against their will, which is, I conceive, agreeable to the spirit of British legislation, though it does not strictly coincide with the Hindoo or Mahomedan laws that recognize the state of positive slavery in both sexes.

No. 112.

ANSWER of Mr. *J. Davidson*, Officiating Civil and Session Judge, Agra, dated 2d January 1836, to the Officiating Register of the Sudder Dewanny Adawlut, Allahabad.

IN reply, I beg to inform you, that, from the best inquiries I have been able to make, it appears that the condition of slavery in these provinces is an uncommon one, and that, as in the actual relations of society slaves can be obtained only by an illegal act (viz. the purchase of children), the possessors of such will not, either by harsh treatment or by claims to person, service or property, bring themselves within the danger of the regulations; whilst, on the other hand, slaves who think they can do better for themselves, quit of their own free-will their master's household for ordinary service; and those who, from ignorance or habit, do continue in it, do so because, in all material respects, their treatment is the same as that of any hired servant. There does not appear to have been, within the memory of any

any one connected with the civil and criminal courts of this jurisdiction, a single case in which either of the parties has appeared in the relation of master or of slave. The principle of the courts and the law officers, in the event of any formal complaint or claim being made by parties coming forward as master or slave, would be, by a rigorous construction of law, to show that, in the actual instance, the conditions necessary to constitute legal slavery by Mahomedan or Hindoo law did exist; and that, therefore, the case of the party termed "slave" was to be tried on its merits, according to the regulations and to natural justice, on exactly the same footing as that of any other free subject.

No. 113.

ANSWER of Mr. *S. G. Mansel*, Magistrate of Zillah Agra, dated 7th December 1835, to the Officiating Register of the Nizamut Adawlut, Allahabad.

I HAVE been unable to find in the Agra court any criminal case in which the prosecutor and prisoner stood to each other in the relation of slave and master, or, indeed, to trace any proceedings whatever which can throw any light upon the nature of the rights and immunities supposed to exist under the law of slavery among the Hindoo and Mahomedan population; to the practice, therefore, of the criminal courts I cannot speak from precedent.

But, as regards the principle by which the criminal courts should be guided in applying the general provisions of the existing penal law to slaves and masters, of whatever religion, the question does not, I confess, seem to me surrounded by any great difficulties, in respect, at least, to that portion of the British dominions which was included in the Mahomedan empire, virtually during the reign of Aurungzebe, and nominally, too, during the convulsions to which Hindoostan and Bengal were subject during the eighteenth century. Whatever part of the territories of the Company were embraced within his Darool Islam were, by law and practice, subject to the criminal jurisdiction of the imaum and his delegates. During the reign of Akbur,* no doubt the Hindoos retained much of the privileges of their Shasters; but in the subsequent three reigns there seems no sufficient reason for considering that the Mahomedan criminal law was not effectively and indiscriminately enforced upon all classes of society. All questions connected with public wrongs were determined, or at least were, I conceive, liable to be determined, by the law of the imaum; and whatever proprietary rights in slaves were permitted or acknowledged to rest in the persons of infidels, these could be but merely recognized as subsidiary to the paramount rights of the hakim, as the successor of Mahomet, the conqueror of the country and depositary of the law as well as the religion of Islam. Such, at least, it appears clear the mooftee would have ruled in his futwah, and the cazee would have enforced in his order, during the seventeenth century; and hence, as the regulations of the British Government, in regard to offences against the state as distinguished from private wrongs, distinctly recognize the Mahomedan law as the criminal code of the country, I feel no scruple in expressing my opinion that Hindoo masters, in respect to responsibility for the ill-treatment of slaves, possess not legally, or rather constitutionally, greater immunity within the limits referred to than could be claimed by the professors of the Mahomedan religion under the futwahs of our own mooftees.

Should this view of the subject appear in any degree fanciful or forced, it is to be remarked, that the criminal law, as administered under Regulation VI. and Regulation VII. of 1803, is undefined and anomalous to a degree, which renders it necessary to the student to fall back upon first principles, and the magistrate, among conflicting analogies, must select that which is most "consonant to natural justice."† Clause 1, section 16, Regulation III. of 1803, would doubtless bar a claim for damages for personal injury on the part of a slave against a Hindoo or Mahomedan master: he is presumed to possess no civil rights. But the ruler of the country, the hakim-ool-wuqkt, or the father of his subjects, alike under the Mahomedan law, the English law, and the law of nations, is justified in reserving in its own hands the power of depriving any subject of life or limb, and in punishing whoever assumes to himself a prerogative which can be claimed with fairness and administered with justice by the state alone.

In this part of Upper India, Hindoo or Mahomedan slavery can scarcely be said to exist; in the district of Agra there is not, I believe, one single individual in the state of a lawful slave. By lawful slave is meant, of course, an infidel who has fought against the faith, or the descendant of a person of this class. Of course, during famines, and even under the pressure of ordinary poverty, parties are in the habit of selling (as the phrase of the common people runs) their children to those who can provide for them. But the *dictum* of the sale of free children being invalid in a Mahomedan country, is regarded by the ablest Mahomedan lawyers as sound in law, as it is clear that it is so in jurisprudence; and this being admitted, the disposal of any infant to any party, Hindoo, Mahomedan, Armenian or European, subsequent to the subjection of any province to the sway of the Delhi empire, is clearly illegal. After this period, the attempt to infringe this law must of necessity be a criminal offence, and the successful infringement of it can convey no rights whatever over any

* The toleration of Akbur towards the Hindoos was notorious; but even he, in his instructions framed for the guidance of the police, directs, "He must not allow private people to confine the person of any one, nor admit of people being sold as slaves; he shall not allow a woman to be burnt contrary to her inclination."—Ayan Akburee, p. 302, vol. 1.

† C. 1, s. 16, R. III. of 1803.

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any particular individual or his offspring in after times.* Doubtless, however, there exist in Behar† on the north-eastern frontier, in the Deccan, and in other parts of India, parties who were made lawful slaves under Hindoo monarchies, never subjected to Mahomedan rule, or who become such previous to the spread of the Mogul empire beyond the north of India. The nature, therefore, of the *status* of those unfortunate beings will, of course, be defined with more difficulty. It is obviously, however, useless for local officers to enter into detailed discussions as to laws which were never enforced, rights which have never been defined, and involving principles of reasoning of a fixed character which were never thought of by the semi-savage despots who have ruled in India from the earliest period to which her annals reach.

The number of lawful slaves under the more restricted rule of the Mahomedan law must, in every part of India once subject to the Delhi emperors, be very small indeed. The power of the Mahomedan master over them is properly qualified, and scarcely exceeds that conferred upon a husband, a father, or a schoolmaster, for the salutary correction of the party placed in a state of subordination to a superior. As section 19, Regulation IX. of 1807, and clause 7, section 2, Regulation LIII. of 1803, contemplate the infliction of a maximum of punishment, the criminal courts would of course be justified in acting with that leniency to slaves which the Mahomedan law, in a certain class of causes, directs. The soundness of this principle, however, may be well doubted, and practically I have no doubt that the distinctions made in the inflictions of Hudd by the Mahomedan cazee on slaves would be designedly (and properly so) overlooked by the European magistrates in administering criminal justice under the regulations above named, and by which regulations the penal power of the rules of Hudd and Tazeer have been modified and extended, if not annulled.

No. 114.

ANSWER of Mr. *W. H. Tyler*, Magistrate, Muttra, dated 12th December 1835, to the Officiating Register, Sudder Nizamut Adawlut, Allahabad.

I HAVE the honour to state, that the extent of slavery within the zillah of Muttra is extremely limited; that it consists almost entirely of female slaves, and that these are exclusively in the possession of Mahomedans. The number is estimated at about 50 or 60, whilst the male slaves are said not to exceed 15 or 20.

According to the Hindoo and Mahomedan laws, the master has a legal right over the person and property of his slave, can claim from him the performance of the household duties, give him correction when negligent, and dispose of his services to another. But these rights have not, I am informed, been admitted in these provinces. Since the introduction of the British rule, the practice of the courts having been to dismiss the claims of a master, and to give redress on the complaint of a slave, complaints of this nature to the courts, I am told, have been rare. For myself, I can say, that during the 10 years I have been in these provinces, not a single claim on the part of a master, or complaint of a slave, has been brought before me. The general belief amongst the natives is, that our government does not recognize slavery. It certainly does exist; but it is merely in name. The slaves are always well treated, and looked upon as part of the family.

No. 115.

ANSWER of Mr. *J. Neave*, Judge, Zillah Alligurh, dated 30th January 1836, to the Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. SLAVERY, in its general meaning, is not known in this district. A species of it exists in a very mild form in the houses of the wealthy, under the term "Khanehzad," but merely in name; for an individual of this class enjoys the same rights, and is in every respect as free as other men.

No. 116.

ANSWER of Mr. *H. Swetenham*, Officiating Judge of Zillah Furruckabad, dated 28th November 1835, to the Register, Sudder Dewanny Adawlut, Allahabad.

2. FROM inquiry and from my own experience, I am disposed to consider that there never has been a suit instituted in the civil court of Furruckabad regarding rights of masters over their slaves with respect to person or property.

3. Although it has been determined that the spirit of the rule contained in the 15th section, Regulation IV. of 1793, for observing the Mahomedan and Hindoo laws in suits regarding succession,

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* Aboo-ul Fuzle states of the Hindoos, "They have no slaves among them;" and this, too, when the empire embraced 15 soobahs, extending from Mooltan to the Bay of Bengal, and from the Himalye to Mandow. The descendants of this class of people in the provinces now under the Bengal government must therefore be very free.

† The parties of whom Mr. Fleming makes mention in his evidence before the House of Lords clearly exist in a mere state of contract service, while the slave population, which Mr. Baber, in his evidence before the same bar, states to be spread over Canara, Malabar, Travancore, &c. to the awful extent of 400,000 souls, are clearly the aborigines of the country, of the history of whose subjection to the bonds of slavery we have no accurate account, but to whom, doubtless, the Mahomedan criminal law cannot easily be held to apply. Hamilton, indeed, mentions that the slaves of Malabar are very severely treated.

succession, inheritance, marriage and caste, and all religious usages and institutions, is applicable in construction to cases of slavery, such construction has been circulated and enforced, I believe, only in the lower provinces. I am not aware that any similar* construction has been laid down for the practice of the courts under the Agra presidency, with reference to the corresponding enactments of clause 1, section 16, Regulation III. of 1803, and section 8, Regulation VII. of 1832; and I am therefore inclined to think that there exists a latitude for the courts in these provinces to decide such cases by the principles of justice, equity and good conscience, agreeably to the provisions of section 9, Regulation VII. of 1832. As the laws, with exception to the subjects provided for in Regulation X. of 1811, and Regulation VII. of 1832, are silent on the matter of slavery, this is an inference only; and were a case to come judicially before me, I should deem it necessary to refer to the court of Sudder Dewanny Adawlut to ascertain if the constructions of the Bengal enactment were to be applied to the regulations enacted for these provinces, ere I ventured to give judgment in such case.

4. I believe the general impression amongst the natives is, that slavery is abhorrent to the principles which guide the judicial authorities; and that no one would hazard the expense of a suit in the civil court for rights connected with slavery.

5. In the magistrate's court of Furruckabad, I have known cases brought forward within the last two or three years, in which applications have been made to recover female slaves who have run away from their masters, which have been rejected: and I have, when commissioner of circuit, orally explained to individuals that an appeal would be ineffectual. I have slight recollection of a case, in which a nawab was fined for maltreatment of a female slave.

6. I have heard it asserted by a native in Rohilkund, that if a slave went before a magistrate with a petition on eight annas stamp paper, praying for emancipation, that it would be granted; whether such belief arose out of the practice of any court, I am not able to state.

7. Complaints preferred by slaves against their masters of cruelty or hard usage would be heard equally the same as similar complaints from freemen. No mitigation of punishment would be grounded on the Hindoo or Mahomedan law. Such complaints are, however, of rare occurrence; which is not, however, proof of non-existence of evil of the kind; for it is well known, that great cruelty is often exercised; I have personal knowledge thereof. The want of freedom probably stifles complaint.

8. Protection, if sought, would be granted to slaves the same as to freemen, as far as circumstances would admit, against other wrong-doers than their masters.

9. With reference to the 4th paragraph of Mr. Millett's letter, as "to what law or principle maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the criminal courts," I would observe, that the criminal courts are not in any case guided by the Hindoo or Mahomedan law. The regulations of government define the cognizance of the criminal courts. In misdemeanors and smaller offences, the magistrate's powers are defined without respect to persons, caste or religion; and in the sessions court, unless specific provision be made for any particular offence, cognizance is ruled in clause 7, section 2, Regulation LIII. of 1803, the same for all classes of people who may be amenable to the court.

10. Section 9, Regulation VII. of 1832, appears applicable to the point noticed in the 5th paragraph of Mr. Millett's letter.

11. That the abolition of slavery would produce considerable dissatisfaction amongst the wealthier classes cannot be doubted, though no more need be anticipated than occurred on the abolition of Suttees. The principle of humanity dictates the propriety of granting freedom of person to all who may be under the British protection. The regulation proposed by Mr. Richardson, in 1809, and the amendments suggested thereon by Mr. Harington, appear too complex for the understanding of those for whose benefit they are proposed; nice points of law would tend to perpetuate slavery. I would suggest that the construction by which the spirit of section 15, Regulation IV. of 1793; clause 1, section 6, Regulation III. of 1803; and section 8, Regulation VII. of 1832, may be rendered applicable to slavery, be forthwith annulled; that it be enacted, that slavery is not recognized by the British Government; and that the magistrate be empowered to declare any individual, Hindoo, Mahomedan or other, free, who may complain of being held in bondage contrary to his wishes, and with powers to maintain his decision subject to appeal.

No. 117.

ANSWER of Mr. *F. H. Robinson*, Magistrate, Zillah Furruckabad, dated 30th November 1835, to the Register, Sudder Nizamut Adawlut, Allahabad.

NEITHER in this criminal court nor any that I have known, is it the practice to acknowledge the right of masters over slaves, or the claims of slaves on masters.

2. The reason I take to be this, that although slavery is recognized by the regulations, yet there is no express enactment sanctioning the interference of the magistrates. There are few Englishmen who, without some strong motive, would enforce the rights, if such a term can be used, of the master over the slave; thus, on application for arrest of runaway slaves, the answer is ready, that the courts have no authority to restore slaves to their masters. In the

* Mr. Millett quotes the resolution of the Vice-President in Council, dated 9th September 1827; but I do not think this has been circulated for the guidance of the courts.

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the event of cruelty perpetrated and complaint on the part of the slaves, the case is treated as one of assault of one freeman on another; for we have no regulation authorizing a master corporally to chastise a slave. It follows, that no indulgence is shown to slaves under the Mahomedan law, in consideration of their *status*, in the event of their committing crimes. In no case is less protection extended to slaves suffering from other wrong-doers than their masters.

I have no doubt that a regulation might with perfect safety be passed, abolishing slavery in the western provinces, and authorizing any major slave to sue out his or her freedom in the magistrate's court. At the same time provision might be made, authorizing parents to bind over their children as apprentices till the age of, say twenty-one, defining the relation of master and apprentice. Many thousand of indigent children would be taken and brought up by wealthy individuals on these terms, to the relief of their parents, especially in time of scarcity or famine.

No. 118. ANSWER of Mr. *S. M. Boulderson*, Commissioner of Circuit, Bareilly, dated 28th January 1836, to the Officiating Register to the Court of Nizamut Adawlut, Allahabad.

3. FEW cases of complaints of ill-treatment, or for emancipation, appear to have come before the magistrate of this division (Bareilly); and in one instance only does it appear that less protection was afforded to a slave, on complaint of severe beating, than would have been granted under similar circumstances to a freeman; and the reason assigned by the magistrate for the leniency with which the accused was treated is rather conjectural than real.

4. The magistrates in this division recognize no legal rights in masters over the persons of their slaves;* and their right to property acquired by slaves appears generally to have been considered as a question appertaining to the civil courts.

5. No instance is mentioned of a slave having been forcibly compelled to return to his master, or punished for refusing to work; nor have I ever, officially or otherwise, during a long period of service, heard of an instance in which an adult has been sold as a slave by one master to another.

6. Whatever the original Mahomedan or Hindoo law may have been on this subject, I believe it to be an undeniable fact, that slaves in Western India are no longer property; I came to this conclusion from never having met with an instance in which the right to a slave was disputed amongst members of families, who for every other inheritable or saleable portion of the ancestorial property were at the most bitter discord.

7. Slavery, in the sense which European nations apply to the term, certainly does not exist in Western India.

No. 119. ANSWER of Mr. *W. Cowell*, Judge of Bareilly, dated 17th March 1836, to the Officiating Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. IN reply to the first point, I beg leave to state that the legal right of masters over their slaves, with regard to their persons, are much upon a par with those that are observed between master and servant; and as to property, I think there can be no doubt but that it is at the master's disposal, for "a slave cannot legally acquire or possess any species of property, although it be vested in him by his master." (*Vide* Baillie's Mahomedan Law, p. 204.)

3. Instances of cases embraced in the second point so seldom occur, and none, to the best of my recollection, having been brought before me in my judicial capacity, I am not able to offer any thing certain or conclusive on the subject; but I am sure that the indulgences extended to Mussulman slaves, on complaints preferred by them of cruelty or hard usage by their masters, are more liberal than what are extended to them by the Mahomedan law, according to which "the ruling power has no right or authority to grant emancipation to slaves who are ill-treated by their masters and stinted in food." (*Vide* Macnaghten's Principles and Precedents of Mahomedan Law, p. 317.)

4. Regarding the third point, I know of no instances in which magistrates have afforded less protection to slaves than to free persons against other wrong-doers than their masters.

5. On this point I beg leave to refer the court, for the authorities quoted, to Macnaghten's Hindoo Law, v. 2, p. 274–5.

6. In reply to the fifth paragraph, I should consider the claim of a Mussulman master over a Hindoo slave, although illegal by the law of the former, to be admissible by the courts of judicature, and *vice versâ*, provided such slaves are treated with lenity and taken proper care of; and that this is generally the case, although few exceptions may occur to the contrary, I have every reason to believe, and am willing to acquiesce in the following opinion: "In India, between a slave and a free servant there is no distinction but in the name and in the superior indulgences enjoyed by the former; he is exempt from the common cares of providing for himself and family; his master has an obvious interest in treating him with lenity, and the easy performance of the ordinary household duties is all that is expected in return." (*Vide* Macnaghten's Hindoo Law, v. 1, p. 116.)

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* *Vide*, particularly, the report from the magistrate of Bijnour.

If slaves by purchase from their parents, in time of scarcity, be allowed by the laws of nature to be right, I do not see why any claimant other than a Mussulman or Hindoo should be barred by our courts from preferring their rights to the objects in question.

ANSWER of Mr. *W. J. Conolly*, Magistrate of Bareilly, dated 9th December 1835, to the Officiating Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Agra Presidency. No. 120.

2. IN the absence of any other rules for my guidance but those quoted in Mr. Millett's letter, I have, as far as my personal experience is concerned, been always accustomed to look upon the partial recognition, by the British Government, of the rights of masters over their slaves, as affecting the property, rather than the persons, of the latter, and, in this view, to consider any disputes arising from the relation as belonging rather to the civil than the criminal courts. I have had the records of this office searched for 10 years back, but can find only two cases in this period between the slaves and masters relevant to the matter in question; one of these was for severe beating on the part of the master; and the second, a similar complaint of ill-treatment, in which two slave-girls absconded and refused to return to their homes. In the first case, although the right of the master (a Mussulman nawab) to beat his slave at pleasure was not formally recognized, yet the situation of the slave seems to have operated with the magistrate as a bar against punishment, for nothing was done, although the beating inflicted was such as would certainly have been visited with a severe penalty in a case where both parties were freemen. The second case was one which came before me last year; the slave-girls, who had run away in consequence, as they said, of ill-treatment from their master (a Mussulman of rank, as in the other case), refusing to return, I declined using coercion to oblige them to do so, and merely provided for their future safety. In the present state of the law so much doubt exists in regard to the whole subject, that each magistrate must, in fact, act according to his own views and judgment; and in this way, doubtless, much difference of proceeding will be found to exist in different courts.

ANSWER of Mr. *J. S. Clarke*, Magistrate of Shahjehanpore, dated the 23d December 1835, to the Officiating Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 121.

2. DURING my experience as magistrate, no case of the nature alluded to, namely, a complaint of ill-usage against a master, or demand of freedom on such account on the part of a slave, either Mahomedan or Hindoo, has ever come officially before me. There can, I should think, be no doubt as to the course which would be pursued by the court, and which I should certainly follow under such circumstances,—of affording the protection of the law to its fullest extent to a slave equally with a freeman. Nor do I conceive, from the spirit of the regulations, that any distinction of persons could be recognized by the magistrates, or that the right of legal redress is not equally open to all classes and castes of persons.

ANSWER of Mr. *S. S. Brown*, Magistrate, Zillah Suheswan, dated 26th January 1836, to the Commissioner of Circuit, Bareilly, Moradabad. No. 122.

1. THE magistrate's office in this district has been too recently established to afford the information, founded on precedents, relative to disputes between masters and their slaves, called for in your circular of the 20th ultimo, No. 83.

2. I find that in one instance, an application was made to the joint magistrate by a young girl, requesting to be emancipated from the control of a woman who forced her to lead the life of a prostitute, and appropriated the gains; on which a summary order was passed allowing her freedom. This is, however, the only case on record.

ANSWER of Mr. *E. J. Smith*, Judge of Zillah Moradabad, dated 15th January 1836, to the Officiating Register of Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 123.

2. IN reply to the first query, I beg to state that, on reference to the records of the office, it does not appear that any case has ever been decided in this court, in which the persons or property of any individual was claimed as appertaining to another in right of slavery. In the criminal court the claim of an individual to have a right over another, such person being his slave, is not recognized.

3. With reference to the second query, my opinion is, that in the event of a slave preferring a charge of ill-treatment and establishing the same against his master, the relation of master and slave would not be recognized as constituting a ground for mitigation of punishment. By the Mahomedan law, however, though a person who should maltreat the slave of another would be liable to punishment, the same as in any other case, in the event of

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of a person killing, wounding, or ill-treating his own slave, a less degree of punishment would be awarded: he would not be subject to "kissass" or "deeut," but to "tazeer" and "akobut," at the discretion of the ruling power.

4. In answer to the third query, I have to state, that I do not consider that a magistrate would afford less protection to a slave than to a free person, or that in the higher courts the relation of master and slave would be admitted as grounds for a mitigation of punishment, in the event of a master wounding or killing his slave. The person so convicted would be punished, I conceive, in opposition to the futwah, agreeably to the powers vested in the judges of the Nizamut Adawlut by section 4, Regulation XVII. of 1817.

5. Notwithstanding that slavery may be said to meet with no countenance or support in these courts, it is without doubt very prevalent. Hindoos are, however, seldom, if ever, in the houses of Mahomedans, or Mahomedan slaves in those of Hindoos. I imagine, also, that slaves are frequently worse fed and worse clothed than hired servants, from motives of parsimony in their masters; but I am not prepared to state that they are generally maltreated, and many instances doubtless occur in which they meet with the greatest kindness and protection.

No. 124. ANSWER of Mr. *W. Okeden*, Magistrate of Zillah Moradabad, dated 30th November 1835, to the Officiating Register to the Nizamut Adawlut, Allahabad.

2. No legal rights of masters over their slaves, with regard to their persons, are recognized in this court; and I should afford the same protection to an individual styled a slave as I would to a free person, should a complaint be preferred before me of maltreatment.

3. With regard to property, the slave, I should imagine, can have no claim to any inheritance from his master.

4. The only cases that come before this court are those of slave girls bought and reared for prostitution. Whenever these seek for manumission and protection of the court, the owners of them are warned, that unless the girls return of their own free-will, they have no power to take them; and should force be used, they will be liable to punishment. The slave-girls are also directed to leave all property of jewels, &c., for that must be considered the right of the master, howsoever acquired, up to the date of emancipation.

5. In these orders this court has been guided by the futwah of the law officers of the Nizamut Adawlut, communicated to the Bareilly court of circuit on the 26th June 1816, relative to the orders issued by the magistrate of Furruckabad, in the case of a female slave named Gunna.

No. 125. ANSWER of Mr. *R. Dick*, Officiating Joint Magistrate, Kasipur, dated 7th December 1835, to the Commissioner of Circuit, Bareilly.

No cases have ever occurred in this court involving disputes between masters and slaves from which I could inform you of the practice of the court. Had a complaint of severe ill-usage been preferred by a slave against his master, I should undoubtedly have admitted and decided it as any other case; and in so doing have been guided by the principle by which the government abolished the exemption from kisas allowed by Mahomedan law; nor would a slave receive less protection than another person against any wrong-doer, or be considered entitled to any immunities. Cases involving these points are, however, very rare. I have never met with one.

The question of the rights over the person and property of an individual claimed as a slave belongs exclusively to the civil courts; and, consequently, disputants in cases of the nature mentioned in the second paragraph of your circular, which have occasionally come before me, have always been referred to the civil courts, the criminal court interfering no further than to prevent violence. The interference of a magistrate to compel the return of a female claimed as a slave, for the purpose of prostitution, was severely animadverted on by the Nizamut Adawlut.

No. 126. ANSWER of Mr. *H. Lushington*, Magistrate of Bijnore, dated 17th December 1835, to the Commissioner of Circuit, Moradabad.

2. I HAVE only found two cases in the record illustrative of the subject, and even these apply by inference only.

1st. A. complained that B. kept his slave-girl, C., from him. B. replied that she was residing with his wife, who was related to A. The order then passed tacitly recognizes a right of property in slaves; for B. was given to understand (fahumanidah) that he should give her up. Subsequently, however, C. appeared in court, and expressed her willingness to remain with A. Accordingly she was "dismissed in company with" that person. The two orders appear to me somewhat inconsistent.

2d. A slave-girl complained that her master had beaten her, but was unable to prove it. The master was bound over to keep the peace towards her. This argues that had she

she been able to prove her charge, the defendant would have been punished, and also that he was not at liberty for the future to assault her more than any body else.

3. I have had very little experience as a magistrate, and therefore you will not be surprised to hear that no case of the kind ever came before me in my official capacity. There are, however, slaves in the house of nearly every respectable person in the district, especially amongst the Mahomedans; and I have long ago proposed to myself the line of conduct which I should unhesitatingly pursue. In a word, I should not recognize slavery at all; and if the circumstances of any case which came before me were such as to render dangerous the uncompromising mode of proceeding, I should report it for the orders of my official superior. Under no circumstances would I, of my own accord, be instrumental towards the degradation of the human species.

4. I may have been more candid than prudent in making this avowal, in the very teeth of the law, Mahomedan, Hindoo and English, to which attention has been directed by the law commission; but I have little doubt the same answer will be made by a large majority of my contemporaries. I consider it, like the rite of Suttee, to be an abomination, which only awaited increase of strength on the part of the rulers, or of sense on the part of the ruled, to be abolished for ever. Nor did I err in supposing that it would be one of the first subjects to which the attention of the law commission would be directed. As I would have prevented a Suttee, though yet legal, by every means at my disposal short of actual compulsion, so should I now consider it my duty, as far as in me lies, to withhold the sanction of government to the existence of slavery.

5. Previous to writing the above remarks, I made careful inquiries from several very respectable residents of North Moradabad, both Mahomedan and Hindoo. The result is, the conviction that they would not, as a body, feel disgusted at the interference of the magistrate between themselves and their slaves; nor would they consider a refusal to recognize slavery at all as any serious infraction of their legal rights.

ANSWER of Mr. *J. R. Hutchinson*, Commissioner of Circuit, First Division, dated 11th February 1836, to the Register of the Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 127.

1. BY the practice of our courts, the right of the master over the slave, as far as services are concerned, is fully recognized, as also the property or title to sell land or mortgage his service; and property acquired by the slave becomes that of the master.

2 & 3. Our courts do not recognize any relation of master and slave as justifying acts which would otherwise be punishable. Nor do they allow the relation in mitigation of punishment; in fact, it has no practical operation different from that of master and servant. The complaints of a slave (Hindoo or Mussulman) against his master for ill-treatment are heard and determined precisely as others, and he receives the same protection under the provisions of the general regulations for the administration of criminal justice.

4. In respect to this question, I suppose, on the general principle of slavery being illegal, except under the Mussulman and Hindoo laws, the courts would not admit the claims of any but Mussulman and Hindoo claimants: but, in disposing of them, I do not think the caste or persuasion of the defendant would be attended to, provided he was not a British or foreign European subject. In claims preferred by a Mussulman master against a Hindoo, and *vice versâ*, the law of the claimant would be acted upon.

ANSWER of Mr. *G. W. Bacon*, Officiating Civil and Session Judge, Zillah Sarunpore, dated 7th January 1836, to the Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 128.

IN this zillah, slavery is unknown, or, if existing, is so concealed, or exists to such a very trifling extent, that in my own personal experience I have never met with a case. Nor can I recollect even a single instance of a slave complaining against his master, or *vice versâ*, in any of the districts in which I have had the honour to serve.

As the intricacies of Mahomedan and Hindoo laws have been unravelled by abler hands than mine, I conclude the court do not wish for a mere opinion on the subject of slavery. I therefore do not reply to the law commissioners' letter *seriatim*. By the existing regulations, with reference to paragraph 5th of the law commissioners' letter of the 10th October last, I should say, that the case of slavery, therein supposed, ought immediately to be dismissed.

ANSWER of Mr. *T. Louis*, Acting Magistrate of Zillah Saharunpore, dated 19th January 1836, to the Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 129.

I BEG leave to inform you, that I do not recollect that I have ever had occasion to take cognizance of a single case of the nature of those alluded to by Mr. Millett, in which the parties were a master and his slave; and I think that the latter are generally in this part of

the country so well treated by their owners, as to render any recourse to the magistrate very uncommon, if such a circumstance has ever occurred. In case of any act of cruelty, however, towards a slave, being substantiated against either a Hindoo or Mussulman master, I should consider myself bound by the principles of equity and justice, which serve to guide our decisions, where the regulations are not sufficiently explicit, to inflict the usual punishment awarded to such an act, without any consideration for the rights the defendant might urge that he possessed over the person of the plaintiff or his property.

No. 130. ANSWER of Mr. *E. F. Franco*, Magistrate of Mozuffurnugger, dated 28th November 1835, to the Officiating Register to the Court of Nizamut Adawlut, Allahabad.

2. WITH reference to the first query of the commissioners, I beg to observe, that both Hindoo and Mahomedan masters undoubtedly possess legal rights over the persons of their slaves, as far as affects their liberty and services, and over their property unconditionally; but the masters are in nowise allowed to maltreat their slaves.

3. Our courts certainly do not recognize as justifiable any acts of masters towards their slaves, unconnected with their liberty or services, which would otherwise be punishable by law: nor should I consider that the relation between the parties would absolve the master from punishment, in any case of maltreatment or oppression; although, in a case of lenient and summary correction inflicted on the slave for a fault, I might not be induced to view the matter precisely in the same light as I should were a person unconnected with the defendant to be the subject of the chastisement awarded.

4. A sentence of fine or imprisonment would be consequent on the conviction of a master who was proved to be guilty of oppression towards his slave; and it would probably be necessary to bind the former, in a pecuniary penalty or by sureties, to behave in future with greater leniency to his dependent.

5. The indulgence granted by the Mahomedan law in criminal matters to Mussulman slaves would not, I imagine, under any circumstances be allowed by our courts: but the slaves could in all instances be dealt with in the same manner as other delinquents.

6. In any case of a complaint by a slave against any other person than his master, the same protection and aid would indubitably be afforded as would be extended to a free person of any class whatsoever. The slaves, either Mussulman or Hindoo, are not without the pale of the law, and they would always be treated in our courts as the subjects of the government of the country. They would never be allowed to be oppressed, and their case would inevitably find an interest in the breast of a British functionary.

7. I am not aware of any law nor of any principle, save the broad one arising from our common feelings of humanity and justice, by which the maltreatment of a Hindoo slave by his Hindoo master would be considered as an offence cognizable by the criminal courts; but it assuredly would be so considered, notwithstanding the unlimited power which may be said by the Hindoo law to be vested in the Hindoo proprietor over his slave of the same persuasion.

8. With reference to section 9, Regulation VII. of 1832, the courts would be guided in their judgment to support or dismiss the claims of a Mussulman master over a Hindoo slave, and *vice versâ*, entirely by the laws laid down by the tenets of their respective faiths; and it therefore being contrary to the Mahomedan law that a Mussulman should possess a Hindoo slave, the claim of the former to the latter would at once be thrown out.

9. In conclusion, I beg to add, that no claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo claimant, would ever be admitted or allowed.

No. 131. ANSWER of Mr. *R. C. Glyn*, Officiating Judge, Zillah Meerut, dated 10th February 1836, to the Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahabad.

2. WITH respect to the first query in Mr. Secretary Millett's letter, I beg to state, that no legal right of masters over the persons and property of their slaves is recognized by the court; but if the slave dies, the charge of his family and effects belongs to the master.

3. In reply to the 2d, 3d, 4th and 5th queries, I have only to observe, that, in administering criminal justice, there is no respect of persons, whether masters or slaves, the law being dealt out in all such cases according to the crime established, without regard to the relative position of the parties. But there is no instance on the records of this office of a slave complaining against his master, nor of a master against his slave. The practice of the criminal courts being usually to release the slave from bondage, operates to prevent such kind of disputes being brought before them. Neither is there any instance of a suit for possession or service of a slave on the part of a Mussulman or Hindoo, such sort of claims being kept out of the civil courts for the like reason.

ANSWER of Mr. *N. C. Hamilton*, Officiating Magistrate, Zillah Meerut, dated 4th January 1836, to the Officiating Register to the Nizamut Adawlut, Allahabad.

No. 132.

I BEG to state, that no case involving the rights of a master over a slave, or the relation of one to the other, has come before me during the period I have been in charge of this magistracy; neither can I find in the records of the office any proceedings by which a rule of conduct could be said to be laid down.

ANSWER of Mr. *M. H. Tierney*, Magistrate, Zillah Bolundshehur, dated 5th February 1836, to the Officiating Register, Nizamut Adawlut, Allahabad.

No. 133.

I HAVE the honour to submit such observations on the subject, as my own official experience and the records of this office enable me to make.

2. In answer to the inquiry as to what legal rights masters are recognized by our courts as possessing over the persons and property of their slaves, the records of this office furnish but few cases of disputes strictly of the nature inferred in this inquiry. Applications have been made for the re-apprehension of slaves who have absconded, on the plea of their having carried away with them articles the property of their masters; and in such cases, orders have been issued to the police to assist in their apprehension.

The slave has, in these instances, either returned, or has been apprehended and restored to his master, without further inquiry or complaint on the part of either master or slave.

3. From the circumstance of these applications being invariably accompanied with the charge of theft on the part of the slave, I should infer, that masters consider such charge necessary to induce the interference of the magistrate, and that the sole plea of ownership would not be recognized by our courts.

4. In addition to the notice of the construction of Regulation IV. of 1793, and Regulation X. of 1811, as noted in the 5th paragraph of Mr. Secretary Millett's letter, I observe that the Nizamut Adawlut, in their circular order to the courts of circuit, dated the 5th October 1814 (page 109 of volume 1 of Nizamut Adawlut Circulars), construe the provisions of Regulation X. of 1811 as inapplicable to cases of the sale of slaves not imported by sea or land into our territories; at the same time recognizing as legal the acts noticed in the 2d paragraph of the letter of the superintendent of police for the western provinces, dated 19th July 1814, addressed to them on the subject.

5. Thus, as the law at present stands, it is evident, that claims to the person, property and service of slaves born within our territories are admissible; and that the decisions which have been made in this court as well as others, rejecting such claims, are arbitrary and illegal.

6. In answer to the second question of Mr. Millett's letter, it has not been the practice of this court to recognize the relation of master and slave as justifying acts otherwise punishable, or mitigating the punishment awardable for such acts. In one or two cases I find that slaves complaining of the oppression of their masters have been declared to be free.

The subjoined extract from the Hidayah would seem in some measure to justify the manumission of the slave who is oppressed by his master:

"Masters are enjoined to feed and clothe, as they would themselves, their slaves. Should they neglect to do so, and the slave be capable of earning his livelihood by his own labour, he shall be entitled to do so, but the surplus profits of his labour, after his feeding and clothing, shall be the property of his master; and if he be from infirmity or other cause unable to labour, the ruler of the country may compel the master to sell him to others who will provide for him; and if no purchaser be found, he shall manumit the slave."—From the last clause of the section on Maintenance. (Hidayah.)

7. In reply to the third question, I beg to state there are no cases on record in this office of the class therein alluded to; but the practice of this court is to be inferred from what has been above stated, that in no case would less protection be afforded to the slave than to the freeman.

8. In answer to the fourth question, inquiring by what principle or law the maltreatment of a Hindoo slave by his Hindoo master would be considered an offence cognizable by the criminal courts, I answer, that such case would be tried under the general regulations, and treated, in minor instances, as a misdemeanor, and, in severer cases, as cognizable under the same regulations by the court of session.

9. The fifth question, referring principally to the practice of the civil courts, does not appear to require any reply from this office, and the several claims therein noted, if made before a magistrate, would no doubt be dismissed, and referred to the civil courts.

ANSWER of Mr. *T. Metcalfe*, Commissioner of Delhi, dated 22d December 1835, to the Register to the Sudder Dewanny and Nizamut Adawlut, Allahabad.

No. 134.

THE right of a master over a slave or his property has not been acknowledged in this territory, and no act of cruelty or oppression would be justified by such plea, or lead to the mitigation of punishment due to the offender.

The complaint of a slave for ill-treatment would meet precisely with the same attention as that

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that of a servant or any other person; and we should in no way be guided by the doctrines of the Mahomedan law.

No distinction being admitted in our courts between slave and freeman, a complaint, against whomsoever preferred, would meet with the same consideration.

The maltreatment of a Hindoo slave would be cognizable in our criminal courts, on the principle of equal justice to all; for, as in this territory, the legal claim of the master to enforce servitude is not acknowledged, he can possess no right to injure or maltreat the slave.

In the event of a civil suit being instituted by a Mahomedan master against a Hindoo slave, or Hindoo master against a Mahomedan slave, a decision would not be passed with reference to the laws of their religions, but as directed by Regulation VII. of 1832, on the principles of justice, equity and good conscience.

2. Since the promulgation in this territory of the law prohibiting slavery, we have not even recognized possession as a claim; and though I do not, at this present moment, recollect any instance of a male slave petitioning for emancipation, I have known very many applications from the unfortunate class of females purchased for the purposes of prostitution, and in every case the applicants were absolved from any further compulsory servitude, the mistress being referred to the civil court to obtain compensation for any expense incurred for food, clothing, jewels, &c.

3. In the year 1838, the government humanely interfered to rescue from slavery two females who succeeded in effecting their escape from the palace at Delhi, and threw themselves on the protection of the magistrate. Every exertion was made by the owner (one of the princes), backed by strong remonstrances from his majesty the King of Delhi, and even by the recommendation of the then resident, to procure their restitution; but they were, nevertheless, eventually emancipated by the express directions of the Right honourable the Governor-general in Council.

No. 135. ANSWER of Mr. *H. Fraser*, Judge of Delhi, dated 5th February 1836, to the Officiating Register, Sudder Dewanny Adawlut, Allahabad.

2. IN the courts over which I have authority, it does not appear that during the last 25 years any case has been decided in which a slave was a party concerned. About the year 1811, some orders on the subject of slavery were issued by the then chief civil authority at Delhi; the precise nature of these orders I am now unable to state, a copy of them not being procurable; but I have reason to believe that they went far to remove all invidious distinctions between master and slave, and that the courts in the Delhi territory, which have probably been guided in their decisions by the orders in question, have not for many years, so far as I am aware, recognized any right or immunity, beyond that of service, to attach to the one which did not, in an equal degree, belong to the other.

No. 136. ANSWER of Mr. *S. W. Truscott*, Magistrate, Centre Division, Delhi, dated 8th February 1836, to the Officiating Register, Nizamut Adawlut, Allahabad.

*Answer to the 1st question.**—THOUGH the Hindoo and Mahomedan law officers of Delhi are of opinion that masters have absolute authority over the persons and property of their slaves, yet in practice no legal rights of this nature have been recognized either in the civil or criminal courts of Delhi.

Answer to the 2d question.—I cannot find a case in point among the criminal records of this office. From a statement prepared in my office, I find that, since 1820, 63 suits have been instituted in the magistrate's office by male and female slaves, particularly the latter, against their owners, for maltreatment, and in accordance with the prayer of their petitions they were invariably emancipated. The minor offences of slaves would seldom be brought to the notice of the court, as their masters would be unwilling to risk the loss of their services, and I am not aware that the courts would grant any indulgence to a slave charged with a serious criminal offence merely from a consideration of his being a slave.

Answer to the 3d question.—I can find no such case on record in this office, nor am I aware that the courts would afford less protection to slaves than to free persons under such circumstances.

2. The questions proposed in section 5 of Mr. Millett's letter having reference solely to the practice of the civil courts, I do not feel myself competent to reply to them; and the answers which I obtained from the principal sudder ameen and the Hindoo and Mahomedan sudder ameens of Delhi, are so very contradictory, that I find it difficult to draw any satisfactory conclusions from them. I am, however, decidedly of opinion, that the purchase and sale of slaves in British India is rapidly on the decline, and that if the penal provisions of clause 2, section 2, Regulation III. of 1832, were at once extended generally to the purchase

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* *See* Letter from the Law Commission, No. 1 of this Appendix.

chase and sale of slaves, the practice would very soon cease altogether in our territories, and the vile race of pimps, prostitutes and eunuchs, who now infest our large towns, would in another quarter of a century become extinct. An additional clause, declaring all the children born of slaves after the date of its promulgation free, would in like manner, without infringing too suddenly on the rights of the present proprietors, lay the foundation for the gradual but sure extinction of slavery in India. Whereas, any attempt to regulate or ameliorate, by legislation, the slavery as it now exists in India, will, in my humble opinion, inevitably tend to increase the evil, and render any future attempt to abolish it exceedingly difficult; and, as in the case of the West India slavery, very expensive.

ANSWER of Mr. *C. Gubbins*, Officiating Magistrate of Goorgong, dated 27th November 1835, to the Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahahad. No. 137.

I HAVE the honour to inform you, that the practice of this court has been, as far as I can discover, to recognize no right of one man over another, except in the relation of master and servant.

I have myself invariably considered that the object and intent of the different regulations enacted, regarding the importation and selling of slaves, were the gradual abolition of slavery throughout the Company's territories, allowing, at the same time, all persons who had slaves in their possession at the time of annexation of territory, to keep them unmolested; and I should consider myself bound to declare any young person free who should complain in the magistrate's court, on the ground that whoever would prove his right of possession must necessarily render himself either liable to be punished for importing or buying the slave, premising that no person can be a slave by birth.

No case comes within my recollection, where a slave has complained of ill-treatment against his master in this court. Should such a case arise, unless the treatment complained of were decidedly beyond a moderate correction, I should dismiss it, on the ground that as long as the man or woman chose to remain as a slave in the house of its master, it had thereby voluntarily subjected itself to correction at its master's direction.

Should the case be one of maiming or endangering the life of a slave, I should consider myself competent to take cognizance of it, according to the regulations in force for freemen. Slaves escaping from foreign territories have invariably been declared free, and no claim on them has been considered valid, whether it be a Hindoo over a Hindoo, a Mussuman over a Mussulman, a Hindoo over a Mussulman, or *vice versâ*; and several cases of this nature have been thus decided.

I have the honour to annex a statement including all cases of this nature which have come under the cognizance of the Goorgong magistrate.

No.	When brought forward.	Plaintiff.	Defendant.	Crime.	Date of Decision and Order.
1	26 April 1828 -	- - Mussamut Meena.	- - Mussamut Shezadee.	Ill-treatment	- - The plaintiff not being purchased by the defendant, she was made free on the 26th April 1828.
2	21 July 1828 -	- - Mussamut Douletabadee.	- - Mussamut Jumna.	ditto - -	- - The plaintiff was made free on the 29th July 1829.
3	11 June 1831 -	- - Mussamut Asoorun.	- - Mussamut Amerbuksh.	ditto - -	- - ditto, ditto, on the 11th June 1831.
4	29 Dec. 1831 -	- - Gopal Singh of Bullungurh.	- - Mussamut Keereembuksh.	- - Making her escape from the house of the defendant with jewels.	- - The plaintiff having denied that she was a slave, therefore she was made free on the 29th December 1831.
5	24 Jan. 1834 -	- - Mussamut Jooggun.	- - Mussamut Moothee.	Ill-treatment -	- - The plaintiff was made free on the 25th January 1834.
6	11 Sep. 1834 -	- - Mussamut Lado.	- - Mother of the plaintiff.	- - To be made free.	- - The plaintiff was made free on the 11th of September 1834.
7	12 June 1835 -	- - Mussamut Fyzleuksh.	- - Mussamut Sheedhee.	- - ditto, in consequence of ill-treatment.	- - The plaintiff was made free on the 31st July 1835.

ANSWER

Appendix II.

Returns.

ANSWER of Mr. *A. Fraser*, Magistrate, Rohtuk Division, Delhi Territory, dated 27 January 1836, to the Officiating Register, Allahabad Sudder Dewanny Adawlut.

No. 138.

I HAVE the honour to remark, that in no instance has any case, to the best of my knowledge, come before this court involving any of the questions propounded in that circular. It may be said indeed that slavery is unknown in this district, save by name, and only in this respect in a very limited degree. In some of the Mussulman communities, there exists a class of people denominated "Gholams," the signification of which now would seem to denote that the class so designated is in a state of slavery. But this does not practically hold true. These people are not in a state of servitude; and no rights, to the best of my knowledge, are claimed over them which place them on any other footing than that on which stand the other inhabitants of this district.

On the general question, I possess no such knowledge as could induce me to suppose that my remarks would be useful. I refrain, therefore, from unprofitably occupying the time of your court.

No. 139.

ANSWER of Mr. *J. Lawrence*, Officiating Magistrate, Zillah Paniput, dated 30th November 1835, to the Officiating Register to the Courts of Sudder Dewanny and Nizamut Adawlut, Allahabad.

*Answer to questions 1st and 2d.**—A MASTER, in my opinion, possesses no legal right over a slave or his property; and no court would recognize the relation of master and slave as justifying acts of cruelty or constituting grounds for mitigating the punishment due to them.

Answer to question 3d.—A slave, on complaining of ill-treatment, would receive the protection which a menial servant is entitled to; in fact, in every respect I should consider them on a footing of perfect equality and possessing equal rights; this being my opinion, the latter part of the question does not require an answer.

Answer to question 4th.—None; this question is fully answered above.

Answer to question 5th.—I am not aware of any law or regulation specifically affording redress to a slave as distinguished from a freeman, nor do I deem any necessary; it would be sufficient for me that no regulation recognizes that right of a master over a slave, and that such a claim is contrary to every principle of our regulations. It would, therefore, in my opinion, require no specific regulation to give a slave redress; but I should require the master to point out a specific law before I would consider any one his slave; I would say to the master who put in the plea of slavery as justification of his treatment, "First show me the regulation which makes that man your slave; until you can do so, he is, in my eyes, a freeman."

Regulation X. of 1811 declares the importation of slaves illegal; its preamble says, that "the importation and traffic in slaves is inconsistent with humanity and the principles by which the administration of the country is conducted." If importation, if traffic is illegal and punishable, I do not think it a very forced construction to conclude that the possessing one is equally unlawful by this regulation, independent of common principles of equity. The slave, therefore, is entitled, and would receive from me, redress for any injury, no matter from whom received.

Answer to question 6th.—I should say certainly not. In the first place, the section here quoted runs thus: "The law is designed for the protection of rights of persons, not for the deprivation of those of others; that the Mussulman or Hindoo law shall not be permitted to deprive parties of any property to which, but for the operation of such laws, they would be entitled; that the decision should be governed on the principles of justice, equity and good conscience." For all or any of these reasons I think that no court would recognize any such claim of either Mussulman or Hindoo; to do so would be to deprive a man of what is better than any property, which is dearer than any other right, that of freedom; it would be opposed to the plain intent of the first and second paragraphs above quoted; and, lastly, it would be clearly contrary to every principle of justice, equity and good conscience. I need not add that, such being my interpretation of the law, I would dismiss a similar claim of any other person, no matter what might be his religion. Few cases of slavery ever occur in these districts; the population is entirely agricultural, and among them the practice is unknown. In the city of Delhi and in all the surrounding independent states, especially where the chiefs are Mussulman, it is more common; it is chiefly females who are stolen or purchased in Rajpootana, and brought to Delhi for prostitution. In some cases of Thuggee which I have seen, the murders were perpetrated merely for the children; some of whom were sold in the city the same day. When serving as an assistant at Delhi, I have frequently seen cases of women, who had escaped out of the palace, coming to the court for protection, which was invariably afforded them; and I believe there was an order to this effect, consequent on a reference from government. Two cases only I can now recall to memory bearing exactly on this subject; the one was of brutal ill-treatment which I witnessed when riding through the city one day; I really believe if I had not interfered at the moment, the unfortunate man would have been severely injured. The master next day pleaded, in extenuation of his conduct, that the victim was his slave. I did not punish him, as the man declined

* *See* Letter from the Law Commission, No. 1 of this Appendix.

declined to prosecute, but I bound the master down to keep the peace for the future. The other was a case in which a Kitmutgar prosecuted a nawab for arrears of wages. The defendant asserted and proved that the man was his slave, born in his house; I set this defence aside, on the ground that I could not, under any regulation, recognize the relation of master and slave, and decreed the plaintiff the amount of his arrears.

LETTER of Mr. *J. Lawrence*, dated 21st October 1835, in continuation of above.

IN continuation of my letter to your address, under date the 30th ultimo, regarding the system of slavery in the country, and the practice of this court in cases brought before it, I beg to remark that Regulation III. of 1832 (of which, when writing my letter, I was not acquainted), in declaring that all slaves imported into the British territory subsequent to the year 1811, being a period of no less than 25 years, would certainly be decisive against the claims of masters in the greater number of cases.

ANSWER of Mr. *M. R. Gubbins*, Officiating Magistrate, Hurrianah Division, dated 12th December 1835, to the Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahabad. No. 140.

2. THAT in this division of the Delhi territory, the relation of master and slave is scarcely known; and that a careful examination of the records of this office has failed to show that any case of this nature was ever brought into the magistrate's court, in which a right of property in the person of another was claimed by any individual subject to our government.

3. The population of this district may be divided into three great classes; viz., Jauts, Bhuttees and Rajpoots. Among the two former, I have never even heard that the relation of master and slave existed; in the latter, I am aware that it does prevail, but to a very limited extent. The people, however, are conscious that this relation is not admitted by our courts; where, therefore, slavery does exist, it is in so limited a sense that the slave would be more properly termed a household servant, who receives from his master food and clothing instead of wages.

4. The relation of master and slave has, indeed, never been acknowledged by this court; and this principle has been carried so far, that the claims of subjects of the adjoining Sikh states, who have occasionally applied for the restoration of slaves escaped from them into the British territory, have been similarly rejected, it being held that, though in servitude before, these became enfranchised by a residence in the British territory.

5. The records of this office affording no precedents from which its general practice regarding the several cases noticed in the secretary Indian Law Commissioners' letter might be inferred, I regret that I am unable to afford the answers required. I must, however, state my opinion, that no distinction of freeman or slave has ever been or would now be allowed by the practice of this court; nor have any special rights arising from either relations ever been upheld or acknowledged. In coming to this opinion, I have been guided by my own experience in the division, by the common understanding of the people at large on the subject, as well as by the judgment and experience of the native sudder ameen (a Mussulman), long a resident in this zillah.

FROM the Secretary Law Commission, dated 5th April 1839, to the Judge of Zillah Cuttack. No. 141.

I AM directed by the Indian Law Commissioners to request the favour of your informing them whether it is or has ever been the practice of your own and of your subordinate courts to authorize the sale of slaves by public auction in satisfaction of decrees of court.

2. They learn from evidence taken before them on the subject of slavery in Cuttack, that on one occasion a judgment creditor included slaves in the schedule of his debtor's property, for the attachment and sale of which he moved the court, but that, on the debtor objecting to that proceeding, Mr. Pigou, then judge of the district, directed the slaves to be struck out of the schedule, on the ground that they were not a fit subject for sale. It would be satisfactory to the commissioners to have specific information respecting this particular case, if it can be traced without much trouble.

ANSWER of Mr. *H. V. Hathorn*, Officiating Judge, Zillah Cuttack, dated 1st May 1839. No. 142.

IN reply to your letter, No. 193, dated 5th ultimo, I have the honour to state that it would not appear to have been the practice in the courts of Cuttack to authorize the sale, by public auction, of slaves in execution of decrees of court.

2. I regret that I have been unable to trace the suit alluded to in your letter, in which Mr. Pigou, in his capacity of judge of the district, is said to have struck out, from a schedule of property, certain slaves proposed for attachment and sale.

3. I have, however, on further search, discovered one case, as described in the margin, which was instituted when Mr. Ricketts was officiating judge, and decided in Mr. Pigou's time. In this case, the decree was passed by the lower court, awarding the proprietary right in three slaves. It is to be remarked, however, that in the execution of this decree, no order was issued (although applied for) for giving actual possession

Court of Sudder Ameen, Zillah Cuttack.
No. 10,543.
Sreeputty Pundah, Plaintiff,
versus
Purmessur Mahapatur, Beegepur Pundah - } Slaves. } Defendants.
Peetchace Mullick - } Slaves.
Lab Mullick - } Slaves.
Aruth Mullick - } Slaves.
Claim: For possession of three slaves, valued at 30 rupees.
Suit instituted 23d Jan. 1828.
Decided 20th April 1829.

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possession of the slaves. "The hukumnamah" merely contains an order for the payment of the costs of suit, and this omission is not in any way explained.

No. 143. FROM the Secretary Law Commission, dated 5th April 1839, to the Magistrate of Cuttack.

FROM evidence taken before them on the subject of slavery in Cuttack, the law commissioners understand that a proclamation was issued by Mr. Robert Ker, whilst commissioner of the district, declaring the sale of slaves illegal. The immediate cause of that measure is stated to have been an appeal preferred to the commissioner by a slave, who on being sold by his original owner to a person he was unwilling to serve, had applied unsuccessfully to the magistrate for protection against the coercive proceedings of the purchaser, and the result of the appeal appears to have been that the slave was enfranchised, and the purchaser subjected to a fine.

2. The law commissioners are desirous of examining the proclamation in question, as well as the proceedings both of the magistrate and commissioner in the particular case which gave rise to it, and I am therefore directed to convey to you their request, that you will favour them with copies of the above documents at your earliest convenience.

3. From the same source, the law commissioners further learn that on the occasion of a complaint preferred by a slave, Mr. W. Forrester, then magistrate of the district, declared a deed of sale of a slave unlawful, imposed a fine on the purchaser, awarded costs to the slave, and referred the purchaser to the civil court for the recovery of the purchase-money from the vendor. The commissioners would be obliged by your furnishing them with a copy of these proceedings also, if the case can be traced without much trouble. They regret that they cannot supply any particulars of date, or of the names of the parties.

No. 144. FROM the Magistrate of Zillah Cuttack, dated 19th June 1839, to the Secretary to the Indian Law Commissioners, Fort William.

IN reply to your letter of the 5th of April last, I regret to state that after the most particular search in my record office, I cannot discover the proclamation or decision alluded to by you. I, however, forward two* proceedings. The first dated the 31st January 1822, acquits the defendants, Hera Das and Gooma, prostitutes, of selling Mosummat Dhurnee, the sister of Fakir Das, plaintiff. The second proceeding, dated the 8th of June of the same year, convicts Pudya, defendant, of stealing and selling Oholia, the daughter of the plaintiff, Bugwan Das, and sentences him to six months' imprisonment, with labour, in irons.

2. These two cases prove, I think, the practice of the courts to have been to punish all persons convicted of selling free-born individuals as slaves. In this district there is a class of serfs, who pay no rent to the proprietor on whose lands they reside, but are liable to be called on to work for their owners, only receiving food. They are permitted to enter the service of other individuals, but pay a portion of their savings to their master. The share to be paid is not fixed; it is given in the shape of a present. These people are sold frequently, I am given to understand; but such sales are not recognized by the criminal courts. Whenever any person sold has presented a petition of objection, it has always been the practice to disallow the sale, and to permit him to go where he pleased; so that transfers can only be considered binding when all parties consent.

No. 145. FROM the Secretary Indian Law Commission to the Magistrate of the Northern Division of Cuttack, Balasore, dated 5th April 1839.

MR. RICKETTS, late commissioner of Cuttack, having stated, in his evidence before the law commission on the subject of slavery in Cuttack, that in the year 1829-30 a census was taken by him of the slave population of chucklah Bhudruck, and subsequently, in 1831 or 1832,

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* The enclosures of his letter are two:—

1. The decision passed by Mr. W. Forrester, the magistrate of zillah Cuttack, on the 31st of January 1822, on the prosecution of Fakir Das. Hera Das and Massumat Gooma, prostitute, were charged with selling prosecutor's sister. Mr. Forrester acquitted both prisoners, and made over the girl to prosecutor. He remarked, that a "person of the same class, to whom prosecutor had intrusted his sister to be nourished, made her over to Sulha for that purpose. She made her over to Hera Das, who transferred her to a Brahmini. She again made her over to the sister of Gooma, prostitute. Even the offence of selling, or in any other way that of the abduction of his sister from prosecutor's house, is not proved."

2. The other enclosure is the decision passed on the 8th June 1822, by Mr. W. Forrester, the magistrate of the zillah Cuttack, on the prosecution of Bugwan Das *v.* Ruttan Paik, Pudya and others. Pudya, who was charged with having stolen the daughter, aged seven years, of prosecutor, his master, and selling her to Ruttan Paik, was convicted on his own confession. The others were charged with being accessory, but released for defect of proof.

1832, of the entire population of the Balasore division, and that the official statements of the same are deposited in your office; I am directed to convey to you the request of the law commissioners, that you will favour them with copies of those statements at your earliest convenience, or with an abridged analysis of them, if too voluminous to be readily transcribed.

ANSWER of Mr. *Edward Repton*, Magistrate, Balasore, dated 7th May 1839, to the Secretary to the Indian Law Commissioners, Calcutta. No. 146.

2. SOME delay has taken place in replying to it, as I have been obliged to make an abstract of a mass of papers, sent in by the Mofussil officers employed by Mr. Ricketts. The total number, as shown by the papers of my office, is, of men, women and children, 617,613. This was the result of the inquiries instituted after the storms. Since then, an area paying upwards of 30,000 rupees has been added, and I calculate its population at 40,000 or 50,000.

3. In forwarding the returns to you some time ago, I stated the population at 5,000,000, and did so with the knowledge of Mr. Ricketts. He estimated that of Balasore at 450,000, to which I added the above-mentioned annexation from Midnapore. The census which I had made by the police gives 462,000 inhabitants of the zillah. I consider the former papers in my office, as far as they relate to the Bhudruck chucklah, quite incorrect. It is impossible there can be 365,066 in that thannah. My police state the number to be 225,458. A memorandum of the slaves is herewith sent.

STATEMENT showing the Number of Persons in the Zillah of Balasore, according to the Papers filed in the Collector's Office after the Storms.

Balasore chucklah	252,547
Bhudruck chucklah	365,066
TOTAL	617,613

One slave to 77 free, or 1·3 per cent.

(signed) *Edward Repton*, Magistrate.

Balasore, Magistrate's Office, 7 May 1839.

LIST of SLAVES in the Pergunnahs of Bhudruck Chucklah, also of Individuals having no Houses, and no visible Means of Support.

Names of Pergunnahs.	Number of Slaves.	Number of Men having no Houses or Means of Support.
Arraroopea	2	151
Zillah Ambohutta	-	313
Agas	545	69
Byang	833	43
Baulkund	76	422
Tuppa Pursondo	-	656
Soso	359	280
Dhamnuggur	894	82
Raudea Orgurra	296	700
Sumawutt	1,535	89
Dolegram	2,013	10
Katia	1,469	73
Tuppa Malunch	-	125
TOTAL	8,022	3,013
	11,035	

(signed) *Edward Repton*, Magistrate.

Balasore, Magistrate's Office, 7 May 1839.

Appendix II.

Returns.

FROM Secretary Law Commission to the Judges of Zillah Behar, Patna and Shahabad, dated 7th November 1839.

No. 147.

THE law commissioners have examined several individuals in regard to the state of slaves in different parts of the country, and the usages by which they are affected. One individual has stated, that in your district slaves were formerly sold in satisfaction of judgments against their masters.

2. The law commissioners request the favour of information, as to whether resort has been had to this class of judicial sale, formerly or at present, and in what degree of frequency; and if such recourse is no longer practised, the cause of the desuetude.

3. The law commissioners are rather anxious for an early reply, than for detailed and exact information; which must be necessarily preceded by inquiry and research. I am directed, therefore, to solicit such general information on this subject as your own knowledge, or that of the officers longest attached to your court, may be able to supply with as little delay as possible.

No. 148.

ANSWER of Mr. *C. T. Davidson*, Officiating Judge, Zillah Behar, dated 18th December 1839, to the Secretary of the Indian Law Commissioners, Fort William.

2. I HAVE made inquiry, if the practice of selling slaves, in satisfaction of decrees against their masters, ever prevailed in this court. I required also all the judicial officers subordinate to this court to institute similar inquiry in their own offices. The returns have been received by me, and it appears that no instance of the sale of slaves for judgments against their masters has ever occurred.

No. 149.

ANSWER of Mr. *John French*, Judge of Zillah Shahabad, dated 27th December 1839, to the Secretary of the Indian Law Commission, Calcutta.

I HAVE the honour to acknowledge the receipt of your letter, under date the 7th November last, and beg to inform you, that from the reports of the several ameens and moonsiffs, and the kyfeut of the mahafizdufter of this court, it does not appear that the practice of selling slaves in satisfaction of judgments against their masters has occurred in this district.

Appendix III.

Reports of Cases connected with Slavery in India.

1. Mussummaut Chutroo *versus* Mussummaut Jussa.
2. Shekh Khawaj and others *versus* Muhammad Sabir.
3. Kewal Ram Deo and others *versus* Golak Narayan Ray.
4. Kishn Chandar Datt Chaudhari *versus* Bir Bal Bhandari and others.
5. Mahant Surjan Puri *versus* Basanti (female) and others.
6. Kirti Narayan Deo and others *versus* Gauri Sankar Ray.
7. Nair, *alias* Narayan Singh, Pauper, *versus* Ramnath Sarma and others.
8. Loknath Datt Majmuadar and others *versus* Kubir Bhandari and others.
9. Shekh Hazari and others *versus* Dewan Masnad Ali (Nizamut case).
10. Ram Gopal Deo *versus* Gokal Chandra and others.
11. Taki and others, Appellants.

No. 1.

28 March 1822.

A dancing girl having left her mistress, by whom she had been purchased when a child and educated, and having discontinued the payment of monthly allowance to which she had bound herself by a written obligation; on a suit by the mistress to enforce the engagement or recover the girl, claim disallowed, the girl not being legally a slave, and the mistress not having proved that what had already been received was insufficient to cover the expense of her education.

Mussummaut Chutroo, Appellant, versus *Mussummaut Jussa,* Respondent.

The respondent, Jussa, was plaintiff in an action brought against Chutroo, in the city of Benares, on the 2d of December 1815, for the recovery of 1,400 rupees, on account of a monthly allowance due agreeably to a written engagement. The defendant suffered judgment to go by default. On the 24th of February 1818, the register of that court dismissed the suit of the plaintiff on the following grounds:—

The suit appeared to be founded on the plea, that the defendant had been entirely brought up and educated by the plaintiff. The defendant leaving her, and going to live with Baboo Surub Jeet Sing, the plaintiff preferred a complaint, in the Foujdarry court, against the said Baboo, in which she stated that Chutroo had executed a written obligation, promising to pay monthly to her mistress, that is to say, the plaintiff, the sum of 25 rupees, not however specifying the period during which the allowance was to continue. A compromise was made, and the defendant, Chutroo, paid to Jussa 750 rupees, or a sum sufficient to recompense her for her care and instruction. The written engagement, on which the present action was brought, did not specify that the plaintiff was to receive the said sum during her life; and though at the time of its execution, the defendant, then a young girl, had it in her power to have given more, yet, owing to her advanced age, she did not then appear to be able to pay such a sum.

On these grounds the suit was dismissed, and the costs made payable by the respective parties; on this the plaintiff, Jussa, appealed to the provincial court of Benares. The third judge of that court (in conformity with the opinion of the senior judge) deeming the authenticity of the written obligation to be sufficiently established, and being of opinion that so long as Mussummaut Chutroo was not under the control of her mistress, the latter had a right to the monthly stipend above mentioned, and that it was proved from the proceedings in the Foujdarry court, that the former had absconded with various ornaments and wearing apparel belonging to the latter, for which no equivalent had yet been received, reversed the decree of the register, and passed a decision in favour of Mussummaut Jussa, directing that she should receive from Chutroo the sum of 1,400 rupees on account of the monthly stipend of 25 rupees, from the 8th of February 1811 up to the 8th of October 1815; also, 1,175 rupees, on account of the same allowance, from October the 8th, 1815, up to the 8th of September 1819; and, in future, from the 8th of September 1819, as long as the latter remained out of her control, she was to pay her monthly the sum of 25 rupees. From this decree Chutroo was allowed to bring a special appeal to the court of Sudder Dewanny Adawlut. After attentively going through all the proceedings, the chief and officiating judges (W. Leycester and W. Dorin), before whom the case was finally heard, on the 25th of March 1822, recorded their opinion to the following effect:—

The fact of the execution of the deed under which the respondent claims is not established to the satisfaction of the court; and, according to the allegation of the defendant, it was executed by Baboo Surub Jeet Sing without her knowledge or consent. Admitting it, however, to have been established by sufficient proof, still there remains a question as to the legality of its provisions. It appears that both parties were of the Mahomedan persuasion; now it has been proved by a formal exposition of the law, as delivered by the mouluvees of this court on a former occasion,* a copy of which has been filed with the proceedings agreeably

* The case here alluded to originated in the year 1816, in the district of Furruckabad. A girl had been purchased when an infant from her parents by a prostitute, and having been educated in the courses, and for a long time followed the disreputable practices of her mistress, she at length attracted the special notice of Hadi

Appendix III.

Reports.

agreeably to the order of the court, as well as from the tenor of the futwah of the said mouluvees on the present occasion, that unless Chutroo was the lawful slave of Jussa, she (Jussa) had no right to exercise any control over her, or to cause her to do any act contrary to her wishes and inclination. The magistrate of the Foujdarry court would have had no power to cause Chutroo to be given to her mistress, Jussa, had the case not been compromised. In this case there is no proof that Chutroo was the legal slave of Jussa; it is merely set forth by the plaintiff that she had educated the defendant from her childhood; and it is a well-known fact, that, in Benares, many children are annually stolen and sold to the persons who profess dancing and singing; besides, it is equally notorious that those people obtain much of their livelihood by the practice of prostitution. It is incumbent on the judicial authorities to abstain, without the fullest proof of free will, from countenancing the servitude of any individual entitled to freedom; and in the present case, in the absence of any such proof, an order of a compulsory nature would have been clearly illegal. Even if the execution of the deed were proved to have been by the consent of the girl, it was nevertheless a nude pact, and a contract which did not promise her any equivalent; in other words, an undertaking to pay a sum of money in consideration of being exempted from a control to which the contracting party was not legally subject; or, as the alternative, to return to a state of servitude, which the law in her case did not recognize. Such an undertaking, then, as this is utterly illegal and unworthy of support. The respondent has not attempted to prove that she has not been fully reimbursed for whatever she might have expended by the sum of 750 rupees received by her from the appellant, and by the profits of her pupil during the time she remained with her; nor does it seem at all likely that what she received in this manner was less than her expenses for education. It is but equitable to consider her receipts equal to her disbursements on the above account. It is obvious, moreover, that if the appellant absconded with any ornaments or articles of dress belonging to the respondent, the latter is at liberty to bring an action for them, but that has nothing to do with the present case. With respect to the alleged customs of the dancers, on which the vakeels of the respondent lay considerable stress, it is sufficient to say, that such customs are in opposition to the law, and unworthy of being judicially recognized, from their manifest tyranny and injustice.

Accordingly the decree of the provincial court was reversed, and judgment was given in favour of the appellant. The costs were made payable by the respective parties.

No. 2.

28 August 1830.

Shekh Khawaj, Nawaz, Bolaki, Manik Muaiyin-uddin and *Imam-uddin*, Paupers, Appellants, *versus Muhammad Sabir*, Respondent.

A legal right to the service of another person can only arise to a Muslim, when the party claimed as a slave or his progenitor was an infidel captive to the Muslim force, prevailing in holy war.

On the 19th June 1824, in the zillah court of Dacca Jalalpore, respondent (estimating his cause of action at 501 rupees), against the appellants and others, instituted a suit to establish his property in, and recover the services of, seven male and eight female slaves, of the Muslim creed; viz. Bolaki, Nawaz, Khawaj and Iwaz (four brothers), and Manik, adult males, their respective mothers, wives and children. The parties claimed as slaves, as well as the two brothers, Imam-uddin and Muaiyin-uddin, and their sisters, were made defendants.

The case of plaintiff was this: "The 15 persons claimed are the hereditary slaves of my family, and descended to me from my father, Muhammad Bakir, who died in 1211 B. S. In 1217, Imam-uddin set up Musammat Jetan, as a widow of Bakshi Muhammad, the brother of my grandfather, Muhammad Jamal, and caused her to give to Zaki Manji, a conveyance of a moiety in the slaves, and a six anna share of a talukah inherited by me. Imam-uddin attested the conveyance. Zaki Manji failed in forcibly getting possession of the slaves, and under an order of the magistrate, sued for the share of the talukah, but his suit was dismissed. After this, Imam-uddin and his brother, by imposing on the magistrate, in Sawan 1230, obtained an order for the interference of the police darogha: whereby they deprived me of possession of these domestic slaves. I remonstrated in vain to the magistrate, and therefore under his directions seek redress by civil action."

Imam-uddin in his defence alleged, that the slaves were the joint property of the brothers, Zia Muhammad (his father), Muhammad Jamal (the plaintiff's grandfather), and Bakshi Muhammad. By a deed of partition, in 1166 B. S., the father of Manik, and grandfather of Bolaki and his brothers, were assigned to Zia Muhammad, and thus descended to him.

Plaintiff denied this, and alleged that Zia Muhammad had died without issue.

Bolaki

Hadi Yar Khan, a most respectable person, who agreed to marry her in the event of her relinquishing her unlawful occupation. This she consented to do, and, having left the house of her mistress, proceeded to that of the individual above named. The prostitute who had purchased her, and who, of course, dreaded considerable loss of profit from her departure, petitioned the magistrate of Furruckabad to compel her return, with which request that officer, from a mistaken notion of duty, complied. An appeal having been preferred from the above order, the opinions of the best authorities in that quarter were taken as to the validity or otherwise of the prostitute's claim; and the same question having been propounded to the law officers of the Sudder Dewanny Adawlut, they all unanimously declared that it rested on no legal foundation whatever; that a child purchased in its infancy was at full liberty, when of mature age, to act as best suited its inclination, and that it was even a duty incumbent on the magistrate to punish any attempt at compelling adherence to an immoral course of life.—For further information on this subject, see "Principles and Precedents of Muhomedan Law," article "Slavery."

Bolaki admitted that he and his brother were the hereditary slaves of plaintiff, and that he had deserted from his house, at the instigation of Imam-uddin, and expressed his readiness to revert to the service of plaintiff, if assured of forgiveness.

Manik, Khawaj and Nawaz, for selves and families, denied the right of plaintiff, and alleged that they had been the hereditary slaves of Muhammad Zia, father of Imam-uddin. They admitted occasional service in the house of plaintiff, in consequence of proximity of residence; and pleaded that against them, as Muslims, no legal claim for their services as slaves could lie.

On the 14th June 1821, the zillah judge passed judgment in favour of plaintiff, awarding his property in the persons claimed as hereditary slaves, and right to their services as such. Costs were made payable by Imam-uddin and his brother. The judge, from the evidence, found that Bolaki and Manik and their families were hereditary slaves in the family of plaintiff, and had descended to him as heritage. They had served in his house as such till 1230, when they were wrongfully removed by Imam-uddin, with the intervention of the police. The deed of partition exhibited by Imam-uddin was an obvious forgery. He claimed in right of Zia Muhammad; but it appeared that Zia Muhammad's widow, Chand, had taken his estate as creditor for dower, and never opposed the plaintiff's possession of the slaves: it did not appear who were her legal heirs, but that point was irrelevant. Moreover, Imam-uddin had attested the conveyance of a share in the slaves to Zaki Manji, from Jetan; and this fact was repugnant to his later pretensions. In the contest, too, between plaintiff and Zaki, neither Imam-uddin nor his brother had intervened.

On the appeal of Imam-uddin, Muaiyin-uddin, Nawaz, Khawaj and Manik, the Dacca court of appeal, on 4th February 1829 (sitting Mr. C. Smith), affirmed the decision of the zillah court, with costs against Imam-uddin and Muaiyin-uddin.

Khawaj and Manik now moved the Sudder Dewanny Adawlut for admission, on their part, of a further and special appeal *in formâ pauperis*; and on the 6th May 1829, such appeal was admitted accordingly by Mr. Ross, the prescribed conditions being observed. Mr. Ross, in this, concurred in the previously recorded opinion of Mr. Rattray, before whom the application for the admission of the special appeal had originally come on. Mr. Rattray had adverted to the 9th Book of Institutes in the Hidaya, which indicated capture in war of infidel enemies as the legal origin of slavery; and as the legalizing essential, under the Muslim law, appeared to be wanting, he had proposed to admit the appeal. At a later stage of the case, execution of the decree of the lower court was stayed by Mr. Rattray, exaction of caution from the appellants being waived, with the concurrence of the collective court, which held such exemption to be proper, with reference to the poverty of the appellants, and their inability to pursue the appeal effectually, if reduced to the dominion of the respondent. An order for the early adjudication of the appeal being at the same time passed, it was heard by Mr. Rattray on the 7th June 1830, and postponed for consideration.

Subsequently, Imam-uddin, Muaiyin-uddin, Bolaki and Nawaz moved the court to be admitted as pauper appellants in the case; and the court dispensed with the observance of the conditions usual with reference to their poverty, and the performance of those conditions by the other appellants. On the 27th July, Mr. Rattray delivered his judgment, to the effect, that the legal hereditary servitude of the appellants, claimed as slaves, with their families, in the family of respondent, was not established; and that therefore the judgments of the lower courts should be reversed with costs against respondent.

Mr. Ross next heard the case. He remarked, that the question to be determined was, whether the claim of respondent, to exact service from Bolaki and the rest, was legal under the Muslim law or not. In 1809, the muftis of the court had delivered an elaborate opinion, on the general question, to which Mr. Ross referred.* It was in substance this: freedom is the natural state of man, and legal servitude only arises from infidelity and captivity in open war with a Muslim conqueror, or from descent from such infidel captive. Consequently, the sale in a state of destitution of a child, or of the vendor's own person, establishes no right of property in, or dominion over, the object of the sale. With reference to these doctrines, Mr. Ross held that the essentials constituting legal servitude, and giving the respondent a legal dominion over the persons claimed as slaves, were wanting. It was true that Bolaki had admitted that he and his ancestors had rendered services of slaves in the family of respondent, and the others had made the same admission in regard to Imam-uddin's family; but they pleaded that the exaction of such services was illegal under the Muslim law. Mr. Ross, therefore, on the 28th of August, passed final judgment to the effect proposed by Mr. Rattray.†

* In consequence of a general reference to the courts of Sudder and Nizamut Adawlut (made on the 23d March 1808, by Mr. J. Richardson, the judge and magistrate of Zillah Bundelkund), the courts put certain interrogatories to their Muslim and Hindoo law officers, calculated to elicit the doctrines of their respective codes in regard to slavery. The exposition of the Muftis given in reply is that to which Mr. Ross refers, and constitutes case 2, head "Slavery," in Macnaghten's Precedents of Mahomedan Law, page 312.

† This and the preceding case are copied from the published reports of the Calcutta Sudder Dewanny Adawlut. The others are reported by the secretary to the commission, on reference to the original papers.

No. 3.
Sudder Dewanny Adawlut, 5th May 1832.

Kewal Ram Deo, Kalikinkar Deo, Sarup Chand Deo, Sambanuth Deo, Jagnath Deo, and *Deb Chand Deo,* Appellants, versus *Golak Narayan Ray,* Respondent.

On the 9th September 1826, in the civil court of Dacca, against Kewal Ram Deo and 16 others, respondent instituted the suit whence arose this appeal. The substance of his plaint was this:—"I sue defendants to establish my right to reduce them to my dominion as my slaves, and I estimate the cause of action in the sum of 500 rupees, their value. The persons sued are, Kewal Ram Sakdar, and wife; Kalikinkar Sakdar, and wife; Sarup Chand Sakdar, his wife and mother; Sambunath Sakdar, his wife and mother; Jaganath Sakdar, and wife; Bansi Sakdar and wife; Deb Chand Sakdar, wife and mother. Defendants are the descendants of Dakai, Puchai and Manai, the hereditary slaves of my ancestors. They and their descendants for generations have rendered service as slaves to my forefathers and to me, being supported by lands assigned. On occasion of festivals, they used to attend at my house and render services of slaves. On the 5th of Bhadun 1233, B. E., the male defendants, with their families, left Kismut Marta, in my division of pergunnah Bhawul, and located themselves on the seven anna section of the pergunnah. By local usage, they cannot emancipate themselves from my dominical power. I therefore bring my action."

Jagannath and Sambunath appeared and made this defence:—"The taluka of our ancestors, which has descended to us, is situate in the nine anna section of pergunnah Bhawal, the zemindari of plaintiff, and our profession is service. On this account, our father was employed by plaintiff as an agent in his zemindari affairs. Neither we nor our ancestor ever held nankar lands of plaintiff. The taluka referred to is component of plaintiff's estate, and comprises the Kismuts Marta and Daria Marta, and other mehals, and is recorded in the name of Dakai, Puchai, Manai Ram Deo. We hold this taluka with its component villages, and have never deserted any part, as charged by plaintiff. His object is to degrade and eject us by this claim. Our father, who acquired the taluka, made several pious assignments of its lands. Since his death, we have continued to hold, paying to the plaintiff, as our superior landlord, the yearly rent of 358 rupees nine annas, the fixed quota distributed on it. We refused to plaintiff the site of a dwelling, which he wished to include in a garden. From spite, plaintiff by force collected our rents. On our complaint to the magistrate, the daroga inquired and reported. It is owing to consequent resentment that plaintiff has brought this action."

Kewal Ram and Deb Chand made the same defence. After witnesses had been examined on the side of both parties, on the 23d May 1828, the case came on for trial before Mr. D. B. Morrieson, the acting judge. On this occasion plaintiff, with other documents, produced in evidence an ikrar dated 25th Bhadun 1197 (1790), purporting to be executed by Dakai, Puchai and Manai, and bearing signature on it of Mr. W. Douglas, collector of Jalalpur, a collectory purwana of 24th Kartic 1197, copy of the vyavastha of the pundit of the Sudder Dewanny and Nizamut Adawlut obtained in 1825, on a reference by the magistrate of Sylhet, and the relative official correspondence. Defendants also produced documentary evidence on the above date. Mr. Morrieson passed judgment with costs in favour of plaintiff, and directed writ to be issued to the nazir to make over defendants to plaintiff as his slaves. The motives of this judgment were thus expressed: "I find it clearly proved that Dakai Sakdar and his two brothers, the ancestors of defendants, and defendants also, are the hereditary slaves of plaintiff's family, and, according to the custom of slaves, held nankar lands of plaintiff and his ancestors. On occasion of festivals and ceremonies they have always rendered services as slaves to plaintiff's family; in particular in 1832, on occasion of the marriage of plaintiff's daughter. Puchai Sakdar was father of the defendant, Jaganath, and he attended on, and rendered service to, plaintiff's grandfather. In 1233, defendants left the estate of plaintiff as charged, and refused service. Two witnesses have proved admission of defendants since suit and their offer to settle amicably. Other witnesses, slaves of plaintiff, prove that defendants consort with them, as also that they are plaintiff's slaves. In the ikrar of 1197, Dakai and his brother, ancestors of defendants, admit that they are hereditary slaves of plaintiff's family; that plaintiff's grandfather bought the taluka in their name because they were slaves; that he fixed the yearly rent at 370 rupees two annas; and that after allowing them nine rupees from the established rent assets as their nankar for services as slaves, he made it over to their charge. This deed has also a clause that they and their descendants will continue to render the service of slaves to plaintiff; that in case of default, plaintiff may resume, and also that they will be subject to the local usage in regard to sale. The vyavastha and correspondence show that defendants fall within the 15 classes of legal slaves. Defendants say, that the cognomen of Sakdar was obtained by their ancestors, because they held the office of Sakdar; and they allege they are dependent talookdars on the estate of plaintiff. Two Muslims and a Hindoo depose in support of this; but I disbelieve their evidence, because the Muslims are not acquainted with the usages and parentage of Hindoos, and the Hindoo witness is a kinsman of defendants. Other witnesses of defendants prove, that in pergunnah Bhawul, slaves have the appellation of Sakdars. This cognomen of defendants is then presumptive of their slavery; for a freeman would not assume a servile appellation. The marriage of defendants' daughters with slaves, as also their relation to slaves, is proved. Had their ancestors not been slaves, they would not have executed, in 1197, the ikrar to ancestor of plaintiff before the collector. By the vyavastha, I find the master may exact service from or sell his slave, and the latter cannot quit his master without his leave. The defendants have this day filed a rubakari, of the Dacca court of appeal, dated 7th November 1826, held in the case of Sheo Chandra Surma and others *versus* Gopinath Deo and others. But the facts of the two cases are not identical. The defendants adduce the orders and proceedings of the magistrate, but these

are

are preceded by the suit, and do not avail them to show that the object of plaintiff is to deprive them of their taluka."

The appellants and defendant, bansi badan to the provincial court of appeal, preferred an appeal, which was heard by Mr. W. Cracroft, a judge of that court, on the 19th November 1829, when he proposed to reverse the decree of the lower court, with costs. His motives were thus expressed: "I find the claim fraudulent and malicious. Plaintiff filed no deed, signed by appellants or their ancestors, which states them to be hereditary slaves of plaintiff. Without such deed, and full proof, it would be inequitable to condemn a mass of persons and their descendants to perpetual bondage. Respondent does, indeed, allege that the ancestor of defendants, in 1197 B. E. (1790), executed an engagement acknowledging their slavery, and that the real ownership of the taluka, recorded in their name, was in the ancestor of respondent. This deed appears to be very suspicious. It bears the signature of Mr. Douglas, in English, on the top; but why it should have been produced to him, and by whom, and in what case, is not apparent. It is stated that appellants' ancestor appeared before him, and acknowledged. Respondent was not summoned to give evidence, nor any of the persons whose names are signed as witnesses. It may be, that the father of respondent forged this deed to aid the usurpation of defendant's taluka. If genuine, he would have mentioned the paper in his plaint, so also in the case before the magistrate, in which he instituted inquiry as to the taluka, and the alleged slavery of appellants. The evidence of respondent's witnesses does not establish his case. They say, indeed, that appellants are hereditary slaves, and rendered service of slaves; but they enter into no details, such as when, what service, and by whom rendered. From the papers filed by defendants, it appears they are talukdars, and follow the profession of writers, and are respectable persons. Their taluka, recorded in the name of their ancestors, is component of the estate of respondent, and charged with the rent of 358 rupees 9 annas. This appellants have paid to respondent or his agent."

On the 29th December 1829, Mr. Charles Smith, a judge of the court, who next heard the case, proposed to confirm the decision of the lower court. Mr. Smith's judgment was thus expressed: "Claim of plaintiff is sufficiently proved by the evidence of the witnesses, and documentary proofs adduced by plaintiff. Of the latter, is the engagement of the ancestor of defendants, attested by Mr. Douglas. It establishes that the appellants and their ancestors are the hereditary slaves of plaintiff and his ancestor. According to usage, they attended at the house of plaintiff on marriages and other occasions, and rendered servile offices. It is true, the witnesses of appellants depose that they are ignorant of the servile state of appellants; but the depositions of some of them tend to support the case of plaintiff; for they admit that, in pergunnah Bhawul, the cognomen of Sakdar, by which defendants are designated, belongs to slaves. It is proved that the taluka, recorded in the name of the ancestor of appellants, was really the acquisition of the ancestor of plaintiff; for there is no ground to impugn the engagement authenticated by Mr. Douglas, the collector of Dacca Jelalpur. The receipts then of rent, on which the appellants rely, do not oppose the claim of plaintiff; for they are essential forms resulting from the tenure. It is very improbable that any person should bring forward an unfounded claim of this sort, and in such case it must be assumed absurdly, that 35 years ago the engagement adduced by plaintiff was got up by his ancestor in anticipation of the present claim. That engagement is duly authenticated by the principal civil functionary before the operation of the present code. At the time many other talukdars sought separation from the zemindari of defendants. Hence arose necessity of this engagement, as is in fact indicated by its terms, and the collector's purwanna, dated 24th Kartick 1198. Slavery of a family may be inferred from continuous service, and it seldom happens that, after the lapse of many years, the original title, showing acquisition of the slave's forefather, is forthcoming. In this part of the country, many slaves are apparently persons of respectability, and educated, and manage the zemindari affairs of their masters; but this constitutes no ground of emancipation. In a word, the appellants and their ancestors are the hereditary slaves of respondent; and, if discharged, notwithstanding proof of their servile state, most slaves will become recusant, and, on various pretexts, will find means to effect their discharge. It would be unjust, therefore, to liberate the appellants, notwithstanding the clear proof of their servitude, and the local usage, supported by the vyavastha of the sudder pundit. The report of the darogha, on which appellants rely, rests on depositions not taken on oath. However, some persons did mention that appellants were reputed slaves. The interference of the darogha at all was irregular. With reference, therefore, to the vyavastha, the correspondence relative to it, and the motives in the judgment of the lower court, I propose to confirm."

In consequence of this difference of opinion, the case was sent to the Murshedabad court of appeal to be heard by a third judge. Mr. C. W. Steer, a judge of that court, on the 20th April 1830, passed the judgment proposed by Mr. Smith.

The appellants now moved the court of Sudder Dewanny Adawlut for admission of special appeal, which was allowed on the 21st June 1830, by Mr. Alexander Ross and Mr. R. H. Rattray.

They were of opinion that the lower court had passed judgment against appellants without considering whether their ancestors had legally, as slaves, come under the dominion of respondent's father. On the precedent of the case of Shekh Khawaj and Nawaz *versus* Muhammad Sabir, they directed that the execution of the judgment of the lower court should be stayed, pending appeal, without exaction of security. The case being ordered for trial out of number, came on before Mr. R. H. Rattray, on the 26th March 1832, when he concurred in the judgment proposed by Mr. Cracroft, and its grounds. Kalikinkar, one of the appellants, had died, and the wakeels of respondent, who had brought this to notice, objected that

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that his heirs should be summoned to follow up his appeal. Mr. Rattray remarked that the objection was without weight, for there was no need to summon his heir to appear, if death had emancipated him.

The case was next heard by Mr. A. Ross, on the 5th May 1832, when he made final the judgment proposed by Mr. Rattray; his motives were thus expressed: "In my opinion the claim of plaintiff is not established by his witnesses or documents. The witnesses say that they had seen defendants render service like the service of slaves in the house of plaintiff; but this does not prove that they are really slaves. Moreover, if the genuineness of the engagement be conceded, still it is apparent from it that the defendants are dependent talukdars, holding on condition of paying a fixed rent and rendering service; if, then, the appellants should not render service, respondent may resume. From this, it seems, that, during the tenure of the taluk, service is obligatory, not after abandoning the tenure, and thereby discharging themselves; and it is to be observed, that he who has power to emancipate himself cannot be considered a slave."

No. 4.

Sudder Dewanny Adawlut, 24 Nov. 1832.

Kishn Chandar Datt Chaudhari, Appellant, versus *Bir Bal Bhandari*; *Jaimani*, his wife; *Ram Mohun*, his minor son; *Rokni*, widow of his brother *Subal*; *Adri*, widow of his brother *Jugal*; *Sham Ram*, *Sheo Ram* and *Abha Bhandari*, Respondents.

On the 12th September 1827, plaintiff instituted in the civil court of Mymensingh, against the above defendants, an action, the cause of which was estimated in the sum of 16 rupees. The statement of his case exhibited by the pleadings was this: "The slave girl, Kabutari, was part of the nuptial present brought by his bride on the marriage of my great-grandfather. He gave her in marriage to his hereditary slave, Durga Das, and caused their daughter, Burati, to be married to Sonatan; their son was Nandu, who was father of the defendant, Bir Bal, his late brothers, Subal and Jugal, and his sisters, Abha and Panchami, of whom the latter is dead. This family was part of the hereditary slaves of my family, amongst whom also are included Jaimani, the wife of Bir Bal, by whom he has a son, Ram Mohun, a minor, also Rokni and Adri, the widows of Subal and Jugal respectively. They have rendered continuous services as slaves in my family, receiving support, lodging, and nankar land on our estate at Haripur. On a partition of slaves with my kinsmen in 1816, Bir Bal and his brothers and sisters, with their wives and families, fell to my lot, and continued to render service as slaves, being supported as before. The sister of Abha I gave in marriage, receiving the usual present; and Adri, the widow of Jugal, for the last six or seven years has resided at her father's house at Daluthan. In the year 1825, Bir Bal, who was in charge of my effects, absconded with the keys, being incited to this by Sham Ram, Sheo Ram and Abha; he obtained employ as a peon on the establishment of the magistrate, to whom I preferred my complaint. Before trial an adjustment took place. Bir Bal brought to me his nephew, Jewan, and on the 12th December 1825, executed an acknowledgment of his servile relation to me, which was filed in the magistrate's proceedings. In July 1827, Jewan died. Although Bir Bal and his family occupy the house and enjoy the lands allowed them by me as before, still, incited and harboured by the above persons, they refuse to render service of slaves. Owing to their recusancy I have incurred a loss of 16 rupees, in procuring work to be done by others; I therefore sue the said Bir Bal, his wife and son and brothers' widows, for the right of exacting their attendance and service as slaves, associating the other three, who incited them, as defendants. I estimate cause of action in above sum."

Except Bir Bal, none of the defendants appeared to defend.

The substance of his defence was this: "I deny that I or my family are the hereditary slaves of plaintiff, that we have received support, or that we hold of him, as charged, any dwelling or nankar land. My grandfather, Sonatan Rawat, married Parameswari, the daughter of Durga Das Talukdar. He did not marry the daughter of Kabutari. I and my forefathers are and were free, supporting ourselves as cultivators and householders. My father died at the age of 65. For 17 or 18 years I served Ram Ruttun Munshi, at Kaliada, in Zaffur Shahi. Afterwards, about the year 1820, I settled on the estate of Vishnu Priya Dasi, as a ryot. When in coparcenary with plaintiff, his uncle, Gunga Purshad, bought my sister, Panchami, from my father. This is irreconcilable with plaintiff's claim. In 1824, I received an advance of one year's wages, and entered the service of plaintiff. I left this because he did not support me, and attached myself to the magistrate's establishment as a peon. Plaintiff proceeded against me under Regulation VII. of 1819, before the magistrate. I was apprehensive I might be dismissed and imprisoned under that regulation, were my desertion of service proved. To adjust the case I succeeded in assigning my nephew to the service of plaintiff. I am illiterate, and plaintiff, in his compromise, may have got his kinsman, Kishn Mujmuadar, to put in a claim to suit his purpose. If so, it is not valid. Plaintiff did not emancipate and marry my elder sister, Abha. My father effected her marriage at his own cost."

In his reply, plaintiff wrote: "Bir Bal never was hired as a servant, nor did I make him an advance of wages. The acknowledgment filed by Bir Bal was prepared by a person chosen by himself. It is untrue that his father sold Punchami. When defendant found that the residence on the location assigned by me did not suit, he rented a house on the Lakeraj premises of Vishnu Priya Dasi, and resided there. He tenanted also from me, at rent, lands exclusive of his before-assigned house and nankar. I did not prosecute him before the magistrate on an alleged receipt of wages in advance."

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This case was originally referred for trial to the sudder amin, and witnesses were examined on both sides, and documents received. Owing to the relationship which existed between the person on whom that office devolved and plaintiff, the case reverted to the judge, before whom the plaintiff exhibited copy of the letter of the register of the Nizamut Adawlut, and a vyavastha of its pundit taken in another proceeding.* He had before filed the partition paper, and the acknowledgment of the defendant filed in the proceedings before the magistrate. On the 3d July 1832, the case was heard before Mr. Cheap, judge of the zillah, when he passed judgment on perusal of the papers, without considering the oral testimony. "The letter and vyavastha are irrelevant. They show the want of right in slaves to redeem themselves from servitude by payment of price and other points. The plaintiff has filed no deed proving that the defendants are his hereditary slaves. His ancestor assigned the nankar to the ancestor of defendants, in consideration of hard labour and gratuitous service. With reference to this, plaintiff has in a manner a claim on defendant as servants. If, really, the heirs of the original receiver for such a quantity of land are to be held to be slaves of the grantor, in such case the land would be insufficient for their support. It is inequitable (though even such had been the usage) that the descendants to the lowest generation for ever should be subject to slavery to plaintiff, because his ancestor may have given two or three beegahs to their remote forefather. Under these circumstances, I dismiss the suit with costs. If he who holds the nankar lands refuse in consideration to render service to plaintiff, in such case plaintiff may resume, but cannot eject the occupant without suit."

Plaintiff, dissatisfied with this judgment, preferred his appeal to the Sudder Dewanny Adawlut. The exceptions taken by him were these: 1. The zillah judge did not consider the oral testimony, which proved that Bir Bal and his family are his hereditary slaves. This was proved by one of the defendant's own witnesses, and his acknowledgment before the magistrate. The omission of the judge was illegal, particularly as the evidence had been taken after the issues fixed on perusal of the pleadings under Regulation XXVI. of 1814, section 10. 2. The letter and vyavastha are relevant; for they show the right of masters over their slaves and their duties of service. 3. The defect of any original deed is not conclusive; for deeds are lost and not forthcoming after lapse of long time, and hereditary right may be proved by circumstances and other documents. The long hereditary service of defendant's family for generations was sufficient proof, independent of the above-stated acknowledgment. 4. The support of plaintiff's family by assignment of dwelling and nankar lands can only denote their servitude, which was proved in evidence. 5. The argument, that the land originally assigned to a slave would be insufficient to support his descendants in progress of time, is inconclusive, because, when that occurs, owner may supply from other resources sufficient support. The fact is, defendants were sufficiently supported as is proved. 6. It is admitted by the judge, that the defendant's family had continuously held a house and lands from plaintiff's family for abode and support. They could not therefore be emancipated from their servile relation to plaintiff.

On the 24th November 1832, Mr. R. H. Rattray, a judge of the Sudder Dewanny Adawlut, under clause 2, section 2, Regulation IX. of 1839, after perusal of the petition of appeal and judgment of the lower court, affirmed the latter, without calling for the proceedings at large. His motives were thus expressed: "Appellant has produced no deed showing that the respondents were his hereditary slaves. What avails his mere assertion that his ancestor assigned the nankar land to the ancestor of defendant in consideration of service and attendance? But let it be assumed that he did so. For two or three beegahs assigned as nankar or chakran to the ancestor of respondents, it would be most inequitable that the descendants of the receiver should for ever be slaves to the descendants of grantor. Could appellant supply the deficient deed it would not avail."

Mahant Surjan Puri, Appellant, versus *Basanti* (female) and others, Defendants.

No. 5.

Sudder Dewanny Adawlut, 5 Jan. 1835.

On 7th February 1831, the Mahant Surjan Puri, of Palmou, in pergunnah Gargadh, in zillah Ramgurh, filed in the civil court of that zillah a plaint of which this is the substance: "In the great famine of 1769 (Fussly 1177), Prani, originally of the Modi caste, being impelled by distress, with her daughter, Basanti (then aged five years), messed with Kahars, and thus descended into their caste. When in this state, she sold and made over her infant daughter, as slave, to Mahant Gir Puri, my spiritual grandfather, for three rupees, executing a bill of sale dated in that year. My grandfather supported Basanti in the famine, and brought her up. Mahant Dalu Karan Puri, the disciple of Gir Puri, who died, succeeded him, and Basanti passed under his dominion. Dalu Karan married her to his male slave, Achamba. The issue of this marriage was two girls, Charua and Ramni. After this, Basanti and daughters attended on and served the Gosain Bechu Puri, at village Gujar Sotra. He was the spiritual brother and successor of Dalu Karan. At that place, Ramni produced one son, Dhuna; and her sister produced five daughters and two sons. Her daughters are Kumiya, Soniya Anandi, Namiya and Mongiya. Her sons are Dhukha and Sukha. Kumiya has three daughters, Dharmi, Nima, and Basanti second. Anandi has a son, Byria, and a female babe. Namiya produced a son, Tulsa. All continued to render services of slaves to the Gosain Bechu Puri, whom I succeeded. In 1227 Fussly, Charua, with her children, absconded from my dominion, and took refuge in village Urdi. My agent went to bring her away, and she executed an engagement (to which

* *See* 8th Precedent Macnaghten's Hindoo Law, vol. 2.

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which Lachman Singh was caution) to attend on me, after settling her agricultural affairs; and she attended accordingly. In 1229, Charua again absconded with her children, except one daughter, Anandi. She went to village Khand Dih. Anandi, as also her grandmother, Basanti, and Ramni, with her son, remained under my dominion. In 1235, I was involved in a litigation in the civil court of Birbhoom regarding a Sanyasi convent and some villages. I could not therefore look after my slaves, but I often sent to summon them, and they promised to come. But after this, Nim Ray harboured Namiya and Tulsa. I lodged information with the police darogha, who reported the matter to the magistrate. By him I was referred to my civil remedy. I therefore sue Basanti, her daughter Charua and her offspring, for the right of recovering them as slaves, and Nim Ray, who has harboured two of them as stated. I estimate the cause of action in the sum of 148 rupees."

On the part of Basanti, Soniya, Kumiya, Dhukha and Sukha this defence was made: "Basanti's mother was Man Mati. She never sold her daughter nor executed a bill of sale. Basanti on her mother's death was yet a minor. In the famine her aunt brought her to village Gargadhi, in pergunnah Gharghadh, and laboured for their support. She received a loan of coarse grain from the Mahant Gir Puri. Two years after, he took an acknowledgment for five rupees, as the price of the grain supplied. After this, Phulu, the sister of the Gosain Bechu Puri of that village, took the acknowledgment by paying the five rupees, and Basanti remained with Phulu, by whose care she was married to a Kahar. Until Phulu died, Basanti remained with her. Subsequent to her death, and about 30 years ago, Basanti married her daughters with free Kahars. Besides, she sold her grand-daughter, Namiya, to Nim Ray. This act the plaintiff charged as a theft at the police-office, and on report to the magistrate was referred to his civil remedy."

In his reply, the plaintiff urged that in a famine no one supported another, particularly one of low caste, for the mere acknowledgment of grain or money. He admitted that Basanti and her children attended on Phulu, the sister of Bechu Ray, the disciple of Gir Puri; but (he added) that she died in 1224. The plaintiff also stated that the defendant Nim Ray, since the suit on the 28th April 1831, had voluntarily come to him and written an undertaking to give up his bill of sale; and that further of the defendants, Kumiya, Basanti and Charua, had executed an engagement promising to revert to their duty.

The rejoinder was to this effect: "Plaintiff got Nim Ray to engage to give up the bill of sale, by promise of repayment of the price paid by Nim Ray, but has not repaid the same. None of the other defendants have given any engagement of the nature asserted by plaintiff."

The case, having been referred to the sudder amin and mufti of the court, came on for judgment (on the 14th September 1832); after the examination of witnesses and receipt of proofs of both parties, it was passed in these terms: "Only five of the claimed slaves have defended; they assert their freedom; but the evidence proves that Basanti and her descendants attended as slaves on Gir Puri, Dlu Karan Puri, Bechu Puri, disciples of Gir Puri, on Phulu his sister, and on plaintiff. Defendants admit that Ramni, the second daughter of Basanti, is still in attendance on plaintiff. From this admission, too, it would seem that they admit service as slaves to Phulu, sister to Bechu, whom plaintiff succeeded. Defendants have failed to establish their freedom. Dhukha, defendant, has filed a paper, dated 5th Phagun 1179 Fussly, to support the story of defendants as to the pecuniary obligations said to have been transferred from Gir Puri to his sister, Phulu. This paper shows that Aluiya, her aunt, pledged Basanti for five rupees to Gir Puri. Bechu Ray, an alleged witness to the deed, was examined in support. Persisted in declaring his age to be that of 60 years; but he could then only have been five months old when the deed was executed. It is, too, quite apparent that his name is written over an erasure. He says, too, that the writing passed 20, 22, or 40 years ago. I hold the deed to be a fabrication. The witnesses of defendants prove that Basanti descended into the Kahar caste with leave of Bechu Puri, disciple of Gir Puri, and that she and her offspring attended on him. This confirms the claim of the plaintiff. The defence of the defendants, who admit receipt of grain in the famine of 1177 from Gir Puri, confirms the bill of sale charged by plaintiff. If defendants were not the hereditary slaves of plaintiff, Nim Ray, who had bought two of her grandchildren from Basanti, he would have never given his bill of sale to plaintiff; and such surrender is admitted. Defendants admit receipt by Basanti of grain from Gir Puri, whose successor plaintiff is; and one of their witnesses proves that she attended on that person. It is most improbable that in a famine any person would support with grain or money an unbought person. I decree Basanti and 13 other persons claimed as slaves to be made over to plaintiff as his slaves. The parties are to pay their respective costs; for the slaves are unable to earn for themselves."

From this decree, on the part of the defendants who had appeared, an appeal to the zillah judge was preferred. The zillah judge (Mr. T. R. Davidson) on the 17th December 1833, reversed the decision of the sudder amin with costs, in favour of the appealing defendants. The motives of his judgment were thus expressed: "Respondent has filed a bill of sale on plain paper, dated 1769 (Fussly, 1177), to prove his claim. It is odd that such a paper should have come into his possession. Nim Ray wrote indeed an engagement to plaintiff, and gave up the bill of sale of Namiya and Tulsi which he had taken from Basanti. But from this his collusion with plaintiff is apparent, or at all events such surrender and engagement cannot affect the other claimed slaves. I attach no weight to the engagement to attend, written by Kumiya, Basanti and Charua, and filed by plaintiff. It is subsequent to suit. Now, if after being satisfied, they, as slaves, attended on plaintiff and wrote the paper, why did not respondent get them to confess to his claim? Such a deed taken in the interim is nothing, and they now deny it. A claim to a slave is first tried with reference to documentary

mentary evidence. Now the paper filed by plaintiff cannot be accepted by the court. It remains to consider the evidence of the witnesses. Those of the respondent state, that during 14 or 15 years the appellants had run away. The sudder amin dwells indeed on the contradictions of appellant's witnesses; but it had been right had he equally adverted to the depositions of respondent's witnesses. I find that just as the witnesses of appellants are contradictory, so also are those of respondents, and their depositions are nothing. The sudder amin, passing by all the witnesses of appellants, attacks the evidence of Bechu Ray. Now, Chitan, a witness of respondent, questioned as to the ikrar written by Charua first, said he did not know, and then added that she wrote the deed. Under the premises the decision of the sudder amin is considered erroneous. Decreed that it be reversed, and that respondent do pay all costs of both courts."

From this decision, the Mahant Surjan Puri preferred a petition of special appeal to the Sudder Dewanny Adawlut, which on the 1st January 1835 was disallowed by Mr. R. H. Rattray, for defect of sufficient reason shown. The grounds of appeal urged were these: 1. In 1177 stamps were not in use; therefore the defect of stamps cannot be ground of suspicion of the bill of sale. 2. Independent of direct evidence to the deed, it was supported by the presumption arising from defendant's answer, which admitted that Basanti was pledged to Gir Puri, to secure an advance received. Now, a girl no where is ever pledged, and still less would she be taken in pledge during a famine. 3. The imputation of collusion with Nim Ray is repelled by the fact that plaintiff had complained against him in the police office. 4. The engagement of Charua and the two others, to which the judge alluded, is virtually a confession; and if the judge doubted the fact of execution, he should have investigated, particularly as those three did not appear to appeal. 5. Beni Ram, a rich Mahajan, kept Mungiya, one of the slave-girls, and had got up the appeal. 6. It was a misdirection in the judge to state that it appeared from the depositions that the slaves had during 14 or 15 years absconded. Only Charua and her children in 1227 run away, and in 1228 returned. When she again absconded, she left her daughter, Anandi, who, as also her aunt and cousin, were under the dominion of appellant.

Kirti Narayan Deo and others, Appellants, versus *Gauri Sankar Roy*, Respondent.

No. 6.
Sudder Dewanny Adawlut, 7 Dec. 1835.

On the 17th April 1831, the respondent, in the civil court of Dacca, against Kirti Narayan Deo and others, instituted an action, cause of which was estimated in the sum of 16 sicca rupees. The statement of his case was this: "The late Ram Saran Ray and the late Bugui Ram Ray, brothers, were landholders in the Tupa Hazardeh. I and my half-brother, Kirti Sankar Ray, represent the former. In 1797, my father and uncle separated, and deeds of partition were exchanged. In a division of his family slaves, Binod Ram Deo and his family fell to my father's share, and his brother, Anandi Ram, and his family, to the share of my uncle. Binod Ram died, survived by his wife, Kusala, and three sons, Kirti Narayan Deo, Sri Narayan Deo, and Suraj Narayan Deo. Drupadi, Radha Mani, and Bejiya, are the wives of Kirti Narayan; Jai Narayan, Dullabh Narayan, and Kishn Narayan, are his sons, minors; Ratni and Isari (unmarried) are his daughters. Mahiswari is the wife of Suraj Narayan. These 13 persons are owned by me and my half-brother as slaves in equal shares, and owe us the service of slaves. Binod and his family and descendants have continuously been supported by our family, and are provided with house and lands for subsistence. They have also continuously rendered services as slaves to me and my half-brother. The total area of the lands still held by them in different kismuts of the joint estate is equal to three duns, three kanies, seven gundas, three kowries. When the family abode assigned to defendants was found too confined, they annexed to it part of the adjoining abode to Labin, another hereditary slave of my family. The marriages of Binod's sons were effected at our expense, and their marriageable daughters were married with our leave on receipt of the usual presents. On occasion of need we have assisted the family; for instance, we rebuilt at our cost their houses when burnt down. Dissension arose between me and my half-brother; and in September 1829, he protected and incited Kirti and the rest of the family to refuse to render me services, due to me as joint-owner, and to render them to him alone. Kirti had asked me to emancipate his daughter, Ratni, that he might marry her, but I wished to attach her to my household. Then it was that, in collusion with my brother, this recusancy occurred. In February 1830, he married his daughter to Briju, the bhandari or slave of Ram Narayan Ray, on the discharge of my brother alone, who received the present. I sue, therefore, to reduce to my dominion, as their joint-master and owner, the said 13 slaves belonging to the family of Binod; and I associate as defendants my said brother, Ram Narayan Ray, and Briju, the husband of Ratni. I estimate the cause of action in the sum of 16 rupees, the loss sustained by services refused."

Of the defendants, Kirti Narayan and Sri Narayan alone appeared. Their defence for themselves and the rest of the family was this: "We deny entirely the claim of plaintiff. Our father, Binod Ram, was free, and earned his livelihood as a cultivator and tenant of land, and by service, being settled at different periods of his life at various places. For instance, on paying nine rupees, he took some uncultivated land and half of the bed of a tank on the estate of Bijai Ram Ray and Kishn Ram Ray, and established his domicile there as a ryot. He, and, after him, we, his sons, have paid rent for any lands on the estate of plaintiff and his brother, which we have cultivated as tenants. We hold the acquittances. The intermarriages of our family are in the families of talukdars, our equals, and effected

Appendix III. Reports.

effected at our own costs. We act as managers of land, and thus add to our livelihood. Plaintiff himself appointed me, by sunnud, on a salary to manage part of his estate. The alleged deeds of partition between plaintiff's father and uncle are untrue. Anandi Ram had two other brothers besides Binod Ram. The partition must have extended to the whole. No discharge was taken from the plaintiff's brothers on Ratni's marriage. He gave to plaintiff and his brother, our landlords, the complimentary present, according to usage observed by other under-tenants. When our house was burnt we lost papers. Plaintiff takes advantage of this, and makes his brother and Ram Narayan defendants, expecting an admission for them, Ram Narayan being our enemy, and depriving us of the evidence of the brother. It is true, we annexed to our dwelling part of the premises of Labni; but we paid two rupees in consideration to his brother, Phulu, and hold it on rent. In 1830, when the management was taken from us, we gave up the lands we cultivated on the joint estate of plaintiff's brothers. We hold no lands for our support."

The plaintiff, in his reply, alleged, that by the custom of the country, if bhandaris, or household slaves, cultivated on rent lands of their master or others in excess of those assigned for support, such fact did not discharge them from their liabilities as slaves. Plaintiff further alleged, that defendant, Kirti, had delivered no account of the household effects in his charge, nor of the money of his mother invested in trade, with which he had been intrusted. He further alleged, that, since suit, defendant had offered to admit claim, if Ratni's discharge were given. Each party gave lists of numerous witnesses to be examined on their sides respectively, and filed documentary proofs. On the 24th August 1832, the case having come on for judgment before the principal sudder amin, he passed it to this effect, that the said 13 slaves should render as before to plaintiff their services as slaves, which he found due to him as joint and equal owner with his brother, Kali Sankar Ray. Each party was to pay his own costs. The motives of his judgment were thus expressed: "I do not find that the facts urged by defendants are established by their witnesses examined and documents adduced. I do not give credit to their witnesses; and, indeed, some parts of their evidence tend to substantiate the case of plaintiff. They corroborate the oral testimony adduced by plaintiff. This proves the partition of slaves charged by plaintiff, the continued support received by Binod Ram and his family, and services rendered by them before and after partition. One of the witnesses, Kishennath Deo Rai, the son of Bijai Ram, has produced the original deed of partition signed by plaintiff's father. The evidence of his witnesses also substantiates the other facts alleged by plaintiff, that of the marriage of the male defendants at the expense of plaintiff's family, and that of leave and discharge obtained from plaintiff and his brother on the occasion of their daughter's marriage. It also shows that the sons of Anandi Ram still serve the said son of Bijai Ram. The acquittances filed by defendants are old and defaced, and not entitled to credit; but, if genuine, they do not repel the claim; for a slave is not exempted from his liability as such because he may rent lands from his master or others in excess of those assigned for his support, or because the master, to favour the slave, commits to him the management of his lands and collection of his debts. Plaintiff has exhibited copies of two depositions of Kirti Narayan and Sri Narayan, examined in March 1828, as witnesses in an action of defendant, brought in the munsif's court against his brother, Kirti Sankar Ray. There is also copy of the answer of Kirti Narayan, taken before a magistrate in July 1825, to the complaint of Jagannath Deo. The defendants clearly admit that they are slaves (bhandaris) of plaintiff and his brother. The fact that defendants are the owned slaves of plaintiff being proved, they cannot be exempted from slavery, with reference to judicial usage and the vyavastha of the pundits of the Nizamut Adawlut."

From this decision, Kirti Narayan Deo appealed to the zillah judge; and on the 13th September 1832, the appeal was heard by Mr. Cheap, who held that office. He affirmed the judgment of the principal sudder amin, with the amendment indicated in the following, his judgment; each party was to pay his own costs: "Neither from the deed of partition, nor any other document, do I find that the ancestor of appellant rendered service to respondent as a slave. Nevertheless, appellant, in his answer before the magistrate, and his brother, Sri Narayan, in his deposition before the munsif, admitted that they were the bhandaris or slaves of respondent and his brother. His denial now, therefore, can avail nothing against his own admission. Respondent now says all his effects were in charge of appellant; but it is odd that being so he should sue, estimating the cause of action in the sum of 16 rupees only, his loss by the recusancy of defendant and his family. With reference to the premises, I infer that appellant and his ancestor, on receiving lands for support, rendered service to respondent and his ancestor. If respondent should not allow nankar lands for support of appellant and family free of rent and charge, then they will become exempt from their servitude, and may seek their support where they can get it."

On the 21st February 1833, Kirti Narayan in person preferred to the Sudder Dewanny Adawlut, on the part of himself and the other defendants, a petition for the admission of a special appeal. He alleged that the above decisions were contrary to the appeal * adjudged in the sudder on the 5th May 1832, and moreover urged these exceptions—1. "The deed of partition on which the principal sudder amin relied, was produced by Kashi Nath, the cousin of plaintiff, who is an interested witness, and it is a fabrication. This is indicated by the fact that the third and fourth brothers of Binod are not included in the partition. Of these, one died lately, a free person, and the sons of the other are free and reside at a distance from

* *Vide supra*, Appeal of Kewal Ram Deo and others, No. 3 of this Appendix.

from the abode of plaintiff. 2. The depositions alleged to have been made by me and my brother before the munsif were not so made, but must be those of other persons using our names. My answer before the magistrate was taken in Persian, of which I am ignorant. Whatever may have been inserted, I never admitted servitude to plaintiff. 3. All our designated witnesses were not examined, and we applied for writs of attachment, but no order was passed. 4. It is incompatible with our alleged servile state that we should be appointed agents of plaintiff and his brother, thus doing the business of free persons, and so is the hiring lands at rent. We rendered service to plaintiff as servants holding lands which produce six rupees. Our sanad of service is filed. 5. Plaintiff can adduce no bill of sale to prove our servile state, and the support of 14 or 15 persons on 19 kanies of land, as alleged by plaintiff, is absurd."

On the 23d March 1833, the special appeal was admitted by Mr. R. H. Rattray; because, with reference to the circumstances of the case, the exceptions of appellant, and cases previously adjudged in the court, the case required further consideration.

Subsequent to this, a wakeel was appointed to prosecute the appeal on part of Kirti Narayan and ten of the other defendants decreed to be slaves. Express authority to represent Drupadi, the wife, and Dullabh, the son of Kirti, was not given; but a female paramesuari, whose name does not appear amongst the original defendants, joined as a party to the appeal.

The appellants substituted the petition of Kirti Narayan for admission of appeal, in place of the bill of exceptions required to be filed subsequent to admission of special appeal. To this, the substance of the answer of respondent was this: "The appellants are our hereditary slaves; and they are of the fourth description of inherited slaves referred to in the vyavastha of the court's pundits, to which we crave a reference. It is the local custom to employ confidential bhandaris to collect rents. We gave a certificate to the appellants to accredit them, and the duty thus committed to them proved our good-will, for they got perquisites from the tenants. Neither such employ, nor the hiring of lands, repels our claim. Appellants absurdly assert that they only held lands yielding six rupees yearly; in consideration of which they render the service of servants. This would not give them eight annas each per annum." Nineteen kanies of land is not a small quantity; but the support afforded to appellants was not limited to this; they received rations and other aid; they derived dusturi on the purchases for the use of the family, besides the collection perquisites. Binod and his brother were the inherited slaves of our family; the other two brothers had passed to our kinsmen on a prior division. The want of a bill of sale after a lapse of ages does not affect our right. This is proved by continuity of hereditary service, the admission of Kirti and his brother, and the evidence adduced. I could not produce the deed of partition which my father received from my uncle, because my brother, the author of the recusancy of defendants, has possessed himself of it. But the counterpart, signed by my father and received by my uncle, was produced by his son in support of his evidence. He is a disinterested witness; for the kinsmen of defendants are his acquiescing slaves. It is true that Kirti Narayan did not make any deposition before the munsif; but his brother Sri Narayan did. The case of Lok Nath Majmuadar and others, adjudged by the Sudder Dewanny Adawlut, on the 21st November 1833, by Mr. Shakespear, is a precedent in favour of my claim, while that adduced by appellant is irrelevant."

On the 7th August the appeal came on for judgment before Mr. R. H. Rattray. He proposed to reverse the judgments of the lower courts, charging costs to respondents. The motives of this judgment were thus expressed: "Plaintiff has produced no deed to prove the assertion that appellants are his hereditary slaves. Plaintiff alleges that the appellants rendered service in consideration of house and lands for support allowed them. The defendants strongly deny this. No proof of their holding such house and lands is found in the papers of the case. Moreover, were it so, still when appellants have quitted they cease to be liable to any claim of servitude; for the statement of respondent himself proves that appellant rendered service on receiving subsistence or nankar. It thus would seem that appellants are 'bhakta dasa,' or slaves, for their food, who render service for food. On reference to Mr. Macnaghten's compilation on Hindoo law, and the 2d volume of the Digest, page 247, the condition of slaves is stated thus: that when the slave for his food abandons the service, he becomes free. Therefore, the appellants having given up subsistence, they are to be considered free. Several witnesses have deposed according to the purpose of respondent; but they are his servants, kinsmen and dependents. Their testimony, therefore, is not to be believed. But, if credited, their evidence does not avail the case of plaintiff; because appellants are to be considered as having become free by relinquishment of support. The copy of Kirti Narayan's examination before the magistrate is of no advantage to respondent; for a statement before the magistrate cannot be a proof in a civil case."

The case was next heard by Mr. G. Stockwell, on the 7th December 1835. On perusal of the relevant papers at the suggestion of the wakeels of the parties, his opinion concurred in that of Mr. Rattray; and he made final the judgment proposed by Mr. Rattray.

Appendix III.

Reports.

Nair, alias *Narayan Singh*, Pauper, Appellant, versus *Ram Nath Sarma*, *Bishn Nath Sarma*, *Gopi Nath Sarma*, sons of *Harkinkar Sarma*, *Ram Charan Kar* and *Kishen Charan Kar*, Respondents.

No. 7.

4 Feb. 1836.

On the 7th April 1826, in the civil court of Sylhet, against appellants and Kubiswur Sarma, respondents brought an action on a case thus stated in their plaint: "Maya and her son, Khush-hal, were the slaves of Ram Ballabh Bari. In 1164 Purgunati, he received from Harkinkar and his brother, Ram Nundan Sarma, the father of Kubiswur Sarma, the sum of 10 rupees, in consideration of which he executed to them a release of his said slaves, and Maya executed a contract of hire of herself and son, attested by Ram Ballabh. The said slaves from that time served their new masters in their house. In 1174, Harkinkar, under a deed of release, bought Wajiri for four rupees of her master, and married her to Khush-hal, then aged 19. After some time he removed from the house of the Sarmas, and established himself in a domicile given by them, and cultivated; but he and his wife continued to do servile duties for their masters. After producing Nair, her son, Wajiri died. In Assar 1200, the Sarmas bought Sitapi, alias Sipi, of her owner, under a deed of release, for one rupee, and gave her in marriage to Khush-hal. Subsequent to the death of his parents and grandmother, Nair as slave served us, the Sarmas, who married him at our own expense to his wife, Phul; and the issue of that marriage are two sons, Briju and Bouki, and a daughter, Urna. His step-mother resided with him, and the whole family did offices of slaves in the family of us, Sarmas. In 1231 B.S. (1824), Kubiswur, by deed, sold his half share in the said slaves for 500 rupees, to us, Ram Charan Kar and Kishn Charan Kar. Nair denied his servitude in a petition to the magistrate, who ordered his release. We appealed to the court of circuit, but were referred to our civil remedy. We therefore bring our action to establish our proprietary dominion over the said slaves, that is, Nair, his wife and children and step-mother, making them and Kubiswar Sarma defendants, and estimating the value of the slaves in the sum of 100 sicca rupees."

The defence of Nair, his wife and step-mother, was this: "We deny that we are slaves of the plaintiffs. Khush-hal was long settled as a resident cultivator on the estate of Gaur Parshad Sarma of Nunkari. He supported himself by his labour, and paid ground-rent for his house to the said Sarma; and, on his death, to Subarna Devi. He died in 1205. I continued to reside with my step-mother and wife at my father's abode, and supported myself in the same manner, paying rent to Subarna. In 1224 she died. On the 9th Assin 1232, Kubiswar Sarma broke into my house and beat me. He got from Ram Charan Kar, who is an officer of the civil court of Dacca, two peons, and placed them on my door, and attempted to take me away. I made an outcry, and neighbours interposed. They continued, however, to oppress me, and I petitioned the magistrate. Kishn Charan Kar, the brother of Ram Charan, did the same. On the 2d November 1824, the magistrate released me. Kubiswar and Ram Charan appealed without effect to the court of circuit."

On the part of the plaintiffs, the following two documents, in Persian, were exhibited:—

Farigkati, dated 9th of the 2d Jamadi, or 15th Chet 1164 Purgunati, from Ram Ballabh Bari of village Kartik Aeng, in pergunnah Bojurah, Sarkar Sylhet. "Maya, wife of Raghwan Das, and Khush-hal, his son, are my slaves. I am unable to support them. I have therefore voluntarily received 10 rupees, as below specified, from Har Umkar and Ram Mandan, Brahmins, of village Nunkar, in the said pergunnah, and have executed this deed, releasing them from their service to me (ajiri state of hirelings). I engage and covenant that no claim of me or of my heirs in regard to the said Maya and Khush-hal remains. If any claim by any one be preferred, it is void and untenable. I am responsible. The deed of their hire (kabala ajiri) is lost: should that be forthcoming it will be false.

"In the name of Maya, 4 rupees; in the name of Khush-hal, 6 rupees:—Total, 10 rupees."

Deed, dated 15th of the 2d Jamadi, corresponding with Chet 1164, *anno regni*. "The legal and valid engagement of Maya, daughter of Narayan Das Nag, wife of Rughwan Das Bari, inhabitant of pergunnah Bojura, now of Nunkar, in Sarkar Sylhet. I hereby voluntarily engage and covenant as follows: In consideration of 10 rupees, as below distributed, from the date of these presents, for the terms of 60 and 70 years' service. I am adult (aged 30 years), and my son, Khush-hal, aged eight, have become khas ajirs (domestic hirelings) in the possession (dast) of Har Kinkar Brahmin and Ram Nundan Brahmin, heirs of Govind Ram, Brahmin, on these conditions: Receiving our necessary support, we will remain for the terms defined, and render to the hirers the service of husking rice, drawing water and ploughing, bringing wood and other legal services. We will not be recusant. I have received the full consideration of hire from the hirers. This I have made over to Ram Ballabh Bari, my master (khawind), and having obtained his release of the relation as hireling to him of myself and son, I have made over myself and son to the said hirers.

"In the name of Maya, 4 rupees; in the name of Khush-hal, 6 rupees:—Total, 10 rupees."

On the 25th February 1830, Mr. J. Campbell, the judge of the zillah court, dismissed the claim with costs. The motives of his decision were thus expressed: "The deed of sale, executed by Khush-hal's mother, filed by plaintiff, is limited to the terms of 60 and 70 years lunar, respectively. This action is after the expiration of the longest term. Now, after the term of hire, the object thereof ceases to be subject thereto. The deed of hire has no mention of the wife and issue of Khush-hal, and cannot therefore support plaintiff's claim. There is no averment of the origin of the alleged slavery of the defendant, Phul. I hold that the claim should be dismissed with costs."

The

The plaintiffs preferred an appeal to the commissioner of Assam, who had succeeded to the authority of the court of appeal in the place where the parties resided. This appeal was defended by Nair alone. On the 12th December 1833, Mr. Charles Smith, holding the above office, passed this judgment on the appeal: "Nair, his step-mother, his wife and children, are the hereditary slaves of the Sarma family. They received nankar lands. Kishen Chundan and other witnesses prove that the defendant, Briju, kept watch with other slaves at the marriage of that witness's slave-girl, and that Nair also consorted with slaves, whence his servile state is presumable. It is true in the deed of hire limited terms are defined, and no mention of descendants is made; but I do not concur with the zillah judge that the freedom of descendants is thence deduced. I consider the limitation of time as being merely in conformance with custom, and to ensure the exemption from labour in old age, not freedom. The respondent, moreover, was born within the period of the term; therefore, in conformity with the real meaning of the vyavastha of the pundits of the Nizamut Adawlut which the appellants produced,* the omitted mention of issue of the hired slaves, in relation to the hirer, is no argument of the freedom of appellant and his family. The defendants, though given time so to do, failed to advance proof of their liberty; and no deed decisive of their exemption from the claim has been produced. Let the appeal of appellants be decreed, and let Nair, with his wife, children and step-mother, be again liable to serve appellants. Costs of both courts are payable by Nair and his step-mother."

The appellant, as pauper, preferred a special appeal from this decision to the Sudder Dewanny Adawlut, which was admitted on the 3d April by Mr. Rattray, a judge of the court. The grounds of admission were thus expressed: "The foundation of plaintiff's claim is the deed of hire executed by Maya, and the plaint was filed after the expiration of the time therein limited. Neither by the regulations, the Hindoo law and usage, nor in equity, can it be legal that, when a person has assigned himself on hire for a defined time under such deed of hire, himself, wife and issue should pass as owned and hired persons, and be liable to render service to the issue of the hirers. The decision appealed from is also contrary to the decision of this court on the case of Khawaj, Manik and others.† The case therefore requires further consideration."

On the 18th January 1836, the case came on for judgment before Mr. Stockwell. His judgment was recorded in these terms: "From the proofs of plaintiff, I am not sufficiently satisfied to induce me to adjudge the claimed slaves with their issue to perpetual slavery. The witnesses depose generally to this, that they presumed the defendants to be slaves from services performed. But services are of various sorts; nor is every servant a slave. The deed of hire wants authentication. Moreover, a term is limited therein, and the object of such limitation is, that the performance of the condition be limited to the duration of the term. The witnesses assert usage to be this, that the person who is the object of the contract of hire does not become free at the expiration of the period. But such loose and vague assertion is entitled to no weight. Respondents allege the rent-free occupancy by defendants of land and dwelling as proof of slavery; but the witnesses depose to the contrary. I propose to confirm the decision of the zillah court, and reverse that of the commissioner."

The judgment proposed by Mr. Stockwell was passed on the 24th February 1836, by Mr. Braddon, who concurred.

CASE put to the Pundits of the Nizamut Adawlut, Calcutta.

A., an inhabitant of Sylhet, wishes to sell B., his female slave, with her four sons and daughters, having fixed the price. The slaves have petitioned the court to this effect: "We are willing to serve our master, but he, out of enmity, has made this arrangement with the intending purchaser, that he should remove us to another country, and re-sell us in different places."

Question 1. According to the Hindoo law current in Sylhet, is such an objection of the slaves, in respect to a sale under above circumstances, valid or not?

Question 2. If valid, can the slaves designate another purchaser selected by themselves?

Question 3. Or can they obtain their emancipation, if able by any means to tender their fixed prices?

ANSWER of the Pundits, *Vaidya Nath Misr* and *Ram Tanu*.

FIFTEEN slaves are propounded in Hindoo law. We infer from the terms of the case that the slaves referred to are of the class denominated Griha-jata, or house-born. Amongst the fifteen there are the house-born, the bought, the obtained (by gift), the inherited, the self-sold. The emancipation of these five does not arise without the will of their owner. If the owner (inclined to sell his slaves) desire the discharge from him of slaves (of those five classes) by means of a price fixed by himself, then on account of his dominion and power he may sell his slaves, though desirous of serving their master. But if, by the sale to the purchaser selected by the master, grievance of the slaves should exist, their release from him ought to be held established by legal reasoning, the owner having received the price settled by himself either from a buyer designated by the slaves or any other buyer; for

* The vyavastha referred to, which was exhibited on the part of respondent, is annexed.
† No. 2 of this Appendix.

for thus the owner suffers no loss. But slaves are never emancipated from slavery by paying the price fixed by their master from their own wealth, for the owner has dominion in the property also of his slave. This exposition conforms with the Vivada Bhangarnava, Daya Krama Sangraha, Daya Bhaga, and other books current in Sylhet, included in Bengal.

AUTHORITIES.

1. TEXT of Nareda cited in the Vivada Bhangarnava and Daya Krama Sangraha:
"One born in the house, one bought, one received, one inherited, one maintained in a famine, one pledged by a master.
"One relieved from great debt, one made captive in war, a slave won in a stake, one who has offered himself in this form, 'I am thine,' an apostate from religious mendicity, a slave for a stipulated time.
"One maintained in consideration of service, a slave for the sake of his bride, and one self-sold, are 15 slaves declared by the law."
2. Gloss thereon in the Daya Krama Sangraha: "Born in the house." "Born of a female slave."
3. Passage in the Daya Krama Sangraha: "There is no emancipation of these four slaves, the house-born and the rest, and the self-sold, without the indulgence of their owner."
4. Text of Vrihaspati cited in the Vyavuhara Tatwa and other books: "A decision must not be made solely by having recourse to the letter of written codes. The law must not be expounded by mere adherence to written texts. For, if judgment passed without reference to reasoning, there might be a failure of justice."
5. Text of Menu cited in the Vivada Bhangarnava, Daya Bhaga, Daya Tatwa and other books: "The wife, the son and a slave are considered without property. What they earn is his only to whom they belong."

No. 8.

Sudder Dewanny Adawlut, 17th May 1836.

Loknath Datt Majmuadar and *Jainath Datt Majmuadar*, heirs of *Lakhinarayan Datt*, Appellants, versus *Kubir Bhandari*, *Kishwar Deb*, *Saha Deb* and *Maheswari*, Respondents.

ON the 23d March 1830, in the zillah court of Mymensingh, against Kubir Deb, his daughter, Kishwar Deb and Saha Deb, Lakhinarayan Datt instituted an action, the cause of which was thus stated in his plaint: "Kubir Deb is descended from an hereditary slave of my family. Kishwar Deb and Saha Deb are his sons, and he has one daughter, of whom I do not know the name. Kubir and his family have always rendered to my family services of a slave, holding of me land and a house for their support. In 1229, they left their abode and went to another village. They continued, however, in possession of the land and house, and to render service till Asin 1233. Incited by Deva Datt and Ganga Datt, from the beginning of 1234 they left my service. I therefore sue them to establish my dominical right, and reduce them to servitude. I estimate the cause of action in the sum of 15 rupees, loss sustained; and I associate Deva Datt and Ganga Datt as defendants."

Kubir alone appeared and made this defence: "I deny that I am the hereditary slave of plaintiff, or held of him any land for my subsistence. When I lived in his village, he allowed me the use of some land in place of wages, and I occasionally served him, but not as a slave. For the last 12 or 13 years, I have lived in another village, where I am treated as a ryot. It is not true that I hold lands of plaintiff, and rendered service till 1233. Ganga and Deva Datt are made defendants that I may lose the benefit of their evidence."

In his reply, plaintiff alleged these facts: "Srimant, defendant's father, Sri Narayan, Chandra Narayan and Ramu, sons of Sena, are the hereditary slaves of my family. In a partition Srimant and Sri Narayan fell to my father's lot, Chandra Narayan and Ramu to the lots of Mod Narayan Majmuadar and Ramdhan Majmuadar, my uncles, respectively. The said slaves continued to render service, and in 1229, Srimant Anwur, son of Chandra Narayan, and Ganga and others, sons of Ramu, absconded. They went to village Ojunpur. The sons of Ramdhan Majmuadar obtained a judgment against Dina, Ganga and others, their slaves, and they reverted to their service; and so did Anwar to that of the sons of my uncle, Mod Narayan Majmuadar. Owing to deficient accommodation in his original house, Kubir resided at Ojunpur; and till Asin 1233 continued to hold the house and lands assigned him by me, and to render service to me. He married his sister, daughter, and other females of his family, on my discharge first obtained, making me the established present. His marriage and that of his sons were effected at my cost."

Kubir filed no rejoinder.

On the 27th August 1833, the principal sudder ameen, to whom the case had been referred, passed judgment in favour of plaintiff, and directed that defendant and his children should render service to plaintiff as slaves; each party to pay their costs. The principal sudder ameen remarked, that defendant had not supported his defence with any proof, while plaintiff had established by oral and documentary proof the facts charged in his plaint and reply. Kubir had prosecuted Nar Sing Majmuadar and others before the magistrate, and, on his examination adduced by plaintiff, had stated that plaintiff's cousins were his masters.

From this decision, Kubir to the zillah judge preferred his appeal, which was defended by Loknath, the son of plaintiff, who had died. On the 30th July 1833, the zillah judge reversed the decree of the principal sudder ameen, making costs payable by the parties respectively.

respectively. His motives were thus stated: "Plaintiff's action is estimated in the amount of loss for services withheld. It is not admissible, because not brought within one year from absence of defendant. Plaintiff files no deed proving the servile state of the defendant. His witnesses, who allege that defendant rendered service to plaintiff and held of him lands for support, depose on hearsay. Moreover, it is not equitable that a family in perpetual descent should be slaves in consideration of nankar lands for support."

From this judgment the application for special appeal, preferred by the sons of Lakhi Narayan Datt to the Sudder Dewanny Adawlut, was first heard by Mr. H. Shakespear. In it the name, before unknown, of Kubir's daughter was stated to be Maheswari. On the 21st November 1833, he referred to the pundit of the court petition of the appellant and decrees of the court produced, requiring him to state whether proofs, such as those recited in the decree of the principal sudder ameen, if adduced by plaintiff, would be sufficient legal evidence under the Hindoo law to establish the slavery of defendant. The reply of the pundit was to this effect: "The proof adduced by the plaintiffs to establish the fact of slavery, as set forth in the decision of the principal sudder ameen, is sufficient; for it seems that the defendants are inherited slaves, and this is one of the 15 legal classes of slaves." In support of this opinion the pundit cited the text of Narada, cited in various books, in which the "slave inherited" is enumerated.

On the 4th March 1836, Mr. Shakespear admitted the special appeal, because, with reference to the answer of the pundit, the accuracy of the judgment of the zillah judge seemed doubtful.

On the 13th April 1835, the case came before Mr. G. Stockwell. He wished to ascertain if any precedent existed amongst adjudged cases, in which the claim to reduce to slavery had been entertained, in which the alleged slaves were not associated with other defendants. He doubted the cognizability of such claim. The reference to the serishtadar produced this report: "I have searched the office. I have referred to the case of Kewal Ram Deo and others, appellants, *versus* Golak Narayan Ray.* In that, respondent sued appellants to reduce them to his dominion as his slaves, and others were not associated as defendants. Plaintiff succeeded by the judgments of the zillah court and court of appeal, but these were reversed in this court. Seemingly, then, there has not been any appeal in which the claim of a plaintiff to establish his dominion over a slave has been sustained in this court. Of course, then, occasion to enforce such judgment has not risen."

On the 17th May 1836, the case came on for judgment, when Mr. G. Stockwell affirmed the decree of the lower court with costs. His motives were thus expressed: "The report obviates my doubt. I find that the testimony of appellant's witnesses examined to prove respondent's slavery rests on hearsay, which therefore is insufficient. Plaintiff's claim is this, that defendants are slaves in consideration of lodging and lands for support. Now, if they received the same, it is clear they have abandoned such lodging and support. In the case,† No. 120, 1833, on the 7th December 1835, I passed a decree in concurrence with the opinion of Mr. R. H. Rattray. In conformity to that precedent, respondents are slaves of the class of slaves for their food. On surrender of the lands held they are entitled to emancipation. The zillah judge has ruled that the claim is not cognizable, because not brought within a year. In this I do not concur. I suppose he rests his doctrine on section 7, Regulation II. of 1805, which is irrelevant."

Shekh Hazari and others, Appellants, versus *Dewan Masnad Ali*, Respondent.

No. 9.
Presidency,
Nizamut Adawlut,
2 March 1837.

Shekh Lal Mahomed, Phutia and Luchhoo, of Sarail, in Tipperah, by petition claimed the protection of the magistrate against Masnad Ali, zemindar of a section of the pergunnah They alleged they were free tenants, and that the zemindar restrained and coerced them, though desirous of emigrating. On the 7th May 1836, Mr. Aplin, the magistrate, after taking the oath of Hazari to the truth of petition, issued this order to the police darogah, "If the persons specified in the petition are restrained, or do not wish to remain, release them." On the issue of this order, Shekh Hazari, Ahsan Ullah, Shekh Bani and others, likewise claimed protection of the magistrate for selves and families against the said zemindar.

The magistrate passed successive orders to this effect, "that if the persons mentioned in the petition wished to quit the place where they were, they should be allowed to go." The darogah was ordered to report after inquiries as to certain effects and houses which the petitioners claimed.

On the part of Masnad Ali also several petitions were presented, to this effect, that the petitioners were his house-born slaves; the agent of the other section of the pergunnah had excited them to combine; and in consequence of the magistrate's order, 250 male and female slaves, to him belonging, had tumultuously broke out, to his disgrace.

From the above order of the magistrate, Masnad Ali appealed to the commissioner of circuit (Mr. Dampier), who, after sending for the papers on the 19th August, passed the following order: "The persons affected by the magistrate's order are stated to exceed 80. It was wrong in the magistrate, without inquiry, to pass his successive orders for release of the petitioners and their families. They appear to be the hereditary slaves of Masnad Ali, for in the petitions they are designated khana-zads and khana-bands of Masnad Ali. It appears that a numerous band tumultuously broke out from the house and adjoining premises of

* No. 3 of this Appendix.

† No. 6 of this Appendix.

of Masnad Ali. This is not less than a riot. Now, a riot tends to great mischief, which is subversion of good order; for in this part of the country good order in respectable families depends on such inherited persons born and brought up in the family. In particular in the families of Hindoos and Muslims, the abiding of such inherited persons is not illegal; on the contrary, there are indications of the legality thereof. It is usual for respectable people to have this class of persons in their houses. It is not a new custom that a sweeping order for emancipation should be passed without great mischief, or that the magistrate should interfere summarily on their petition. If any extreme oppression, contrary to custom, were inflicted on this class of persons, and that should lead to disturbance and be subversive of good order, the magistrate (if in such case competent by regulation to interfere) may do so. Under every view, the orders are illegal, and should be amended. I reverse his orders directing the release of the parties and their families.

From this order Shekh Hazari, Phutia, Lal Mahomed, Ahsan Ullah, and Bani and others, appealed to the Nizamut Adawlut. Their petition was to this effect: "The order of the magistrate directed release of us and families. We are ruined by the reversal thereof. Masnad Ali contemplates perpetual imprisonment of us and our families. We are not his bought slaves, yet he always seizes and beats us; he does not allow us to go any where, nor to attend the festivals of our class-fellows. By the law and practice of this court, a rich person is not allowed to restrain an unwilling poor man as his slave or servant. Regulation III. of 1832 was passed merely to prevent sale of slaves. According to the 9th chapter of the Hidaya, a Muslim, living in a Mahomedan country, not a 'Harbi captive,' is not the slave of another. The claim of the zemindars is, therefore, contrary to Mahomedan law. We refer to the case of Khawaj and others, appellants,* and to the case of Kewal Ram Deo, appellant, *versus* Golak Narayan Ray.† These invalidate any claim on another as slave."

On the 2d March 1837, Mr. D. C. Smyth, Judge of the Nizamut Adawlut, after sending for various papers, passed this judgment: "The orders of the magistrate and commissioner have been passed without any previous inquiry. When Hazari and others charged Masnad Ali with assault, and alleged their freedom, the magistrate took his affidavit, and directed their release. As the agent of Masnad Ali alleged that the petitioners were his slaves, the magistrate should have instituted a summary inquiry as to the issue of fact. If he found petitioners were free, he should have directed their release; if he found them to be ajir, and house-born, he should then have passed such order as might appear fit under the law and local usage, adverting to the islam of the petitioners. Moreover, the magistrate at all events should have investigated the assault and seizing of which petitioners complained, whether they be free or slaves. Let the orders of the magistrate and commissioner be reversed, and the former proceed as above directed."

No. 10.
Sudder Dewanny Adawlut, September 30, 1839.

Ram Gopal Deo, alias *Gopal Bhandari*, Appellant, versus *Ghokal Chandra* and others, Respondents.

THIS appeal arose from a suit which respondents on the 10th March 1828 instituted in the civil court of Mymensingh against appellant and others. They alleged that appellant, and his brother Ram Hari, the wife of each of them, and the son of appellant, were the hereditary slaves of the family, and the joint property of them and their coparceners of Brijnath and Bhajunath and Tarini Dasi. The plaintiffs alleged that their share in the slaves, considered as part of the joint undivided property, was three parts out of five, and they sought to establish their dominical right and power to that extent. They estimated the cause of action in the sum of 15 rupees, the assumed loss by service withheld. The plaint stated, that the persons claimed as slaves had continued to render service to them as joint owners up to 1224 (1817), when they, excited by their coparceners and others, who harboured them, became recusant. The plaintiffs, therefore, associated their coparceners and others alleged to have aided and conspired with the claimed slaves as defendants. Of the defendants, Ram Gopal alone appeared to defend. His defence was this: "I deny the claim of plaintiff. During the scarcity of 1194 Fusli, Hari Ram Deo, father of me and my brother, Ram Hari, remained some time with Jaganath, the zillahdar, the father of defendants, Brijnath and Bhajunath. He supported himself by weaving. After some time he established himself, marrying at his own expense. So also, since our father's death, we served at different places, and married at our own cost. Before the zillahdar died, he requested us to manage for his minor sons: we acted as their agents."

On the 30th December 1838, after evidence received, the sudder amin, Kazi Jelal-uddin, to whom the case had been referred, passed judgment in favour of plaintiffs. He found the facts as charged by plaintiffs, and directed that the persons claimed should render service of slaves to plaintiffs in the proportion of their interest. The grounds were thus stated: "Khushhal had five sons; the plaintiff, Ghokal Chandra, and four others. The other plaintiffs represent two of the sons. The defendants, Brijnath and Bhajunath, represent a fourth, and Tarini is the widow of the fifth brother. Haru, the father of Ram Gopal, and his brothers, were bought while the family was joint and undivided. Indeed, the patrimonial lands are not divided, though for the last few years there has been a separation of mess. The defendants, charged to be slaves, rendered services to the plaintiff and other defendants up to 1234. In that year they ceased to render service to plaintiff, continuing, however, to render the same to Brijnath and his brother, and others. Plaintiffs have proprietary dominion over the slave defendants, as owners of three out of five shares." The costs were made

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* No. 2 of this Appendix.

† No. 3 of this Appendix.

made payable by Brijnath and Bhajunath, and Mohun Kishn, defendants, who harboured the slave defendants.

The appeal from this decree was heard by the register of the court, who, on the 28th June 1830, reversed the judgment of the sudder amin, substituting that of nonsuit. He remarked, that dispute existed between plaintiffs and three defendants, their coparceners, as to extent of interest, and that on account of this dispute the joint estate had been attached.

The object of the suit was to obtain a judgment, settling shares, which would avail as to the real property. Moreover, the bill of sale, though required, had not been produced. The register pointed out that plaintiffs should first sue to settle their shares in the joint real estates.

From this decision the respondents (plaintiffs) preferred a further or special appeal to the zillah judge, Mr. G. C. Cheap, who, on the 7th June 1833, set aside the decision of the register, directing that the case should be *de novo* tried, and heard in appeal. Mr. Cheap remarked, that plaintiffs had sued to establish their right as to a share in the proprietary dominion over slaves; and difference existed in the form and essentials of such an action, and an action for ownership in land.

On the re-trial, on the 17th December 1833, before Mr. Cheap, the plaintiff exhibited two deeds, a bill of sale, purporting to have been executed by Jyti Dasi, in 1193 B. S., and another, on stamp, purporting to have been executed by Akhi Narayan Das and others, on the 16th Bysack 1222. By questions put to the wakils of the defendant, Ram Gopal, it appeared that plaintiff and some of the defendants, charged as harbourers of the alleged slaves, were joint proprietors of real property, though collusion as to extent of interest existed. Mr. G. C. Cheap amended the decision of the sudder amin thus: "Let the appeal be dismissed, and let respondent on appraisement of the price of the slaves recover rateably. Let them, on execution of the decree, pray appraisement. Parties pay their own costs in both courts." His motives were thus expressed: "I refer to the evidence on the part of the plaintiff. It appears that appellants and other owned persons, rendered to plaintiffs and their coparceners services of slaves, and received support. But, without doubt, Tarini Dasi, and other coparceners of plaintiffs, excited the slave-defendants to refuse service. Though indeed the fabrication of the bill of sale, filed by respondent, is beyond doubt, still I consider all the circumstances of the case; that is to say, that slaves are included in personal property, and plaintiffs may sue to establish their interest in real property in the same action; but how the defined share of three-fifths of slaves is to be divided I do not know, and I marvel at the order of the sudder amin in this regard. Moreover, if provision is to be made in this regard by way of instruction, laying down the law, still justice did not require that any judgment incapable of execution should be passed. Considering all this, I amend the judgment of the sudder amin."

From the judgment, appellant on the 13th of March 1834, personally moved the Sudder Dewanny Adawlut for admission of a special appeal, presenting with his petition a copy of the zillah judge's decision. On 6th of May, Mr. R. H. Rattray, judge of the court, before whom the application was heard, directed the papers to be referred to the pundit to declare whether the decisions passed conformed with the Hindoo law as received in Bengal. The pundit, in reply, stated that the decision of the sudder amin was right, quoting a passage from the Daya Bhaug, whereby property not partable is divided in use.

On the 3d June, Mr. R. H. Rattray, considering the above exposition, remarked, that the answer did not suit the reference. It is apparent that Haru only was bought as a slave, not his family and descendants. Nevertheless, the decision of the lower courts establish defendants' slavery; the pundit is to explain the law with reference to this. His further exposition was to this effect,—that the state of the descendants of Haru would depend on the clause of the bill of sale. If they were expressly excluded, they would be free, not otherwise. In that case they would not fall in any one of the 15 classes of legal slaves, but within the class of the coerced. But if not expressly excluded, the progeny born subsequent to the purchase is an accession to the property bought, and belongs to the buyer. The pundit declared this opinion to conform with the law laid down in the Bengal authorities.

The texts cited in support were these: 1. Text of Narada, which enumerates* the 15 classes of legal slaves. 2. Narada. Text prohibiting† kidnapping.

On the 29th July 1834, this second vyavastha was considered by Mr. Rattray, who proposed to admit the special appeal. Mr. Rattray remarked: "Although, under section 28, Regulation V. of 1831, the zillah judge's decision is final, still, considering the objections of the applicant, the nature of the case, the points deducible from the decisions of both courts, and also the vyavastha of the pundit, I think the case merits further consideration, and without admission of a special appeal the court cannot be satisfied. If appellant within two months observe all the conditions, a special appeal will be admitted."

On the 5th May 1836, appellant had not complied with the conditions of appeal, when Mr. R. H. Rattray directed that he should be summoned by notice to appear and conform within six weeks. Notwithstanding appellant had acknowledged notice and undertaken to appear, still on the 11th of August 1836, he had failed to do so; in consequence, Mr. Rattray directed the case to be struck off the file of pending cases.

On the 10th December 1836, appellant moved the court to revive his appeal; he excused the

* Digest, b. 3, chap. 1, v. 29.

† Digest, b. 3, chap. 1, v. 40.

Appendix III.

Reports.

the delay in performing conditions, by urging, that on his return home to get security he fell sick for one and a half year; and that he supposed that the delay of six weeks was to be counted from his acknowledgment, and that he had accordingly arrived on the 12th August, one day after the case had been struck off. As without his return home he could not procure bail, and was provided with none, he returned to procure it without moving the court to revive his appeal, which he now did with necessary security.

On the 30th September 1839, the case being revived came on for trial before Mr. Abercrombie Dick, a judge of the court, when he ruled that the decisions of the sudder amin and zillah judge were imperfect, and directed the case should be restored to its number, and after taking further evidence, decided on its merits. Mr. Dick remarked: "The judge writes that the bill of sale produced by plaintiff is without doubt fabricated. It was wrong in him to decide the case merely on the evidence of a few witnesses taken before the sudder amin."

No. 11.

Sudder Dewanny Adawlut, 22 April 1840.

Shekh Taki and others, Appellants.

On the 15th May 1799, in the civil court of Sylhet, Muhammad Kadir of Zafur Gurh, in that zillah, against Hatla, Sanai, Adhum and Pokai (Muslims), instituted an action, of which the object was to establish his dominion over the defendants as his slaves. He alleged that they were his hereditary slaves, and had recently deserted. Hatla was brought in on the first process, and imprisoned on defect of security given, but he was enlarged when prosecutor failed to provide for his subsistence. The other defendants evaded; and the case was tried *ex parte* as regarded them.

Hatla in his defence denied his servile state.

On the 30th November 1799, Mr. Christopher Robertson, the judge of the zillah, passed this judgment: "It appears from the evidence of two witnesses examined on behalf of plaintiff, that defendants are the hereditary slaves of plaintiff. They, and their father, have rendered servile offices to plaintiff for more than 12 years; one witness says 21, the other 30 years. It is decreed that they will continue to serve plaintiff as slaves. If defendants can prove that plaintiff ill-uses them, they may obtain redemption on payment of 300 kahuns of cowries, the valuation in the plaint. Plaintiff will recover costs of suit from defendants."

In the year 1827, in the civil court of Sylhet, Muhammad Kadir brought a second action, of which the object was to establish his dominical right against the same Hatla, Sanai, and other persons, their kinsmen. The cause of action was estimated in the sum of 144 rupees. The plaintiff alleged, "that since the former decree, the former defendants, with their families, attended and rendered me service. In 1225 (1811), Sanai, Hatla and the other members of the family deserted. Some have settled at village Chand Haveli, in pergunnah Lakara Sate, the property of Murari Chand. These were Sanai, Hatla, Ujhai, Baz and Taki, the uncle's sons, and Bahadur, the whole brother of Sanai, Wasi, the female Alu and Aghun, children of Hatla's sister. Others have settled at village Rand Bari, pergunnah Baldar. These were Mufti, the son of Pokai's sister, and Khalil, his whole brother. Shekh Rahmut, who is the son of Adhum's sister, has settled at village Putta Gaon, pergunnah Doadi."

Of the defendants, Khalil admitted the claim of the plaintiff, and the rest did not originally appear. After evidence received, the sudder amin, Gholam Yahi, adverting to the former judgment, on the 10th July 1828, passed a decree in favour of plaintiff's claim.

From this decision an appeal was preferred to the zillah judge. The parties appellants were Shekh Hatla, Baz, Taki, Wasi, Aghun, Zaki, for selves, and as guardians of Lufu, the minor son of Sanai, who had died, Mariak, the widow, and Nazir and Wazir, sons of Ujhai, for selves, and Nasir, a third son of Ujhai, Zain Bibi, the widow of Bahadur, for self, and Shekh Mukim, her minor son, Alu and Shekh Rahamat. The appellants alleged that they were free cultivators. Golam Kadir having died, was represented by his widow, Rajab Banu, and his adult son, Muhammad Nadir. Pending appeal, the female Charu and others, kinsmen of defendants, intervened. They alleged that they and defendants were the hereditary slaves of the plaintiff, and prayed judgment against defendants, lest they suffered inconvenience from the emancipation of defendants, who would cease to consort with them.

The principal sudder amin, to whom the case was referred, after taking evidence on both sides, confirmed the decision of the sudder amin. He observed, that "it is true that the witnesses of appellants support in a manner their case; but in 1799 a judgment was obtained by plaintiff against the defendant, Hatla, and others, and the plaintiff's witnesses establish that the defendants are the hereditary slaves of plaintiff. Though the case was long pending before the sudder amin, yet appellants filed no documents, such as releases, showing that they were free cultivators."

On the 13th of June 1835, the zillah judge admitted the special appeal from this judgment for which application had been made. The appellants were Taki 2d and Zaki 2d, sons of Hatla (who had died), Baz, Wasi, Aghun, for selves, and Lufu, minor son of Sanai (who had died), Nazir and Wazir, sons of Ujhai, for selves, and minor brother, Nazir, Zain, the widow of Bahadur, for self, and minor son, Mukim, and Alu, female. The appellants urged, "We are free; in 1217, B.S., we left our location on plaintiff's estate, and settled on the estate of Murari Chand, whose discharges for rent we hold. The former decree, on which the sudder amin relies, does not show what ancestor, and of which defendants, became the slave of any and what ancestor of plaintiff, and how." The judge admitted the

the special appeal with reference to the disputed issue of fact in regard to the year in which defendants left the estate of plaintiff, which fact did not appear to his judgment to have been sufficiently investigated.

The widow and sons of plaintiff being summoned, defended the appeal. On the part of appellant were exhibited various receipts for rent, and it was alleged that similar documents obtained from plaintiff had been burnt. Mussamat Nasha, the mother of Taki and Zaki, intervened by petition, stating that she was ready to serve plaintiff's family, but was grieved for her sons. Mariak, by petition, alleged that she joined her sons, Wazir and Nazir, in appeal, but since it was dismissed had attended on plaintiff, her master; but she felt for her sons, and if they were declared free by the court, she hoped to be released also. After further evidence taken as to the disputed point noticed, Mr. Henry Stainforth, the zillah judge, on the 26th of December 1838, passed judgment in these terms: "I do not credit evidence of defendants' witnesses, adduced to prove the emigration in 1217, whereby the claim would be barred by rule of limitation. Were the fact so, defendants would have pleaded it in the original trial; so also would they have charged it in their first petition of appeal. The three witnesses adduced by defendants in first appeal do not depose consistently as to time when the family of the defendants emigrated from the estate of plaintiff. The witnesses of plaintiff prove that the desertion occurred about nine or ten years before suit; consequently the claim is not barred by rule of limitation. Bhagu Ram Datt, the agent of Murari Chand, deposed that the defendants located themselves on his master's estate in 1217, but Murari does not specify any precise time. The assertion of defendants, that they were settled as ryots on plaintiff's estate, was not proved by any deed, and the asserted loss of receipts by fire is a pretext. Defendants are proved to be hereditary slaves of plaintiff, by the evidence and by the decree of 1799 above mentioned. Of the original defendants, Hatla had died, leaving sons, Taki and Zaki. Sanai had died, leaving an adult son, also called Zaki, and Lufu, a minor. Ujhai had died, leaving Wazir, Nazir and Nasir, his sons. Bahadur had died, leaving a widow, and Mukim, a minor son. I affirm the judgment of the lower courts. Let appellants, Mufti, Khalil and Shekh Rahmut be made to serve respondent; and so also Muriak, widow of Ujhai, if she do not voluntarily serve. As to the unadult defendants, there is no need to issue any order. Parties will pay their own costs."

On the 6th April 1836, a petition by way of appeal, on the part of the nine appellants, was presented to the Sudder Dewanny Adawlut. The petitioning parties were Taki, Zaki, sons of Hatla, Baz, Wasi, Aghun, Taki, Nasir, Zaki 2d, and Alu. They prayed interference of the court to procure them liberty. The substance of their petition was this:— "1. The claim of plaintiff was barred by lapse of time, as we proved. 2. Shekh Zaki and others are our kin. They also, in 1217, located themselves with us on the estates of Murari Chand. Nawab Ali, brother of Muhammad Kadir, sued at the same time to establish his dominion over them. They exhibited the baboo's receipts, and their witnesses by the judge were credited as to their location on his estate in 1217, more than 12 years before suit, and the decisions of the same sudder amin and principal sudder amin were reversed on the 15th September 1835. 4. The decree of 1799, on which zillah judge relies, is of no avail. That decree resulted from a vindictive suit of plaintiff, who resented the emigration of the defendants as free tenants. No evidence was taken on part of defendants. The decree, too, provides for redemption of defendants. It was this clause which caused defendants to acquiesce. 5. No other proof showing the origin of our alleged hereditary slavery was adduced. The judge first notices this. It cannot be justice, that, like cattle and quadrupeds, we should be coerced into slavery, and be utterly ruined. 6. Under the Muslim law infidelity and capture in war are essentials to legal dominical power. We refer to the precedents of the case of Shekh Khawaj and others,* also to the case of Nair † *alias* Narayan *v.* Ramnath Sarma and others. As contrary to Muslim law and the regulations, a claim to slaves was dismissed. We refer also to Macnaghten's Mahomedan Law, p. 312, No. 1,022, Constructions; and section 14, Regulation III. of 1793."

On the 3d June 1839, the application was heard by Mr. J. F. M. Reid, a judge of the court, when it appeared to him that the judgment of the zillah judge on the special appeal was final, and no further appeal was admissible. But it was urged on the part of the applicants, that notwithstanding section 28, Regulation V. of 1831, in the case of Ram Gopal *v.* Ghokal Chandra, an appeal from a decision in special appeal had been admitted by Mr. R. H. Rattray, another judge, on the 29th July 1834, with reference to this, that the freedom or servitude of appellants was the issue of the case. Mr. Reid required production of copy of the rubakari of Mr. Rattray. This accordingly being produced, Mr. Reid resumed consideration on the 26th February 1840. He remarked, that the appeal of Ram Gopal was admitted as a third or special appeal by Mr. Rattray, with reference to the subject matter of the action, notwithstanding that, under section 28, Regulation V. of 1831, the zillah judge's decision on an appeal from the sudder amin was final. The present case was decided in special or second appeal by the zillah judge, and the application was really for a third appeal. Mr. Reid added: "I do not find from the circumstances of the case any special ground for interference. To consider the subject matter as a sufficient reason seems contrary to section 28, Regulation V. of 1831." Mr. Reid postponed final order that he might consult his colleagues; and directed the serishtadar to report if any other judge had joined in Mr. Rattray's order.

In

* No. 2 of this Appendix.

† No. 7 of this Appendix.

Appendix III. Reports.

In the case which Mr. Reid submitted to the court at large, he thus wrote: "While I was preparing a memorandum of this case for the English sitting, with a view to take the opinion of the court as to the propriety of any interference with it, we have received the sentiments of the western court and government on the subject. The western court now hold the interference of the sudder courts to be barred wherever the laws declare the order of the zillah judge to be final; and the government to whom, in consequence of a difference of opinion between the two courts, the papers were referred, concur with the western court. But it must be observed, that it has been the practice for the sudder courts, in virtue of the general powers of control vested in them, to interfere in such cases wherever excess of jurisdiction, manifest illegality, or gross and glaring irregularity may be apparent on the proceedings of the lower courts. (*See* Constructions, Nos. 1,003, 1,045 and 1,113.) In the precedent cited, no such special ground is stated to have induced the interference of the court; I therefore conceive that it is not incumbent on me to follow it in the case now before me. On this point, I solicit the opinion of the other judges, and also as to the mode in which I should proceed. My own opinion is, that I should, by an order in the native department, reject the prayer of the petition (without reference to the pleas urged by the petition, which can only be listened to when an appeal is admissible) as beyond the competency of the court to grant, and (as this order would be contrary to the precedent cited) send on the case for another voice."

"P. S.—I understand that the case of Ram Gopal Deo having been taken up in regular course by Mr. Dick, the decisions of the lower courts have been annulled, and the case referred back for further inquiry."

Mr. Reid's colleagues, Mr. Rattray, Mr. Tucker and Mr. Lee Warner, concurred in the opinion by him expressed; Mr. Rattray remarked that the opinion expressed by government was decisive; and Mr. Lee Warner, concurring, added, "that until a new act was passed, the court could not interfere." On the 22d April 1840, the report of the serishtadur beng read, Mr. Reid recorded his opinion, that any interference of the court on the matter of the petition would be improper, and directed that the case should be submitted for final judgment to another judge. Mr. Reid remarked: "The case was finally disposed of in special appeal by the zillah judge. Although the petitioners exhibit, as a precedent, the judgment of Mr. Rattray admitting the special appeal of Ram Gopal Deo, still I am of opinion, with reference to clause 1, section 28, Regulation V. of 1831, the interposition of the court in the matter would be improper."

Remark.—Though final judgment has not been passed, the principle by which it is to be governed is settled.—(May 15, 1840.)

Appendix IV.

Saugur and Nerbudda Territories.

1. From the Honourable Mr. F. J. Shore, Officiating Commissioner, Jubbulpore, to Mr. H. B. Harington, Officiating Register, Nizamut Adawlut, Allahabad.
2. From Lieutenant M. Smith, Officiating Principal Assistant Commissioner, to the Honourable F. J. Shore, Commissioner, Jubbulpore.
3. From Major R. Low, Principal Assistant Commissioner, Jubbulpore, to Mr. H. B. Harington, Officiating Register, Sudder Dewanny and Nizamut Adawlut, Allahabad.
4. From Mr. D. W. McLeod, First Junior Assistant, Seonee, to the Honourable F. J. Shore, Officiating Commissioner, Jubbulpore.
5. From Mr. M. C. Ommaney, Officiating First Junior Assistant, Baitool, to Mr. H. B. Harington, Register, Sudder Dewanny and Nizamut Adawlut, Allahabad.
6. Letter, dated 29th April 1831, from Mr. F. C. Smith, Agent to the Governor-general, addressed to Captain Crawford, containing general instructions in regard to slave cases, enclosed in above.

Appendix IV. Returns. No. 1.

From the Honourable Mr. *F. J. Shore*, Officiating Commissioner, Jubbulpore, dated 8th March 1836, to Mr. *H. B. Harington*, Officiating Register, Nizamut Adawlut, Allahabad.

2. First. In these territories the practice of slavery seems to have had scarcely any reference to either Hindoo or Mahomedan law on the subject; moreover, the customs seem to have been very uncertain and arbitrary in different places, and at different times.

Second. Slaves were procured almost entirely by purchase of children from parents or relations in times of scarcity. The numbers do not appear ever to have been great, and are now very small indeed.

Third. The power of the masters over the slaves is by some, particularly the petty rajahs, asserted to have been unlimited, even extending to death; by others this is denied. I imagine, that in reality, it very much depended on the good understanding between the individual and the local governor.

Fourth.

Fourth. The masters were considered bound to afford protection to their slaves; to pay the expenses of their marriages. The progeny of slaves is by some asserted to have been free, by others not.

Fifth. The services on which slaves were employed appear to have been precisely the same as those of servants, either in domestic attendance, agriculture, or as military retainers.

3. In reply to the second query of Mr. Millett's letter, it does not appear that any cases have ever been preferred before the courts in these territories, excepting of the following natures:—

First. Demands of parents or other guardians to reclaim children sold by themselves during a period of scarcity or distress. In this case the practice has generally been to restore the children on repayment of the charges incurred for their subsistence. Lieutenant Smith, officiating principal assistant of Saugur, states, "that in cases, which are the most frequent, of the utter inability of the claimants to meet this charge, I have directed service to be levied from them by the purchaser for a fixed term, according to an equitable computation; or, if the child is old enough to be of service in his household, I have allowed the employer, on default of reimbursement for his expenses, and on condition of continuing to feed and clothe the child, to retain him or her for the same period in the relation of an apprentice; rather than incur the additional expense of which, without any ulterior object, the purchaser has generally foregone all claim and given up the child to its natural guardian, taking credit for having supported it meanwhile in charity."

Second. Female slaves complaining of ill-treatment by, or claiming their freedom from, bawds, and bawds wishing to reclaim their female slave prostitutes who have absconded.

4. By some officers the claims of the bawds seem to have been allowed; in others disallowed.

5. The practice of the different magistrates and courts seems to have varied much, to the great vexation and annoyance of the people. It would be highly desirable that a definite law should be passed, either totally abolishing slavery or allowing it; and if the latter, declaring under what rules and regulations it should be tolerated. There may possibly be some districts in which it would be impolitic to interfere with the ownership of masters over their slaves; but within the limits of the Agra presidency some such rules as the following might, I think, be safely and expediently enacted:—

First. None but a parent or legal guardian to sell a child; the sale to be registered in the office of the judge, or one of the local munsifs, or other authority.

Second. The rights over the child sold to be those only which the parent or guardian himself possesses.

Third. The purchaser to have the power to make the slave work, and to inflict chastisement in moderation, just as the parent or guardian would have done if he or she were in the labouring class.

Fourth. Ill-treatment of the slave by the master or mistress punishable by fine before a magistrate; gross ill-treatment to entitle the slave to freedom.

Fifth. Every male slave to be entitled to his freedom on claiming it on coming of age, or at any subsequent period.

Sixth. Every female slave to be entitled to demand her freedom on coming of age, or at any subsequent time, and to a small sum of money (the amount to be specified), as a dowry.

Seventh. A proclamation to be issued to all now possessing slaves, whether procured by purchase or born in slavery, to register them; after which the slaves to be subjected to the above rule.

Eighth. In the event of proclamation being neglected, at the expiration of (say) one year from its date, all unregistered slaves, if discovered, to be at once declared free.

6. It is urged by some, that the parents or legal guardians should be allowed to redeem the child at any time by payment of the sum originally received by its sale. I have some doubts of the expediency of any such rule; such to be fair should be reciprocal; and if the above be allowed on the one hand, on the other, the purchaser should be at liberty to return the child to the parents, reclaiming the sum he had paid. The practice of Lieutenant Smith shows the difficulty which would be entailed by such a rule when the parents would not pay.

7. There is an analogy in the case of apprenticeships in England. No parent can take away his child (except the indentures be cancelled in consequence of ill-treatment on the part of the master) until the period of apprenticeship has expired. If such were allowed, all the diligent lads who had learnt their trade speedily would be taken away by their parents, that they might earn money as journeymen, the idle and troublesome only being left with their masters. If the parents were allowed the power on the one hand, the masters on the other, must, in fairness, have the option of returning such apprentices as were idle and useless. This would be the abolition of apprenticeships, since it would be useless drawing up contracts which might be infringed by either party at his pleasure.

8. In this country, the chief object of tolerating a modified slavery (and slavery under the rules above suggested would be no more than an apprenticeship) is, that a family, by selling, or in fact binding apprentice, one of the children, should be saved from distress or even starvation. The object of the buyers would be to procure servants and attendants, whom it was worth while to take considerable trouble in instructing, because they were sure of their services for several years, and very probably for their lives; since it is but natural that men would remain in the same family in which they had so long lived if well treated.

Appendix IV.
Returns.

9. Only the poorest of the labouring classes, and that only in a time of distress, would sell their children. The idle children who would not work would not be reclaimed by their parents; and it would be any thing but equal justice that the parents should be able to reclaim those who were worth taking; many, perhaps most of whom, would prefer remaining with their masters, while the good-for-nothing should be left on their masters' hands.

10. Place the matter in the following light. A family consists of a man, his wife and two or three children. After struggling against distress caused by a bad season, he in the month of December sells his youngest boy, aged four years old, for 10 rupees, which sum enables his family to exist until the next wheat harvest in April; whereas they would otherwise have certainly died of starvation. After this, the harvest being good, and work obtainable, the family continue to live in tolerable comfort; but finding that the child sold is very comfortable with its master, the father does not reclaim it. The master supports the child, and, as he grows up, has him taught to read and to perform various services. When he is about 10 or 12 years of age, and able to make himself useful, the father claims him, while he would probably prefer remaining with his master, being too young to remember his parents, on repayment of 10 rupees. This can hardly be called justice. Even if he were obliged to pay the sum he had received, with simple interest at even 24 per cent., it would amount to but a small portion of the expense of the master, to say nothing of the latter's trouble. To attempt to settle the proper remuneration to the master would be very difficult. It would probably be better that the parent should not have the right alluded to; for, although few would enforce it, the fear of its being done would prevent most people from buying children in a scarcity.

11. All slavery for the purpose of prostitution should be prohibited.

No. 2.

FROM Lieutenant *M. Smith*, Officiating Principal Assistant Commissioner, Camp Marowrah, dated 16th December 1835, to the Honourable *F. J. Shore*, Commissioner, &c., &c., Jubbulpore.

I HAVE had the honour to receive your circular, No. 1,685, dated the 24th ultimo, with its enclosures from the Sudder Adawlut, at Allahabad, and the law commissioners, regarding the principles and practice of our courts in respect of slaves.

2. I may premise in the words of Mr. Macnaghten in his preliminary remarks to the Principles and Precedents of Mahomedan Law, as quite applicable to this part of the country, that "of those who can legally be called slaves, but few at present exist;" and of those that do exist I may add, the condition is so comfortable and easy that the relation is hardly to be recognized.

3. The observations which immediately follow the words I have quoted, and those contained in a note in the next page (page 40) by Mr. Colebrooke, sufficiently account, perhaps, for the fact, that very few cases of slavery are ever brought before our courts. In the course of an experience of six years in these territories, I have met with none save those.

1st. Of parents or other natural guardians reclaiming children sold by themselves or others, during a period of scarcity or distress. 2d. Female slaves complaining of ill-treatment by, or claiming their freedom from, bawds who, having purchased them in their infancy, have brought them up to a life of prostitution.

4. I recollect no instance of a complaint from or against, or of any claim to, the person of a male adult slave, as such; and should any suit for emancipation occur, although I should necessarily be guided generally by the Hindoo and Mahomedan laws respectively, as far as they are understood here, yet after the conflicting principles and precedents which may be adduced, and the latitude which seems to be allowed by section 9, Regulation VII. of 1832, as well as by the practice of our courts in this territory, I confess I should be at a loss how to decide on any other principles than those of common sense, justice and good conscience.

5. The regulations not having hitherto been in force here, and no specific rule having been ever, so far as I am aware, laid down for our guidance respecting slavery, I have never had in the courts, with which I have been connected, any other guide than precedent and the custom of the country, modified by the discretionary power vested in the assistant, whose decisions are supposed to be governed by equity and reason. Such being the undefined nature of the law of slavery in these parts, the tendency of our practice, so far as my observation and experience extend, has been to condemn the principle altogether, and wherever it could be done with safety and without interfering too much with popular prejudices, to disallow its operation. But the promulgation of some certain and well-defined law on the subject appears highly desirable, and I myself see no danger in one of prospective effect, which should make all slavery from and after a fixed date illegal.

6. Here, in the absence of any distinct rule, the practice of one district has doubtless varied from that of another. In the first of the two cases instanced by me, while the custom of the country recognizes such a species of slavery, both with respect to Hindoos and Mussulmans, still, as it may be departed from without any ill effects, the practice of the ministerial officers does, I believe, vary. I myself have always restored the children on repayment to their protector of the charges incurred for their subsistence; and in cases which are the most frequent, of the utter inability of the claimants to meet this charge, I have directed service to be levied from them by the purchaser for a fixed term, according to an equitable computation; or if the child is old enough to be of service in his household,

I have

I have allowed the employer, on default of reimbursement for his expenses, and on condition of continuing to feed and clothe the child, to retain him or her for the same period in the relation of an apprentice; rather than incur the additional expense of which, without any ulterior object, the purchaser has generally foregone all claim and given up the child to its natural guardian, taking credit for having supported it meanwhile in charity.

7. In the case of slave prostitutes forming particular attachments and claiming their freedom, I have known the right of the master or mistress to their persons to be admitted, on proof of purchase from a parent or natural guardian; and this indifferently whether the girl and her purchaser were Hindoo or Mussulman. But my own rule, even if the purchase could not be invalidated, which is rarely the case when closely inquired into, has been to consider the female as entitled to her freedom after the age of 15, on paying what shall be considered by arbitrators an equitable remuneration for her food and clothing during her minority, and making due allowance for the wages of her prostitution, which have been enjoyed by her mistress, and which in most cases of this kind may well be considered to have discharged the debt.

8. After what I have said, it may seem unnecessary to go into greater detail on the points proposed by the law commissioners. Where the practice of slavery is discountenanced in the manner I have briefly described, in all cases of the nature alluded to in the last paragraph of Mr. Millett's letter, I would, on the same principle, give the slave the benefit of that law which was most favourable to his emancipation; and certainly would not support or enforce any claim to property in a slave, by any other than a Mussulman or Hindoo claimant, and not then if illegal by their own laws.

9. I will only observe in addition, with reference to the 2d and 3d queries of the law commissioners, that no acts such as would be punishable in other cases would in this court be held justified by the circumstance of the oppressed being the slave of the oppressor; nor would such relation between the parties be suffered to operate in mitigation of the punishment; but how far we should be justified in the eyes of the law by following the dictates of reason and humanity, and emancipating a slave, whether Hindoo or Mussulman, from a tyrannical master, on proof of gross and incorrigible ill-treatment, I am unable to say, though such would, I think, be the practice of this court.

No. 3.

From Major *R. Low*, Principal Assistant to Commissioner, Jubbulpore, dated 31st January 1836, to Mr. *H. B. Harington*, Officiating Register to the Court of the Sudder Dewanny and Nizamut Adawlut, Allahabad.

I have the honour to acknowledge the receipt of your letter, No. 73, of the 15th ultimo, calling for the report required by the circular order of the court of the 13th November last, regarding the system of slavery as prevailing in this country.

2. I beg leave to state, that the reason why I did not at once reply to the order in question was, that I had no facts to furnish from personal experience on the subject.

3. The number of slaves in the district of which I have charge is very small, and they are only to be found in the situation of domestic servants. Their treatment in that capacity would certainly appear to be good, as in the course of my experience I cannot recollect an instance of any complaints preferred by them of cruelty or hard usage by their masters.

4. Most of these persons became slaves by having been sold by their parents, who were unable to support them during the frequent famines which have occurred in this part of India; and, in the same manner, great numbers of children belonging to the starving population of Bundelkund were sold by their parents here and elsewhere, during the two years that preceded the last year. Most of these sales were made privately, but whenever the parties came to my kutcherry to have the bargain publicly sanctioned and registered, I have always informed them, that in the event of the parent appearing at any future period to claim the child, that it would be required to be given up, on the parent paying a reasonable sum for its subsistence and education, should the latter have been bestowed upon it, the amount of such remuneration to be determined by arbitration, should the children be so claimed.

5. Upon the various points alluded to by the secretary to the law commission, I presume it cannot be the wish of the court that I should obtrude my opinions,—the object of the inquiries apparently being to ascertain the usual practice in such cases in the various courts and districts of the Agra presidency.

No. 4.

From Mr. *D. F. McLeod*, First Junior Assistant, Seonee, dated 26th December 1835, to the Honourable Mr. *J. F. Shore*, Officiating Commissioner, Jubbulpore.

I have the honour to acknowledge your letter of the 24th ultimo, forwarding a circular from the Nizamut Adawlut on the subject of slaves.

In regard to the first point, "the legal rights of masters over their slaves recognized by this court," I am unable to state definitively what has been the practice observed heretofore, as I am not aware of any cases involving the question which have come under investigation. The view of the matter, however, by which I should myself be guided as that which appears to me most in conformity with the views of respectable natives themselves, is, that the property of a *bonâ fide* slave is the property of his master, saving what the latter may have himself bestowed; and that the slave's person, in like manner, is claimable by the master for the

performance of all lawful services, such as may be obtained from others for hire, including, as regards female Mussulman slaves, concubinage, though not prostitution. And I would here observe, that I should consider the slave as having a reciprocal claim on the master for food, clothing, and lodging, which principle has been observed in cases decided at Jubbulpore.

On the second point, I should consider any act of coercion, which a court of justice would not prohibit on the part of a parent towards his child, to be admissible on the part of a master towards his slave. Any thing partaking of cruelty or vindictiveness, I should consider it incumbent on me to check, in either instance, by the infliction of a punishment on the aggressing party, though I should not deem myself authorized directly to liberate the slave on this ground, and, indeed, I am not aware of any definite distinction, as regards the acts, admissible, which I should admit between this relation and that of master and servant, as the liberty possessed by the latter, to quit an irksome service, furnishes him necessarily with a safeguard much more effectual than any minute interference of the court in his favour.

In illustration of the above view, I may mention, that not long ago a Mussulman of Seonee requested my permission to place an iron on the leg of his slave, who he stated would not obey his orders. My answer was, that kind and judicious treatment would be his only effectual means of obtaining work from him, and that I could on no account listen to such a request. I believe that other Mussulmans in court at the time viewed this as the only just order that could have been passed.

The indulgence extended to Mussulman slaves in criminal matters refers, I conclude, to their conduct towards their masters only; and here I should view the relation in the same light as above indicated; viz. all smaller offences, such as parents are in the habit of themselves correcting, if committed by a slave, I should consider as more fit for the cognizance of the master himself than of a court of justice, while, as regards all more serious offences, I should recognize no distinction between slaves and other individuals.

In answer to the third point inquired of by the secretary to the law commission, I am unaware of any cases in which I should afford less protection to slaves than to free persons against other wrong-doers than their masters, but in all such cases I should consider the latter as a party concerned, and would hold him responsible if he did not use his endeavours to protect his slave.

With reference to the 4th paragraph of Mr. Millett's letter, I need scarcely add, that in the above view I have been guided more by the dictates of my own judgment, and what I have been able to gather of the views of respectable natives themselves, than by any reference to the codes of law. Amongst Mahomedans, I believe that capture in an infidel land is the only authorized source of slavery; so that a legal right to the possession of a slave can scarcely be said at the present day to exist among them, while, as regards Hindoos, from the vyavasthas on record, and their own views, there would appear to be no sufficient ground for the governing powers hesitating to prevent cruelty or violence towards the slave.

In this view I am aware of no distinction I should make between a Mahomedan and Hindoo slave-owner, save in regard to concubinage, which the former view more in the light of marriage—the latter of prostitution and contamination; and considering the relation as conferring reciprocal rights, without giving to the master the power of exercising cruelty or violence any more than is possessed at all times by a parent, I should not be disposed to make any distinction in regard to persons of any other race. Slavery in this part is a widely different thing from what it is in some parts of the Dhukin, being, in fact, much more of the nature of a domestic tie than a condition of constraint. The obtaining possession of children, either by purchase or gift, is a thing which the frequency of famines occurring in a country only thus civilized renders so inviting, that I doubt whether any law will put a stop to it at present; while it may be questioned whether its entire prohibition consists at all times with charity and the public good; and the maintenance of the relation on the footing above indicated appears to me all that is necessary, in conjunction with the laws prohibitory of slave selling as a trade, in order to prevent its engendering serious evils. Already there is a very general feeling amongst natives, that under the British rule (more in consequence of its moral influence than any direct enactment) there is little advantage in the possession of a slave; for as they either are not permitted, or do not venture forcibly to detain them in their keeping, instances are daily becoming more frequent of slaves, on reaching maturity, deserting even from masters who have treated them with uniform kindness, and generally speaking, carrying away with them a portion of that master's property.

No. 5. FROM Mr. *M. C. Ommanney*, Officiating First Junior Assistant, Baitool, to Mr. *H. B. Harington*, Register, Sudder Dewanny and Nizamut Adawlut, Agra Presidency, Allahabad.

I HAVE the honour to acknowledge the court's letter of the 15th November 1835, annexing a letter from the Indian Law Commissioners on the subject of slavery, and to submit such answers as the materials at my command and my own short experience enable me.

1. Cases involving points of disputes as to the proprietary right of slaves, whether as concerns their persons or property, have seldom or never come before this court. I have carefully examined, however, such as have occurred, as likewise such documents in the office as relate to the subject of slavery. Slavery, indeed, is hardly known in these parts—I mean the

the parts which were under the Maharatta rule; and where it does exist, it is in a mild form. The greater part of the slaves became so in consequence of famine, or the exorbitant prices of the necessaries of life. It is consequently found that only the richer and more wealthy part of the community are slave-masters. The slave is treated more as a member of the family than a hired servant or labourer. An attachment is generally engendered between them, bearing the character of that between parent and child. The master is considered to have a legal right to the slave's services and to his property, and in the event of his emancipation, can claim remuneration for the expense of feeding and clothing him. Such a thing as the sale or transfer of a slave, however, rarely or ever occurs, save on occasion of an extraordinary nature, such as famines or family distress.

2. Cruelty or maltreatment is not considered a justification of an act of liberation. The master may inflict on his slave such moderate chastisement as he may consider requisite; but a slave has as great a right to protection against severe and cruel treatment as any other British subject. I have reason to believe that this rule existed in force, as well under the Maharatta as under the British Government. I am not aware that indulgences of any sort have ever been or are ever granted to either party, master or slave, in any case. A master would be bound down by recognizances and sureties to keep the peace towards his slave equally as he would towards any other person.

3. There are no cases in which this court has ever afforded or would afford less protection to a slave against wrong-doers than to any other person.

4. In reply to the closing paragraph, I should be guided in all cases by the law, religion or usage of the defendant; and as slavery is not recognized, except between Mussulmans and Hindoos, I should not consider myself justified in enforcing any claim to property, possession or service of a slave on behalf of or against any others than Mussulmans or Hindoos.

5. That the court may have the fullest possible information on this subject, I do myself the honour to annex a copy of Mr. F. C. Smith's instructions on the subject of slavery. By the rules contained in this letter, all decisions are made and cases disposed of. With a view to ensure more uniformity between the system in force in these and the regulation territories, Captain Crawford was furnished, at his request, with a variety of cases disposed of in several courts of the western provinces, and these, together with the annexed instructions, form the guides for the assistant in any cases that may arise.

6. Indigenous slaves, I believe, scarcely exist here. Such as have become so were sold to their owners in the famine in 1818–19, or more recently in the terrible drought which occurred in this district and Berar in 1832. The only hope that parents had of seeing their offspring live, the only means of rescuing them from inevitable death, was their sale, which was carried to a great extent, though the liberality and charity of gentlemen were exerted to the utmost to prevent such a calamity. Of those sold, however, the greater number have been freed by the masters themselves, and a large proportion liberated on the parents' reimbursing the owners for the money expended in their food and maintenance.

No. 6.

From Mr. *F. C. Smith*, Agent to the Governor-general, Jubbulpore, dated 29th April 1831, to Captain *Crawford*, Principal Assistant to Governor-general's Agent, Saugur and Nurbuddah Territories, Baitool.

In reply to your letter of the 25th instant, I beg to state, that the only law passed by our government respecting slavery, is Regulation X. of 1811, which prohibits the importation of slaves by land or by sea into all places dependent on the presidency of Fort William, under a penalty of imprisonment for six months, and a fine of 200 rupees, commutable to six months' additional imprisonment; and persons imported as slaves are directed either to be discharged or sent back to their friends and connexions in the country from which they may have been imported, as may appear most advisable to the magistrate deciding the case; there is consequently no law prohibiting slavery within our own territories. On the contrary, questions of slavery have by several decisions of the Sudder Dewanny Adawlut been recognized as legal, and decided by the provisions of the Hindoo and Mussulman laws, according as the religion of the parties may have been.* In the year 1798, the court of Sudder Dewanny Adawlut stated their opinion, that the spirit of the rule for observing the Mahomedan and Hindoo laws was applicable to cases of slavery, though not included in the letter of it; which construction was confirmed by the Governor-general in Council on the 12th April 1798.

2. A reference was also made by the superintendent of police for the western provinces, on the 19th July 1814, to the Nizamut Adawlut, stating that instances had occurred of people having been subjected to punishment for the imputed offence of having sold or purchased slaves within our territories, and submitting an opinion, that the law exclusively prohibits the importation of slaves by sea or by land from the foreign states, but does not either supersede the operation of the Mahomedan law, or interfere with the purchase or sale of slaves within the Company's territories who may not have been so imported, and requesting to be informed whether his construction was correct. He was informed in reply, his construction of the law was correct and proper.

3. There

* Mussummaut Chutroo, appellant, *v.* Mussummaut Jussa, respondent (*vide* No. 1, Appendix III.) The case of Hadi Yar Khan (*vide* Enclosure of No. 84, Appendix II.)

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3. There are only two descriptions of persons recognized as slaves under the Mahomedan law; first, infidels made captive during war, and secondly, their descendants. These persons are subjects of inheritance and of all kinds of contracts in the same manner as other property; but as to slaves, in popular acceptation of the terms, such as those purchased in times of famine by Mussulmans and others, the legality is denied. In fact, the practice among freemen and women, of selling their own offspring, is declared to be extremely improper and unjustifiable, being in direct opposition to the principles of Mahomedan law, viz., that no man can be a subject of property, except an infidel taken in the act of hostilities against the faith. In no case, then, can a person, legally free, become a subject of property; and children, not being the property of their parents, all sales or purchases of them, as of any other article of illegal property, are consequently invalid. A freeman is also prohibited selling his own person, and the contract is void.

4. The Hindoo law fully recognizes slavery, which may occur from several causes; viz., capture in war; voluntary submission to slavery for divers causes (as a pecuniary consideration, maintenance during a famine, &c.); involuntary for the discharge of a debt, or by way of punishment of specific offences; birth (as offspring of a female slave); gift, sale or other transfer by a former owner; and sale or gift of offspring by their parents; from which may be perceived, that there are five descriptions of permanent thraldom.

5. In cases wherein both parties, or the defendant alone, are Mussulmans, you should decide according to the Mahomedan law; and when both parties or the defendant are Hindoos, by the Hindoo law.

APPENDIX V.

RETURNS of Public Officers respecting Slavery in the Province of Kumaon.

1. Eight questions circulated to certain functionaries by Mr. Lushington, the Commissioner.
2. Rubakari, dated 28th October 1839, of Mr. J. H. Batten, containing his own views, and submitting answers of subordinate judicial officers.
3. Reply of Bir Bhadra Joshi, Sudder Record-keeper of Almorah, Kumaon, to questions forwarded to the Commissioner through the First Assistant, and referred to in No. 2.
4. Reply of Trilochan Joshi, Sudder Amin of Zillah Kumaon, 2d October 1839, referred to in No. 2.
5. Report of Kishn Nand, Acting Peshkar of Huzur Collections, countersigned by the Chowdhuris and Kanungos of the Pergunnah, referred to in No. 2.
6. Report of Bhavdey Joshi, Munsif of Zillah Kumaon, 8th October 1839.
7. Report of Khushal Singh, Chhatre, Tahsildar of Kali Kumaon.
8. Proceedings of the First Assistant of Zillah Garhwal, 31st October 1839.
9. Arzi of Parmanand Notil, Record-keeper of Garhwal.
10. Report of Sevanand Khadudi, Sudder Amin, Pergunnah Garhwal, 17th October 1839, addressed to the First Assistant.
11. Arzi of Ramanund, Acting Tahsildar of Garhwal, attested by four Kanungos of the Pergunnah, addressed to the First Assistant.

Appendix V. Returns.

QUESTIONS by Mr. *G. T. Lushington*, the Commissioner of Kumaon, circulated to certain Functionaries, on 6th September 1839.

No. 1.

1. STATE particularly from what period has the custom of holding male and female slaves, halis and so forth, been current?
2. Up to what time have the claims of masters been heard in court, and in what year did the cognizance of their claims cease, and by whose orders?
3. Has the master any control over the requisition and property of his slave?
4. Are slaves of every class or only of the lower classes?
5. Has a census of slaves, with their classification, ever been made, or, if not, is it now practicable?
6. What services are exacted from slaves, halis and others respectively; what is the nature of their support and lodging?
7. They are now emancipated; before, how, and under what circumstances were they discharged; if any now apply for emancipation, how is it to be attained?
8. At present, does the former practice of selling men and women prevail in this country?

RUBAKARI of the First Assistant, Zillah Kumaon, Mr. *J. H. Batten*, 28th October 1839.

FROM the papers sent by the peshkars and tahsildars, it seems that the slaves, including halis, remain willingly. I do not, however, much rely on their assertion; for they have in their houses many slaves, and they desire that the custom should be kept up. In my opinion slaves are in comfort; and the females labour more than the males. The native functionaries write that the emancipation of slaves began from the commencement of 1836; but they do not know how the pretensions of the slaves were brought forward, and how an order for their emancipation was issued by the Governor. Mention thereof may be found in the English office and correspondence. Since 1836, in suits for slaves, orders for their discharge are passed, and when it has happened that a master restrained his slave, on report, the magistrate has taken a recognizance from him. Claims of masters against fugitive slaves have been dismissed; but they were rare. Moreover, I have learnt a new practice not mentioned in any former rubakari. It is this, that the owners take a deed of mortgage from the slaves, whereby they bind themselves to serve a defined time in consideration of a sum stated. But, in my opinion, the practice is objectionable; for the slaves do not receive the money, but their fathers or other relatives. The claim is against the receiver of the money; but contrary to this, the native judges give judgment against the slave, in satisfaction of which they render labour. Some rule on this matter should be passed. Now-a-days prostitutes do not come into the hills to buy girls; nor do people of other countries come. Girls who are kept by persons are like slaves; and in my opinion this practice is not good. But it is not easily to be put down. If any girl, in person, or her father, whom they call (governor) "naik," should make this application to the magistrate's court, that she wishes not to practise prostitution, but live by other means, in that case her mistress, that is, the bawd, must be punished.

In my opinion, it is proper that cases against slaves should not be entertained in court, and that charges of slaves for assault should be heard, and masters punished like other breakers of the peace.

Order: Let copy of this rubakari, and the replies of the functionaries, be submitted to the commissioner.

ARZI of *Bir Bhadra Joshi*, Sudder Record-keeper of Almorah, Kumaon. No. 3.

Answer to the 1st question.—FROM 1815 (the accession of the English) till 1835, the practice of selling slaves has been current in this country. The sale was made by a parent under the signature of the rajah. On the 6th February 1818, a proclamation prohibiting the sale of slaves, and minatory generally against the buyer, was issued. Subsequently, in 1824, another proclamation was issued by the court to this effect: "Whoever shall sell a widow, or his wife, the price, by way of fine, will be confiscated to government, and the woman released from the buyer." After that, on the 15th June 1836, by authority of the Governor-general, the court issued a proclamation declaring no suit for a slave cognizable. From this date the sale and purchase have ceased.

Answers to the 2d and 3d questions.—From 1815 to 1835, the practice of sale continued. It was made by a parent under signature of the rajah. If the deed on the part of the parent was not authenticated, the person alleged to be a slave was discharged. Since the date of the proclamation, the purchase and sale are stopped. In respect to the property and effects of slaves there is no judicial order.

Answer to the 4th, 5th and 6th questions.—Deeds of sale under the signature of a parent used to be sustained as legal; not those by a brother or others. On account of the illegality of the latter, the illegal slave was released. I annex a Table showing particulars of cases.

Parties.	Residence.	Dates.	Claim, and substance of last Order.
1. Birua Dom *versus* Dowlut Singh, Uttam Singh.	- - Pergunnah Chougurlah.	1818: 24 October.	- - A suit for emancipation. Let both defendants divide themselves.
2. Birun *versus* Kukuniya.	Dhyanirau -	1819: 1 June.	- - Suit for emancipation. The sale which was by a brother held to be illegal.
3. Chhuwani (female) *versus* Gita.	- - Shirkot Nadalipur.	1823: 6 October.	- - Suit for emancipation. A kinsman had sold her by a bill of sale for 15 rupees. Plaintiff declared free; price confiscated as a fine, the woman having paid it.
4. Govind (prostitute) *versus* Bijuli.	Almorah -	1823: 13 March.	- - Claim for emancipation. Defendant declared free because not sold by a parent. The ornaments made up by defendant's sister restored to her.

(*continued.*)

Appendix V.

Returns.

Parties.	Residence.	Dates.	Claim, and substance of last Order.
5. Biwali (female) *versus* Gopiya.	- - Ata Dhaniya Kot.	1824: 22 February.	- - Claim for emancipation, which was awarded. Fine of 80 rupees awarded against defendant, or six months' imprisonment if he could not pay.
6. Fowkiya Auji *versus* Maha Deo and Ram Kishn.	- - Basariya Sichalsi.	1826: 18 July.	- - Claim for emancipation of his daughter, Makani. Sale proved, and claim dismissed.
7. Gugua *versus* Hari Ram Sah.	Almorah -	1829: 31 May.	- - Suit for discharge. Plaintiff discharged, for deed not proved.
8. Jai Narayan Tiwari *versus* Beroli (girl).	Almorah -	1830: 7 August.	- - Suit for the recovery of a slave bought. Defendant made over to plaintiff.
9. Malati (female) *versus* Pukhi.	- - Dobatala Syuudara.	1832: 6 September.	- - Claim for emancipation, which is adjudged, because the deed written by the plaintiff's husband was not legal under the English Government.
10. Beelubhi Kanchani *versus* Anuwon.	Almorah -	1832: 14 September.	- - Claim for emancipation disallowed, because 80 years had elapsed from deed of sale executed by plaintiff's father.
11. Deutiya Naru *versus* Jyuni Chatrukhus.	Chakhura Agar.	1832: 17 August.	- - Claim to recover defendant, his slave. The assistant gave a judgment in favour of plaintiff; reversed on appeal, by the commissioner, on the 4th September 1832.
12. Jemadar Bhavanri Muschir *versus* Sheolabh Pant, Dhanuli (female).	- - Balvan Chhastana.	1832: 21 March.	- - Case as to sale of the girl Dhanuli to Luchhman Banjara. Plaintiff, defendant and Luchhman imprisoned three months.
13. Kishna Negipat *versus* Kishas Jinu.	Manrasah Tauli.	1834: 21 June.	- - The girl, Ramuli, was sold for 106 rupees by her father to defendant, residing with Mohuni, prostitute. On the hills a father may sell his child; but the regulations prevent sale of hill children on the plains. Now defendant does not meditate such sale, let him get charge of the girl, binding himself not to sell her on the plains.

On the 30th June 1835, was received in the commissioner's court, rubakari of the agent of Deyra Dun, of which the object is information as to the sale of persons in the hilly tract, and with it a copy of a letter from rajah Darsan Sah. The reply written was to this effect: "Every one marries, and with his money buys a woman. Brahmins do not plough with their own hands; they buy persons of the Dumara and other classes to drive their ploughs." This is the usage of this country from ancient time. In my opinion, such sale and purchase of slaves are not prohibited; only the sale of widow and of a wife (husband existing) is forbidden. In answer, a rubakari of the 21st August 1835, was written. A rubakari of the Deyra Dun kutcherry, 26th July 1827, in the case "Ghaughu, plaintiff, *versus* Kali," was also received. The object was to give information as to the theft of a bought slave. In the reply from the commissioner's court, it was stated, that in that court only the sale by the father of a slave was recognized as sufficient; but no bill of sale from any other kinsman has been recognized in court, for the father only has the power to sell a son.

No. 4. REPLY of *Trilochan Joshi*, Sudder Amin of Zillah Kumaon, 2d October 1839.

Answer to the 1st question.—As it is clear that slaves, including the hali, have been usual from olden time, I do not know why Mr. Smith, the former assistant, wrote to the sudder court his report, nor do I know what order came whereby from 1836 sale of slaves was stopped.

Answer to the 2d question.—It is apparent that formerly parents and masters used to sell slaves and halis, or transfer them to other places. Up to Sambat 1879 (1822) the sale was sustained in court as legal. Every owner who sued recovered through the court. From 1880 (1823) up to 1883, merely the sale by a parent and self sale remained legal, and owners

owners recovered objects of such sale. According to order of Mr. Turnbull, the commissioner, when the sale was by others, and claim preferred, the object was discharged; but from 1837, by order of Col. Gowan, the former commissioner, the sale and purchase of all slaves were absolutely forbidden. Be it observed, the slave or hali has control over his effects and property; on his death his heirs succeed, and, failing heirs, the same escheats to the king. If intimacy take place between the male slave of one owner and the female slave of another, and if any issue be born, the owner of the mother takes the same; but the children so born have no claim on the estate of their natural father.

Answer to the 3d question.—Most male and female slaves are in the houses of Brahmins. In those of the Khetris, Vaisyas and Soodras they are fewer. Domestic slaves are of that class by any person of which, being touched, water may be drunk. The hali is a Dome.

Answer to the 4th question.—There has not been any census of slaves taken as yet. To hold slaves does not depend on the class of the master; whoever has the means buys slaves and halis. From statements of zemindars of respectability, Brahmins, Chatris and others, it seems that a single person will have five or six male slaves, and six or seven female slaves, with their progeny, 20 or 25 souls; but a poor zemindar keeps one or two slaves, male and female, and halis.

Answer to the 5th question.—From the male and female slaves, every office, except cookery, is exacted. They and their children are fed and clad like the children of the house; they are provided with lodging in separate apartments; but the hali, who is a Dome or other low caste, is not lodged in the master's place of abode, but is located on his soil in a separate house. The treatment of slaves is various; some get two meals and clothes, and do all the work of their master at his bid; some get an assignment of land from their master's estate. They plough, cut wood and carry burthens, and otherwise labour; they cultivate the spot assigned for their support, and to this the master does not object; besides, the master on occasions of festivals and holidays gives them rations; also during the year a blanket and shoes, and at each of the harvests (autumn and spring) three or four sheaves. No rent is exacted for the land assigned for their support. The expense of the marriage of their children is defrayed by the master. Their children render the same services. Some halis get money from a master, and marry; in consideration of this, a claim for their services during life arises, but does not extend to their children. Some halis take money, engaging by yearly service to pay it off. Whatever proportion he may pay off in a year, he only gets one meal on the day he works, and gets nothing more.

Answer to the 6th question.—Slaves are sold by their parents; a brother cannot sell them. In this manner fathers of good caste will sell a daughter for money; but the father being dead, it is proper that the girl's mother or uncle should affiance her; but to take money for her is wrong. The father and mother certainly procreate their children; they decide on what is moral or immoral. In the case here put, to sell a daughter is common. If any calamity occur or offence be committed, to sell a son or daughter on that account is less immoral. The Shaster provides for sale in such cases. Slaves sold by the master have been discharged by the court, but not those sold by parents, or self-sold. Moreover, now also, if a slave sold by his master petitions, his release is proper. In case of hereditary slaves, who have become as it were house-born, there is no power of sale; nor can parents sell such. The master defrays expense of marriage of such slaves. To release such slaves does not seem proper. In this country, through domestic slaves and halis, the cultivation and respectability of the respectable classes are kept up. On family partition, slaves are first divided. If there is a sole slave, he works by turns for the joint owners, getting food and raiment from the party for whom he works.

Answer to the 7th question.—The former government by proclamation prohibited the sale of men and women, and, on proof, the seller was severely punished. But prostitutes used to buy adopted daughters (dharma putris) for their trade, and go to other countries; there was no prohibition of this. Thus, also, during the present government, they certainly were allowed to buy and sell women.

In Sambat 1866, and two following years, there was a scarcity; from this cause, in Ghurwal and Dote, several men and women were sold, but the continued prevalence of this practice does not appear. In that year the proprietor of the Gor estate was punished as a seller.

REPORT of *Kishn Nand*, Acting Peshkar of Hazur Collections, countersigned by the Chowdhris and Kanungos of the Pergunnah. No. 5.

Answer to the 1st question.—FROM the beginning, the practice of selling slaves and halis has prevailed. It does not appear when it was abolished; but in 1824 an order was issued prohibiting any one from selling a widow or his own wife; but sale of children has never been prohibited, at least we are not aware of the fact, if so.

Answer to the 2d question.—Up to 1879 Sambat (1822), on claims preferred to the court by the master, he recovered his slave, male or female, or hali, but from 1880 down to 1893 (1836) the master only recovered in cases of sale by a parent, or self-sale; where the sale had been made by others, the object was released. Laxmi-pat, by the judgment of the court of circuit, was confined on a charge of murder, and his two slaves were released. On appeal, he was enlarged by the Nizamut Adawlut, and the slaves were restored to him; but early in 1839 some order, the nature of which is not known, was received from the sudder; in consequence of it, the sale of slaves was entirely stopped. Slaves have no property, unless it

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it be personal effects, money or ornaments, according to their quality; these remain in their possession, and the master does not claim the same. After their death, their children get their effects, but if none survive, they belong to the master. With the consent of the master, their effects remain in possession of the slaves. If the male slave of one master get a child on the female slave of another, such child has no right to his father's effects, for the child is considered as the slave of the mother's owner.

Answer to the 3d question.—Except the Brahmin class, slaves are of all other classes; but any person who would have a slave should take care not to take one of superior class; it is proper to take a slave of one's own, or inferior class.

Answer to the 4th question.—There has been as yet no census of slaves. The keeping of slaves depends on means. Brahmins, Dalavas, Daftries, Rajputs, Sahukars and other persons of respectability, such as are thrifty and active, have about 20 or 25 domestic slaves, male and female. On partitions, these are divided, like other property. He who was able, used to add to his stock by purchase; he who was reduced, used to sell, keeping, however, one or two, as a matter of course. When a single slave is a joint property, he serves each joint master in rotation, and so gets support. At present the number of slaves depends on means.

Answer to the 5th question.—Every service but cooking is exacted from the Hindoo slave, to whom no event of the family is a secret. The owner supports them like his own children, and they have access into the interior of the dwelling, as if kinsmen; their support is sufficient. When the family of a male or female slave is numerous, the owner assigns them some land, and detaches them. The hali is of a low class; his owner gives him a separate house. The master allows each bought hali food and raiment. He is married at the cost of owners; for this reason his children are his master's property. Some halis take a sum of money, engaging to serve during life. The hali who cultivates his master's lands gets yearly raiment and food. Some halis receive a sum of money, engaging to work till repayment. Such a hali merely gets a single meal on the day he works.

Answer to the 6th question.—Up to this time, those slaves who have been enlarged have not been sold by parents; for, in fact, a man partakes of the portions of his father; his mother cannot sell him; therefore the sale by any but a parent is improper. Besides, when a father or mother sells a son or daughter, being in distress, there is not so much objection, for they suffer much distress by the birth of children. But owners only buy slaves for their own convenience; so, when in distress, they sell. Thus male and female slaves are in the predicament of property. For this reason owners cherish them like children, and incur heavy expenses on their marriages. Thus, in the family of a person of rank and respectability, slaves descend for generations. Some respectable persons at their daughters' marriages make male and female slaves part of the nuptial present. Slaves, male and female, are, in respectable families, from ancient time, as it were, house-born. It is not right to give them freedom, for in this country every office, that is to say, agriculture and the preservation of the dignity of respectable persons, are secured by slaves, male and female, and the halis, and the rest. But it is right to liberate those who have not been sold by a parent, or self-sold. Previous to this, slaves not in this predicament have been invariably released by the court and the rajah of the country.

Answer to the 7th and 8th questions.—Exportation for sale was originally forbidden by proclamation in this country, and those who practised it were punished, but the prohibition to buy girls did not extend to the prostitutes of this country who emigrated in their vocation; but during the English Government this practice was also prohibited to them. The Sambat years 1867 and 1868 were years of scarcity in this country. On that account men and women were exported for sale in Ghurwal and Dobti; but the practice does not obtain there.—7th October 1839.

No. 6.

REPORT of *Bhavdev Joshi*, Munsiff of Zillah Kumaon, 8th October 1839.

Answer to the 1st question.—IN former times, in this country, sale of slave, halis and others, was not prohibited. In 1824, sale of widows, and wives by their husbands, was prohibited by proclamation.

Answer to the 2d question.—From the accession of the English Government till 1836, on proof, judgment passed in favour of owners against slaves. From 1836 their claims were not heard. Thus sale and purchase were stopped at once.

Answer to the 3d question.—The master has control over the acquisitions of his slaves, but he leaves them in their enjoyment, or that of their heirs.

Answer to the 4th question.—Persons of every class (Brahmin excepted) may be slaves; it depends on means, and regard is had that the slave is not superior in caste. If superior, he may be kept in employ as a peon or other office; but a person of superior class cannot be domestic slave of a person of low caste.

Answer to the 5th question.—There has been no census. Persons hold as many slaves as they can; some have five, and some six slaves, male and female, and halis.

Answer to the 6th question.—The hali for the most part ploughs, but if he have leisure he brings in wood, grass, and so forth. They are supported in various modes; some have jagir land on the master's estate, by tilling which they live. Whoever has land erects a house on it for his hali. First he works for his master, whose family is fed by the grain produced by his labour. He produces enough for his own wants. On occasion of holidays and ceremonies, the halis get rations, and so forth; also some money as wages, and winter clothes

or

or money in lieu. They get food on the day they plough. Their abode is outside, because they are of low caste. The marriage of their children is with the leave and at the cost of the master. Their children succeed to the hereditary task, and receive some allowance. Domestic slaves perform the various services required in the family; the females prepare the rice, flour and other dry food by their labour; they bring in water, wood and other supplies from outside, and get ready the materials for cooking. The males cultivate, and so forth, and go on messages. On occasion of marriages and of journeys, they carry the palkee of their master. They sometimes form part of the nuptial present of the master's daughter. Domestic slaves share the board of the family, and are clothed as members of it. The master charges himself with the marriage and support of his slave's children; they are supported when unequal to work, and in sickness the master expends large sums in medicaments; he defrays their funeral expenses.

Answer to the 7th question.—Slaves (including halis) are not entitled to liberation without assent of the master. If a master has conditionally pledged his slave in need, on redemption he takes him back. During the English Government down to the period stated, slaves did not use to get their release, and even now hereditary slaves are not entitled to liberty. In this country the lower classes are appointed to render services as slaves to the superior classes. The lower classes are the Kahar, Kota, Kurmi, Mali, Lodha, Murab, Kachhi, Sandi and others. They are for service to the Brahmins by carrying them. Moreover, carriages, horses and the like are established from olden times for the dignity of persons of rank, which is sustained thereby. In this country no class is appointed to any special business; it depends on means. Without slaves the respectability of the country will not endure; for here agriculture prevails, and, in particular, persons of high caste are supported thereby. Since 1836 the slaves liberated are those who were not sold by a parent or self-sold. I concur in enlarging these. But where the title to the slave is derived from a parent, from self-sale, or from the rajah of the country, in no instance has the slave been enlarged.

Answer to the 8th question.—According to the usage of the country, as above set forth, the master is competent to sell his slave; but this restriction has prevailed, that he is not to sell him to a Muslim or one of inferior class. The sales for exportations in Ghurwal and Dobti, during famine, cannot be considered to bear this character, for they were effected to save life by removal to other places. Those who have effected such sales by fraud and for profit have been punished.

REPORT of *Khush Hal Singh Chhatri*, Tahsildar of Kali Kumaon. No. 7.

Answer to question 1st.—I HAVE inquired of the principal and old inhabitants of this country. They say the sale of slaves and halis is an ancient usage. Joshis and other subordinate officers state that Mr. Assistant Smith made a report on the subject to the sudder. In consequence, a proclamation prohibiting the sale was issued; but, with the connivance of government, people still buy and sell, for without slaves persons of respectability could not transact their affairs. All services required by Brahmins and Khatris are performed by slaves, who till for and carry them. Without them they would suffer much inconvenience, for hired labourers are not found in the hills. With reference to this, they buy male and female slaves, from whose hand they may receive water to drink.

Answer to 2d question.—I learn from the inhabitants of this country, that the sale of children by parents is legal. The buyer from a parent may resell or give away. They say from the beginning till 1893 Sambat, claims for slaves were heard in court, and they were restored to their owners. But from 1837,* by order of Colonel Gowan, the commissioner, the sale and purchase were entirely stopped, and claims are not heard.

Answer to 3d question.—It is clear that slaves only hold effects for their support. Such effects are under control of their masters, particularly if they are recusant in work. The master then seizes every thing. Slaves and halis have no property; had they, they would not serve others as slaves.

Answer to 4th question.—This usage prevails in this country, whether on the hills or under the passes. Persons of every class, Brahmins excepted, become slaves. It depends on means. Slaves of the three superior classes should be those from whose hands water to drink may be taken; halis are of low caste, Chumars and Domes.

Answer to 5th question.—I learn that no census of slaves has ever been taken. According to means, respectable persons may hold four or five male slaves and as many female, and three or four halis. Persons of inferior class have fewer. Each zemindar, whether of high or low caste, has still two or three halis for agriculture, for the support of this country is therefrom.

Answer to 6th question.—I learn from respectable persons, that, cooking excepted, all work is exacted from slaves, male and female, such as preparing dry food and so forth. They have abodes near the houses of their masters. They receive food and raiment as members of the family, and provision for their marriages and other rites is made as such. They are as if children of the master. The halis, who are of mean caste, plough and bring wood and grass. They are located on the master's lands, without his dwelling. They get food on working days, grain at both harvests, and yearly winter clothes and shoes. Some halis take an advance of money, engaging to repay by work. Such halis receive nothing, but are released

* *Sic orig.*; A. D. seems meant.

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released when they have worked it off by ploughing during the time agreed; or some halis have land rent-free for their support.

Answer to 7th question.—I learn that sale by parents and self-sale are considered legal. Those sold fraudulently by others are released, and the seller punished. Such sales have often been prohibited by proclamation, to the effect that kinsmen, other than a parent, cannot sell, and will be punished.

Answer to 8th question.—I learn that, in the division above the passes of Kote Gurwar, persons have not openly practised such sales. During the Ghurka government, at Almorah and other places, if sales secretly made were discovered, the sellers were punished. Thus for the most part apparently the traffic in slaves was stopped; but in the division of Doti, on the hills, every where they sell children, and to this time the prostitutes every where buy girls from their parents, and, adopting them, take them to their own countries for their own profession. In later times, during extreme scarcities, parents have given away their children to the persons of the country, and some have received a pecuniary consideration. But apparently the traffic in slaves never was a fixed usage. It does not appear that since the government proclamation it has been clandestinely practised.

No. 8.

PROCEEDINGS of the First Assistant, Zillah Gurhwal, Mr. *Henry Huddleston*, 31st October 1839.

I HAVE received the reports of the functionaries on the questions put by the commissioner in regard to slaves, in his proceedings 6th September. This is the result.

Answer to question 1st.—Formerly the practice of selling slaves and halis prevailed; but from the 31st May 1836, by order of the Lieutenant-governor, claims for service of slaves have ceased to be heard.

Answer to question 2d.—The table given in by the record-keeper and the reports show that up to 1835 claims of purchasers were heard, and masters recovered slaves claimed by order of court. But this was the practice, that they recovered on sales by parents, not by others. Since 1836 no orders showing admission of such claims are found; some may exist, but I am not aware of the fact. The master has power over the effects of his slave, who is supported by him.

Answer to the 3d question.—Slaves are of various classes. The Rajput, Khutri and others. But a Brahmin cannot be a slave; any other person may. It depends on means. No one considers whether the slave's class is high or low. But the hali is exclusively of low class,—the Dome for instance.

Answer to the 4th question.—There has been no census; and this now would be impossible. Returns would be erroneous. Here respectable and rich persons have several domestic slaves and halis. Their children serve the children of the original buyers for generations, and are supported like their brothers and children.

Answer to the 5th question.—And the slaves who are of low caste plough and do other hard labour. They are located outside of the enclosure of the master's dwelling, or on some other spot on his estate. They are fed and clothed by work. From the Rajput and others who are slaves, ploughing likewise, and various household work are exacted. In food and raiment they are associated with the rest of the family.

Answer to the 6th question.—Slaves have as yet only been liberated by the court on the ground of the sale having proceeded from a person other than a parent. In the former government a stranger would sell another's son. Slave cases do not arise, for masters keep their slaves contented. According to the old usage of this zillah, if a slave case arise, the alleged slave would be enlarged unless sold by a parent.

Answer to the 7th question.—During the government of the rajah, sale for exportation was prohibited; but during the Gorkha government they used to export and sell children of others on account of the poverty of the people. When the Nepal rajah was informed of this, the sellers were punished. But within the country the old practice of sale and purchase continued. During the English Government several persons have been exported and sold in other countries, but persons guilty of this on proof have been punished, and the practice was prohibited by proclamation; at present it has here ceased. But zemindars and principal persons of reduced means do secretly sell their slaves to other zemindars. Here transport by carriage, oxen, and so forth, does not exist; therefore zemindars keep slaves, male and female, for the purpose of carrying.

The above particulars appear to me correct, and the practice as set forth yet prevails. Copy of these proceedings with original reports will be sent to the commissioner.

No. 9.

ARZI of *Parmanand*, Notial Record-keeper of Gurhwal.

I SUBMIT by your order a tabular statement of slave cases. The practice of this country has thus continued down to 1835. Slaves were restored by the court on proof of sale by a parent, or being hereditary. But those sold by others were released. Afterwards from 1836, by order of the Governor, the cognizance of suits for slaves ceased; and he who exposed and sold slaves in another country was severely punished on proof. In Sambat 1880, the price of any widow sold was confiscated to government by the court, and the widow enlarged. The result has been the uncertain state of Brahmins and respectable persons, and persons of reduced means.

TABLE

TABLE.

Pergunnah.	Parties.	Particulars.
Nagpur - -	Umeido *v.* Bhimdatt -	- - Claim for release of plaintiff. Proved that defendant had received the money back. Order for release, 20th June 1832.
Badhan - -	Chatru *v.* Swariya - -	- - Claim for release of plaintiff. Plaintiff had written an acknowledgment to defendant. On proof, order to restore plaintiff to defendant, 18th January 1833.
Nagpur - -	Nadu *v.* Dhanya - -	- - Plaintiff claimed release, which is decreed, because sold by a stranger, 21st April 1833.
Badhan - -	Chamriya *v.* Bhupchand -	- - Plaintiff claimed release; but claim was dismissed, because plaintiff had written a new deed to defendant, 13th July 1833.
Ditto - -	- - Suamur and another *v.* Ram Dat Debi Sing.	- - Plaintiffs claimed release. Order: with their assent, let plaintiffs continue to serve defendant, who is to restrain his children from ill-using them; 26th December 1833.
Ditto - -	Doka *v.* Badri Datt - -	- - Plaintiff claimed release. Order: unless plaintiff can repay advance of defendant, let him as before continue to work in defendant's family; 7th January 1834.
Ganga Salan -	- - Ajbo *v.* Joshusudu Dhankee.	- - Plaintiff claimed the girl, Sebi, as bought by him. Dismissed on defect of purchase proved, 9th May 1835.
Talasalan - -	Sobha Sing *v.* Bisalu -	- - Plaintiff claimed the defendant as his slave; on proof of purchase slave decreed to plaintiff, 11th May 1835.
Nagpur - -	Dhana *v.* Nathu - -	- - Plaintiff claimed defendant as his slave. Bill of sale not proved. Defendant to remain with plaintiff as a pawn.
Barasyun - -	Gyani Domo *v.* Sebu -	- - Plaintiff's claim for his release dismissed, on proof that plaintiff was the hereditary bought slave of defendant; 22d November 1838.
Nagpur - -	Kukuri (female) *v.* Delu -	- - Plaintiff claimed her liberty under the regulations of government. Liberty to her and child decreed, 28th April 1837.
Ditto - -	Guva *v.* Puran - -	- - Under the English Government no one can be a slave of another. Let plaintiff go where he pleases, 15th May 1837.
Ditto - -	Japuli (female) *v.* Patu -	- - Let no one claim plaintiff as a slave. She may go where she pleases, 15th May 1833.
Malata Ganga Par	Manu *v.* Ram Sukh -	- - Plaintiff claimed the girl, Devati. Claim dismissed on the rule of prescription, and the prohibition of such claims by the proclamation of government, 18th September 1837.
Bainghara - -	Banchu *v.* Kishna - -	- - Let plaintiff be liberated: the defendant under current regulations has no claim in law, 7th November 1837.
Tala Salan - -	Sobha *v.* Visalu - -	- - Plaintiff claimed defendant as his slave. Bound over to abstain from such claim, 26th March 1838.
Paltan Kumaon -	- - Kalu Khalasi *v.* Dhani Jatru.	- - Plaintiff claimed emancipation, decreed 17th August 1838.
Barspu - -	Guru *v.* Harku - -	- - Plaintiff claimed his liberty. Defendant referred to civil action for his money, 3d September 1838.
Nagpur - -	Govinddyalu *v.* Hurku -	- - Plaintiff claimed his liberty, decreed 13th February 1839.
Ganga Slan -	Sounu *v.* Hushyaru -	- - Same claim and decree. Defendant bound over, 8th April 1839.
Ganga Par -	Sangaradeya *v.* Kishn Datt	- - Plaintiff claims liberty. Order: defendant has no right to him, 26th June 1839.

No. 10.

REPORT of *Sivanand Khadudi*, Sudder Amin, Pergunnah of Gurhwal, 17th October 1839, addressed to the First Assistant.

I SUBMIT my answers to the questions put by the commissioner.

To the 1st question.—Claim for service of slaves and halis have from olden times been usual in the country. But in 1836, by order of the sudder court, the cognizance of such claims was stopped.

To the 2d question.—Down to 1835, claims of owners, purchasers of slaves, were heard in court; and on sales by parents they recovered.

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To the 3d question.—The property held by slaves belongs to the master who supports them.

To the 4th and 5th questions.—There has been no census of slaves, nor is any now practicable. The Brahmin class excepted, of all classes persons may be slaves. It depends on means.

To the 6th question.—Male slaves and halis plough. They do the work of the house. They get clothes in winter and the hot season. They partake of the dressed food of their master. If they do not get such food, land must be allowed them. The master pays the tax. The master provides his slaves with lodging.

To the 7th question.—Up to this time those released have been sold by persons not their parents, or have not been self-sold. But those sold by parents or self-sold have not been released. If this usage should continue, it will contribute to the power of persons of rank and respectability in this country.

To the 8th question.—The traffic in slaves is not practised now. Formerly any person who sold his wife or a widow was severely punished. Formerly this was usual, that if the wife of one man intrigued with another, she used to be sold to him. Zemindars amongst themselves would sell the widows of their kinsmen. This has been prohibited by government since the year 80. Since then it has been the usage to confiscate price. But under the regulations of the English Government all these usages are abolished; no one dares to export for sale. In this hilly country there are no carriages, oxen and so forth. Water too is brought from a distance. Brahmins and other respectable persons cannot bring themselves water and wood and so forth. Their subsistence depends on male and female slaves and halis; they therefore buy persons willing to sell themselves, and children sold in need by parents.

No. 11.

ARZI of *Ramanand,* Acting Tehsildar of Gurhwal, attested by four Kanungos of the Pergunnah, addressed to the First Assistant.

I SUBMIT the following answers to the questions of the commissioner.

To the 1st question.—Sale and purchase of slaves and halis continued in this country as an old usage. But in 1836 the cognizance of claims for services of slaves was stopped.

To the 2d question.—Down to 1835 purchasers recovered slaves bought from a parent.

To the 3d question.—To the master belongs the property of slaves, for he supports them.

To the 4th question.—Slavery is not restricted to low classes. It depends on means.

To the 5th question.—No census has been or can be taken. The usage has been, that the rich and respectable keep slaves whom they have bought. Their children serve the same person who supports them. Brahmins have the most slaves; respectable persons of other classes hold them in proportion. Persons of low class do not hold slaves.

To the 6th question.—From male domestic slaves and halis ploughing and menial offices, such as bringing wood and carrying loads, are exacted. They get clothes every six months, they mess with the family every day, they take food with the master. But if the master cannot let them mess with him, he allows them land rent-free for support. He erects abodes for their lodging. Formerly, if male or female slaves were recusant, the master corrected them. Now that a proclamation has been issued by government, the slaves have become very insolent. It would be proper and right if government punished and corrected them.

To the 7th question.—The court up to this time has not liberated slaves sold by a parent or self-sold, but only those sold by others. It would be very right to pass an order to sustain sales by parents or self-sales.

To the 8th question.—Formerly the practice of exportation of men and women for sale was never allowed. During the Gurkha government, from indigence and scarcity, people of the country used to sell, in other countries, their own children or kidnapped children at the rate of ten or four rupees. When the rajah of Nepal was informed of this, he sent the cazi buhadur, the thadi, the bukshi and great khatri to prevent the same. In 1868, those guilty of the practice were punished severely, and the practice prohibited for the future. Under the English Government the offence has been punished and is now stopped. Formerly the husband used to sell his frail wife to her paramour. Zemindars amongst themselves used to sell widows. Since the year 80, the prohibition has been proclaimed on the part of government, since when it has been well known that, on proof of the traffic in question, the price will be confiscated and the persons sold released. On account of scarcity and want during the Gurkha government, if any one sold the wife or children of another, on their complaint being preferred they were released. But those who were sold by parents, without assent of buyers, were not released. At present the zemindars are well pleased, for slaves bought of parents in their need, at smaller prices, now command high prices; some as much as 100 rupees. The Brahmins and other respectable persons of this country cannot plough with their own hands. There are no porters in this country as elsewhere. From this cause, though the practice of sale and purchase is abolished, still Brahmins and other respectable persons secretly buy slaves and halis as occasion arises, and get work from them, for without their labour in this hilly country the work of respectable persons could not be done. The government protects the country. What it may decide on will be for the best.

APPENDIX VI.

OFFICIAL CORRESPONDENCE relative to Slavery in Assam.

1. Memorandum of Correspondence between Mr. D. Scott, Agent Governor-general, North-east Frontier, and the Government.
2. Letter of Mr. D. Scott, Agent Governor-general, North-east Frontier, dated 4th February 1830, to Captain J. B. Neufville, Political Agent in Upper Assam, on the subject of Registry of Slaves.
3. Letter from the latter to former, dated 26th July 1830, proposing restriction to sale and separation of near Correlatives.
4. Letter from Captain A. White, Officiating Magistrate, Lower Assam, to Mr. D. Scott, Governor-general's Agent, dated 9th August 1830, in reply to his Letter dated 15th July. Reports on the state of Slavery, and suggests ameliorative Rules.
5. Letter, dated 10th October 1830, from Mr. D. Scott, Agent Governor-general, North-east Frontier, to Mr. George Swinton, Chief Secretary to Government, Fort William, being Report on the state of Slavery in Assam, with propositions called for by Letter of Government, dated 30th April.
6. Extract Letter of Mr. T. C. Robertson, Commissioner, Assam, to Secretary to Government, Judicial Department, dated 28th February 1834, viz., those parts which relate to Rules in regard to Slaves and Bondsmen.

6. A. Extract Rules enclosed in above Letter, namely, Rule IX., providing for case where a slave is designated for sale to levy judgment.

6. B. Rule enclosed in above as to redemption of Bondsmen.

6. C. Rule as to purchase on appraisement of Slaves designated as assets, whereby judgments may be levied, and their redemption.

7. Extract Letter from Government, dated 25th August 1834, to Captain F. Jenkins, Commissioner, Assam, in acknowledgment of No. 6, and other Letters.
8. Extract Letter, dated 10th May 1835, from Captain Jenkins, Commissioner, Assam, to Government, being Judicial Report for 1834.
9. Extract, Section 10, from the original Draft Rules for the administration of Civil Justice in Assam, proposed by Mr. Robertson, late Commissioner of Assam, when Judge of the Sudder Dewanny and Nizamut Adawlut.
10. Extract from Enclosures of a Letter, dated 14th April 1836, from Captain F. Jenkins, Commissioner to Sudder Dewanny and Nizamut Adawlut, viz., opinions of Captain Matthie and Ensign Brodie on the said original Draft Rules.
11. Extract Minute of Mr. T. C. Robertson, Judge of the Sudder Dewanny and Nizamut Adawlut, dated 24th June 1836, on remarks of Captain Jenkins and subordinate Judicial Officers on Draft Rules.
12. Extract Letter, dated 25th October 1836, from the Bengal Government to Sudder Dewanny Adawlut, in reply to its Letter of the 29th July 1836, on the subject of Draft of Judicial Rules.
13. Reply of Sudder Dewanny and Nizamut Adawlut, dated 14th April 1838, with enclosures.
14. Letter from Officiating Register, Sudder Dewanny and Nizamut Adawlut, Fort William, to Officiating Secretary to Government of Bengal, in the Judicial Department, dated 22d December 1837.
15. Letter from Officiating Secretary of Government to the Register Sudder Dewanny Adawlut, Fort William, dated 13th February 1838.
16. Letter from Captain F. Jenkins, Commissioner of Circuit, Assam, to Register Sudder Dewanny and Nizamut Adawlut, Fort William, dated 5th January 1836. This replies to the Letter of the Court of the 13th November 1835, communicating copy of the Circular Letter of the Law Commission, dated 10th October* 1835.
17. Letter from Captain F. Jenkins, Agent Govern or-general, to Secretary to Government of India, Political Department, Fort William, dated 19th February 1840, with copy of a Letter from Captain H. Vetch, Political Agent, Dibrooghur, Assam, on the subject of the construction of Regulation X. of 1811.
18. Letter in reply from Secretary to Government of India to Captain F. Jenkins, Agent Governor-general, North-eastern Frontier, dated 9th March 1840.
19. Letter in reply to above from Captain F. Jenkins, Agent Governor-general, dated 20th May 1840, together with further Report enclosed therein from Captain Vetch, Political Agent, dated 8th May 1840.

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* *Vide* No. 1, Appendix II.

Appendix VI.

Correspondence.

MEMORANDUM of CORRESPONDENCE between Mr. *Scott* and the Government, on the subject of Slavery in Assam.

No. 1.

No. 1. MR. SECRETARY SWINTON's letter to Mr. Scott of the 10th April 1829, alluding to Mr. Scott's letter of the 25th March (not forthcoming) states, that the orders of government prohibiting sale of slaves for arrears of revenue should be held applicable to Assam.

No. 2. Mr. Scott acknowledges receipt of above in his letter of the 31st December 1829, and solicits sanction of government for emancipating such persons when no assets may be forthcoming, at fixed rates, according to sex and age.

No. 3. Mr. Scott replies by letter of 26th February 1830. Observes that no objection appeared to the plan suggested of requiring of government defaulters the release of a given number of slaves, at the rates varying from 50 to 10 rupees, provided such an arrangement would prove immediately beneficial to the individuals emancipated. But with advertence to demands of individuals under decrees of court, and to the proposition in consequence, that government should acquire a right to the slaves by paying the creditors a fixed rate for the slaves, it was considered inexpedient that government should interfere in the matter, and that the former orders were not intended to apply to such cases; further directing, that previous to acting under the discretion accorded to him in the case of revenue defaulters possessing no property but slaves, carefully to ascertain if their emancipation were likely to be attended with any practically and permanently beneficial result to the parties concerned, and whether they would not again place themselves in the relation of bondsmen.

No. 4. Reply of Mr. Scott by letter of 24th March 1830, stating that he did not contemplate the probability of emancipated slaves again placing themselves in the condition of bondsmen, since, under arrangements of the kind, the bondsman always retained the right of redemption.

No. 5. Mr. Secretary Swinton, in his letter of the 30th April 1830, requests of Mr. Scott to furnish a general report on the state of slavery in Assam.

No. 6. Another letter from the above, dated 16th September 1830, conveys extracts from a letter from the honourable Court of Directors, dated 10th March 1830, and requests Mr. Scott's sentiments on slavery in Assam.

On receipt of this, Mr. Scott circulated copies to the magistrate of Sylhet, political agent in Upper Assam, and Captain White, then magistrate of Lower Assam, requesting their opinions. Replies were received from the magistrates of Sylhet and Lower Assam, and copies of them made; that from Sylhet is missing, and Mr. Scott's report itself (dated 10th October 1830) very unaccountably remains undespatched. Mr. Robertson addressed a letter to the secretary to government in the judicial department, dated 11th February 1834, wherein he recommended for sanction the promulgation of a rule regarding the sale of slaves in execution of decrees. To this no reply has yet been received.

No. 2.

FROM Mr. *D. Scoit*, Agent Governor-general, North Eastern Frontier, to Captain *J. B. Neufville*, Political Agent in Upper Assam, Jorehaut, dated 4th February 1840.

PREVIOUSLY to submitting to government any proposals relative to slaves in Upper Assam, I have to request that you will ascertain, as nearly as practicable, the number of persons of that description in your district, and that, if it has not been already done, you will cause a registry of them to be made, and give public notice to all persons concerned, that the same will be closed at the expiration of six months, and that all persons not entered in the list will be considered as free after that period.

2. As this regulation, which has been sanctioned by government, may materially affect the rights of individuals, it is necessary that it should be very fully promulgated, and I would recommend that this should be done monthly in all the kutcherries, markets and considerable villages, and that the kheldars should be required to execute engagements that they will make the tenor of the order known to all persons belonging to their com panies.

3. It is almost needless for me to remark, that the act of registry will confer no rights over persons so claimed as slaves that were not previously possessed, and it is not therefore necessary that any scanting should take place as to the actual condition of those whose names may be inscribed. To prevent future disputes, it is desirable that the list should include the names of runaway slaves, the circumstance being noted in a column of remarks, in which also the manner in which the party was reduced to servitude should be mentioned in every case.

4. In respect to the sale of slaves of the same family separately, I have called upon the pundits in Lower Assam for a report, as I have reason to believe that it is already provided for by the Hindoo law.

5. The separation of a husband and wife, when they have been legally married and agree to live together, cannot by those laws take place; but it is a very common practice in Assam for masters to allow their female slaves to take husbands, who are not slaves, denominated "dhoka," when the connexion is avowedly conditional and temporary.

6. The exportation of slaves for purposes of trade is already illegal, and may be prohibited without further reference.

FROM

FROM Captain *J. B. Neufville*, Political Agent in Upper Assam, to Mr. *David Scott*, Agent to the Governor-general, North-eastern Frontier, dated 26th July 1830.

No. 3.

I SOLICIT your sanction to the introduction of some regulations, calculated to lessen the evils entailed upon the class of slaves in Upper Assam, without materially infringing the rights of property already possessed by individuals, upon which their domestic arrangement and comforts in great measure depend.

The masters of slaves at present possess and practise the right of selling them, their wives and children, to separate bidders, a system repugnant to humanity, as it is subversive of all moral principle, and which, while it is permitted to exist, must interfere to prevent or retard all views of general inprovement in the habits and condition of the people.

I should propose a prohibition to all sale of slaves in future, unless with the consent of the parties, as inconsistent with the spirit of the British Government, and the regulations by which its internal jurisdiction is conducted, as tending to increase crime and to check all improvement, by the hopeless degradation of the individual, and by loosening all the ties of natural affection and social existence. In order to give effect to this prohibition, I propose to require all slaves or transfer of slaves to be made before the chiefs of khels or villages, who will be required to ascertain the consent of the persons sold to the transaction, and that no forcible separation is allowed to be made in families between a man and his wife, or woman permanently cohabiting with him, or between a mother and her children, under a penalty of forfeiture (in case of violation of the order) by the freedom of the party.

I should also propose that all cases of great cruelty and oppression on the part of slave-owners towards their slaves might be subject to the same investigation by the heads of the villages (authorized by the police system to inquire into all abuses), and, if fully proved, to be visited by fine, or if of a confirmed and atrocious nature, by the freedom of the sufferers.

Cases, however, are frequent where the owners are compelled by poverty to sell their slaves as a marketable property, without reference to consent; in such cases the sale might take place before the parish meeting, which should be satisfied of the character of the purchaser and enforcing the prohibition against the division of a family.

I also beg to suggest, that the slaves belonging to revenue or other public defaulters, whose effects are confiscated, might be enrolled amongst the government pykes at the khats, or in a district khel, allowing the estimated value to the owner to the credit of his account.

I also solicit your attention to the barbarous custom which prevails in this province of selling female children, not only by the Assamese *inter se*, but actually as an article of trade to the provinces, and request your sanction to its total abolition, by proclamation, under severe penalties.

FROM Captain *A. White*, Officiating Magistrate, Lower Assam, to Mr. *D. Scott*, Agent to the Governor-general, North-eastern Frontier, dated 9th August 1830.

No. 4.

I HAVE the honour to acknowledge the receipt of your letter of the 15th July, calling upon me to state my opinion in regard to the condition of the slave population of Assam, as compared with the mass of the community; secondly, as to the measures which may be expedient for the gradual or the immediate abolition of slavery in Assam.

1. From the returns made out, it appears that there are about 11,000 slaves in Lower Assam, and about 4,000 bondsmen, who, in consideration of receiving a specific sum, mortgage their labour for a period of seven, fourteen or twenty years, in the same manner as is common in Europe with adventurers to the Canadas, Van Diemen's Land or elsewhere. Independent of this, there are a class of people, about 3,000 or 4,000 in number, who voluntarily place themselves under the protection of the great men of the province, and work upon their estates, approximating to slaves, inasmuch as they receive nothing but their maintenance, but differing from them so far that they are at liberty to depart when they please. The existence of such a class, I conceive, has arisen from the disturbed state of society which prevailed prior to the assumption of the government by the British state, and may be gradually expected to diminish under a better regulated system.

2. From every inquiry that I have made, the condition of the slaves is nearly upon a par with that of the agricultural labourers. They are employed in cultivating the lands of their masters, and receive a fair allowance of food and clothing. If a person possess many slaves, he only requires the labour of a few in rotation, and allows the others to engage in the cultivation of lands, for the rent of which he becomes responsible, reserving to himself what profit there may be after allowing the slave a fair maintenance. The slave-owner becomes responsible for any debts that the slave may contract, and possesses the power of selling him. With reference to his mental and physical qualities, the price of a slave varies from 15 to 50 rupees. The masters are understood to possess the power of inflicting corporal punishment, and occasionally there may be excesses in that way; but in the course of my official duty as magistrate, I have, generally speaking, had very few complaints of slaves against their masters, and it is by no means unusual for masters to complain against their slaves on the ground of idleness, &c. Indeed the geographical position of Assam, a narrow valley between two ranges

Appendix VI.

Correspondence.

ranges of mountains, operates as a partial check to any undue severity on the part of masters towards their slaves, as a day's journey will enable the latter to escape beyond their reach, and there are many complaints of their running away. As compared with the paiks,—a superior class of cultivators, whose condition approximates to that of the Irish peasantry, the Scotch Highlanders prior to the introduction of sheep farming, and the French peasantry under the operation of the metayer system as prevailing through about the half of France at this day, inasmuch as that each peasant cultivates a certain portion of land with a permanent claim to possession, on condition of paying his rent, or a certain share of the produce, with this difference in favour of the Assamese paik, that his is understood to be fixed,—I have found, on inquiry amongst the paiks, that they scarcely considered the condition of the slaves at all inferior to theirs, except that they did not possess their personal liberty. The field labours of the slaves, from what I have learnt, do not exceed those of the paiks; and these are light indeed as compared with the agricultural population of Europe.

3. With reference to the whole population, the number of the slaves may be estimated as one to twelve. From the recent census taken, the population of Lower Assam would appear to be about 350,000 people; and the adult slave population to be about 11,000 or 12,000, of whom it is calculated about a quarter are married; allowing four births to one marriage, this would give altogether a slave population of 27,000 souls.

4. Although it has been shown above, that the condition of the slaves as compared with the mass of the community is scarcely inferior; yet, with reference to its effects on society, I am convinced the existence of slavery in Assam has had a most demoralizing tendency, as the course of my duty as a magistrate has afforded me ample evidence, that wherever atrocious crimes were instigated by the higher ranks, the perpetrators have invariably been their slaves, and indeed it is very common with masters to employ their slaves in acts of theft and dacoity, reserving to themselves a share of the plunder; and I should therefore hail with joy any measures leading to its abolition, as being likely to have a beneficial effect in elevating the character of the population. But with reference to the very backward state of society in Assam, I should think it would be inexpedient to abolish slavery entirely, and that it would be better to modify the existing system by prohibiting the sale of slaves for life, and enacting that in future no contract of bondage for a longer period than seven or fourteen years should be held legal. At the same time encouragement might be held out to individuals to manumit their slaves, by the hope of obtaining titles and distinctions, of which the Assamese are very ambitious. In addition to this, from a certain date, all children born in a state of slavery might be declared free.

5. An immediate abolition of the system of slavery and bondage prevailing in Assam would be apt to fail, I am led to think, from its inapplicability to the wants of the community, and the shock it would give to established habits and usage. From the records of history, Jewish, classical, Asiatic and European, it appears that slavery has every where prevailed, in the less advanced stages of civilization; and I apprehend, Assam, according to European notions, may be considered as a country exhibiting a still ruder state of society. Here, generally speaking, the ryots cultivate only for the supply of their individual wants, and do not calculate upon a certain sale for their surplus produce. What fabrics of manufacture are produced are generally the workmanship of the females of the family, not the product of a separate class of men; and as yet the commerce of Assam is still in its infancy. Under these circumstances, if a poor man wants a sum of money for a specific purpose, the only valuable article he can give in exchange is his labour; and this the rich men naturally endeavour to secure permanently by demanding a contract of slavery for life. Besides, here as elsewhere, in times of scarcity, parents are wont to part with their children from a benevolent wish to preserve their lives. Were the country further advanced in the career of improvement, and capital more widely diffused, it appears to me that this system of slavery and bondage would gradually diminish of itself, as the poor man would obtain a small advance on easier terms.

No. 5. FROM Mr. *D. Scott*, Governor-general's Agent, North-east Frontier, to Mr. *George Swinton*, Chief Secretary to Government, Fort William, dated 10th October 1830.

I HAVE now the honour to submit a report on the state of slavery in Assam, called for by your letters of the 30th of April and 16th of September last, to which I have considered it proper to add a report from the magistrate of Sylhet on the same subject, in consequence of its appearing from some of your despatches, that government was impressed with a belief, that the condition of civil life in question was peculiar to, or much more prevalent in, Assam than in other parts of the British territory in India; throughout which, including the jurisdiction of the supreme courts, I need not say, that slavery, as being consistent with the Hindoo and Mahomedan laws, is necessarily legal, and every where practised more or less.

2. For an account of the general condition of the slaves in Assam and Sylhet, I beg to refer * to the accompanying copies of letters from the magistrates of those districts. In the

* Of these letters, that from the magistrate of Sylhet is not forthcoming. The other seems No. 4 of this Appendix.

the zillah of Sylhet, where slavery appears to prevail to an unusual extent, probably in consequence of the preponderance of the Mahomedan religion, * *and perhaps the easy circumstances of a large portion of the community constituting the independent landholders,* the proportion of slaves to freemen would appear to amount to nearly 20 per cent. In Lower Assam, Captain White states the proportion to be about eight per cent., but there appears to me to be some material error in this calculation, and I have reason to think, that, when the further explanation I have called for is received, it will be reduced to about one-half.

3. In the estimate of the number of slaves made by the magistrate of Sylhet, and also, I conceive, in that for Assam, where the number is stated at 27,000, bondsmen are included, or persons mortgaging themselves for a sum of money, but retaining the right of redemption on repayment of the same; but as such persons are not slaves in the proper sense of the word, the following observations are not intended to apply to them, but to that portion of the servile class who are irredeemably sold, together with their posterity.

4. Slavery being consistent with the Hindoo law, and the precept of making donations of slaves to pious men being frequently repeated, it must have been practised by that people from the remotest period. In Assam, however, the practice was considerably checked by a fiscal regulation which forbids the sale of males, on account of their being subject to a capitation tax. This prohibition does not extend to females who may sell themselves, if of full age, or be sold by their parents, provided the contract entered into be valid agreeably to the Hindoo law.

5. With exception to a few Naga female slaves that were valued as curiosities, and presented by the mountain chiefs to the king of Assam, the people of that country do not appear to have imported slaves. They were brought up in the house of the owner, or transferred by one master to another, or procured by purchase from the parents, while grown-up women sometimes sold themselves.

6. By the Hindoo law, a free woman marrying a slave becomes herself a slave, and gives birth to a servile progeny, but although this is the law, both in Bengal and Assam, masters, in the latter country, frequently permit their slaves to marry free women, upon a special contract with the girl's father that the progeny shall be free. In cases of doubt, the ordinary rule is, that the children follow the condition of the parent with whose relations the family resided; a female slave giving birth to free children, if she marry a freeman and reside in his house, while they would be slaves if the husband went to live with her.

A good deal of litigation takes place in Assam on this subject; and as the pergunnah chowdries and corporations are very jealous of the abstraction of any portion of the male population and their detention as slaves, which would exonerate them from the payment of their quota of the pergunnah rate, there is no danger of a man being unjustly debarred of his freedom; and it even sometimes happens, that a person who professes himself to be a slave, is emancipated by a decree of court at the suit of the pergunnah corporation,—a fact which of itself shows how trifling an evil servitude is considered in Assam.

7. The price of a slave averages from 10 to 60 rupees; and in addition to the causes of variation assigned by Captain White, it is mainly influenced, amongst the Hindoos, in the case of domestics, by their caste; those being, of course, of the greatest value, whose purity of birth enables them to hand water, without contaminating it, to the higher classes. When ill-used by their mistresses, Hindoo girls of this description will sometimes, to spite them, forfeit their caste by some unclean act; and the mistress is often brought upon her knees before a domestic of value, to prevent the execution of such a threat.

8. The real value of slaves, except for domestic purposes, is very little, as farm business is conducted in Assam. They are usually exceedingly idle, and when they become numerous, the master is even put to expense on their account, as he must, under all circumstances, feed them, and provide for the expenses incidental to their births, marriages, deaths and all other religious ceremonies, which they perform with the same regularity as the free population. To sell them is considered highly discreditable and indicative of the total ruin of the master; and under such circumstances, it is not improbable, that masters might be occasionally induced, by the means suggested by Captain White, to emancipate a portion of their slaves.

9. In the poor and middling families, the slaves and bondsmen are treated like the other inmates, the same mess serving for the whole household, and both mistress and maid being entirely clothed in homespun manufactures. Amongst the rich they often obtain great influence, and rule the family affairs in the capacity of dewans.

Such persons frequently possess, by sufferance, farms and slaves of their own, and they are sometimes to be seen in Assam riding in a sort of palankeen, dressed in English shawls, &c., in the style of the wakeels and officers of our courts of justice.

10. The practice of making concubines of their female slaves, and of bringing up the offspring of such connexions along with their other children is *not uncommon* † amongst the nobles and even the kings of Assam, to whom in the public estimation these domestics are often greatly superior in purity of birth, and the servile classes are consequently in general treated by their masters with a degree of consideration, familiarity and kindness, of which few examples are to be found in ‡ *the intercourse between English masters and their hired servants.*

* These words in *italics* are a marginal interpolation written in pencil by Mr. Scott.

† Originally, "common."

‡ The words in *italics* constitute an amendment in pencil intended to be substituted for this sentence. "English society; much less hauteur being displayed in the intercourse between an Assamese noble of the highest rank and his slave, than will be shown by an English master, even of the middling classes, to his hired servant."

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servants. They are in fact regarded as adopted children, and the universal designation for a female slave, in Assam, is *betee* or daughter.

11. On the subject of Mahomedan slavery, which chiefly prevails in the district of Sylhet, I consider it unnecessary to offer many observations, since the laws by which it is regulated are *already well known.** They appear to differ little from the divine precepts given on the same subject to the Jews, with exception to the periodical release of slaves of their own tribe. Those taken from other tribes are, however, on the other hand, more cordially adopted by the Mussulmans than they would appear to have been by the Jews. And, as the practice of cohabiting with the females is not unusual on the part of the masters, when the birth of a child entitles the mother to her freedom, her offspring being at the same time allowed to share the family property along with the children of wives, it must be needless for me to say, that amongst the Mahomedans also this class of persons cannot possibly be in a very degraded state. *They are, in fact, as stated by the magistrate of Sylhet, in many cases connected with, or related by the means already noticed to, the rest of the family, of whom they are considered as inferior members; and even, where this is not the case, I have seldom heard them addressed by their masters by any other term than that of brother or son.*†

12. To the abolition of slavery, during the continuance of the existing state of society in India, there appear to be several weighty objections.

1st. As I conclude that government does not contemplate the measure without making compensation to individuals for the loss of a valuable description of private property, the expense would appear of itself to render it impracticable, since the slaves and bondsmen in the two districts of Lower Assam and Sylhet only, cannot be valued at less than thirty or forty lacs of rupees.

2dly. The government being pledged to administer to the natives their own laws in matters of inheritance, contracts, &c., I am not aware how we could, with any consistency, infringe this principle by the abrogation of a practice so closely interwoven with the whole frame of society, and which is essential to the comfort and honour of the families of the higher classes, owing to the seclusion of their women, and to the early marriages of the lower orders, which renders it impossible to hire, as in European countries, unmarried females as servants, or to procure them at all, except at an expense unsupportable to $\frac{19}{20}$ of those, who, agreeably to existing usages, require such attendants; as is evinced by the fact that, even in Calcutta, where there is a large Christian population, and where caste is not a matter of importance, the hire of a woman servant is now nearly double that of an able-bodied man.

3dly. *It may reasonably be doubted*‡ whether the change would in reality be beneficial to the lower orders to an extent that would justify the adoption of a measure so unpopular with the higher classes. That, morally considered, the slaves are in a certain, but small, degree degraded, must be admitted, and also that in Assam they are of more dissolute and depraved habits than the free population. But in adverting to this latter defect, it should be borne in mind, that no less than one-fourth of the whole number consists of those who have sold themselves for debt, and who may, therefore, be reasonably presumed to have belonged originally to that imprudent and spendthrift class of society, which even in England is, generally speaking, reduced to a condition of civil life, *differing only in name from*§ that of the Assamese bondsman, when they enlist in the army *or navy*,‖ or by conviction of a criminal offence become transportable to the colonies as the undisguised slaves of the crown. Whether it is possible, even in highly-civilized countries, to dispense with the retention of this portion of society in a state of constrained servitude, still remains to be proved, the experiment never having been fairly tried by the European states, where the armies, *the* navies, *the gallies* and *the*‖ colonies, furnish receptacles for those who are naturally incompetent to manage their own affairs, and to preserve their personal independence. The people in this country have none of these resources; and the thriftless poor must consequently either starve or become the dependents of individuals, or, in the capacity of criminals and debtors, fill the public gaols.

13. In physical condition it does not appear that the slaves are worse off than the peasantry of the country. If they cannot accumulate property (which, however, practically speaking, is not the case), neither can they suffer those evils from the total want of it to which the freeman is subject. Nor should it be forgotten, with reference to the circumstances under which children are usually sold, that the probability is, that in many cases they would not even have been in existence but for that contract which, at the expense of their personal liberty, preserved their lives or those of their ancestors. Without, therefore, calling in question the theoretical advantages to be expected from the abolition of slavery in India, I am of opinion, that the practical evil arising from its continuance is not of sufficient magnitude to justify our incurring by its abolition the following results:—

Either an enormous outlay for the purchase of the vested rights of slave proprietors, or a spoliation of their property, with its necessary consequences.

A breach of the engagement, always heretofore held sacred by the government, that the natives were to enjoy their own laws and customs when not repugnant to humanity and good morals, which slavery cannot, with consistency, be said to be, by a nation professing Christianity, since it was enjoined by God himself to his favoured people the Jews, and since it is still only practised in India in the mild spirit in which it was established.

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* Originally, "to be found in Hamilton's translation of Hidaya."
† Marked for expunction by pencil lines.
‡ Originally, "I doubt much."
§ Originally, "not in reality dissimilar to."
‖ These words in *italics* denote interpolations in pencil.

The destruction of the consequence and comfort of the higher classes without any adequate benefit to the lower orders.

The necessity for government to maintain in times of scarcity the starving poor,—a thing in itself perhaps impossible, and which would at any rate be productive of great abuse, and would, in all probability, be attended with consequences not less injurious to the character of the people than those which Captain White in his report attributes to the prevalence of slavery in Assam.

14. The only change which it appears to me that it would be justifiable or desirable at present to attempt, in favour of those already in bondage, would be that of gradually substituting the state of servitude of the bondsman entitled to redemption for that of the slave absolute. And this I conceive might, to a certain extent, be effected, particularly in the case of agricultural labourers, by laying a tax of two or three rupees per annum upon the slave absolute, from which the bondsman should be exempt, provided the sum for which he was redeemable did not exceed 40 rupees. I would at the same time open a compulsory registry of persons of both descriptions, leaving it optional with masters to enter their slaves absolute as redemptioners, if they thought fit to do so to avoid the tax, the act being, however, legally binding on them and their heirs, and the slave thereby becoming entitled to all the privileges of the latter class.

15. Whether it might not be justifiable further to fix a price at which all slaves should be entitled to be emancipated, government will be best able to judge. Such a law would, to a certain extent, be an invasion of private property, and might occasion alarm and irritation amongst the higher classes of the natives. But if something must be done at their expense, to satisfy the philanthropic feelings of the people of England, I should consider this as the least objectionable measure that could be adopted, and as one which would also *seem likely to prove** acceptable to the English public, since it would afford to those who are zealous in the cause of emancipation an opportunity for the exercise of their benevolent views, by coming forward with the requisite funds.

16. The subject is, however, one of such importance to the domestic comfort of the native community, that I should be sorry to submit these crude suggestions, except in the belief that, before legislating upon it, government will obtain not only the opinion of its European functionaries, but also that of a committee of intelligent natives, who are alone, in my opinion, competent to judge in regard to a matter in which the English portion of society have no personal interest nor any minute acquaintance, and which is, besides, in the case of female slavery, so much complicated with the delicate question of marriage, and the internal economy of the zinnana (upon which the natives, both Hindoos and Mussulmans, are so exceedingly sensitive), that I should despair of any modification of the existing law, emanating from European legislators, that would be at all palatable to the upper and middling classes of the people.

17. Having now submitted the general information required, I take the liberty of offering some further explanation of the transaction alluded to in the extracts of a letter from the honourable the Court of Directors that accompanied your despatch of the 16th ultimo, and which I regret to find has excited their displeasure.

18. With advertence to the observations contained in the preceding part of this address, I trust that it will appear that, in sanctioning, during a time of famine, the sale of males as slaves in Assam, I violated no law or custom that is in force in any other part of the British territories in India; but that I merely suspended the operation of a local fiscal regulation enacted to prevent the abstraction of the Crown paiks or serfs, and the consequent diminution of the capitation tax. My proclamation had no other effect than that of waiving the claim of government to the capitation tax upon persons who might be compelled by famine to sell themselves as slaves: and it did not, as supposed by the honourable court, confer any validity or legality upon the contracts entered into that they might not otherwise possess agreeably to the provisions of the Hindoo and Mahomedan laws.

19. That the lives of many of the destitute persons, who in 1825 sold themselves in Assam, might have been preserved, without their being reduced to slavery, by supplying them with food on the public account, is very certain. But I doubt much whether, on application to government for leave to expend 20,000 to 30,000 rupees, or even a much larger sum, in that way, would have been complied with *then*†, while, as the distress was occasioned by a scanty crop, it may be questioned whether any thing short of the importation of a large quantity of grain could have afforded‡ material relief. Importation was, however, impracticable at the time, the whole tonnage on the river being required for the troops, and the evil admitted of no mitigation except that which might be derived from a diminution of individual consumption, to which I am aware of no means that could be more certainly and extensively conducive than making it the interest of those who had grain to divide it with those who had none.

20. That slavery, in the usual acceptation of the word, is repugnant to the feelings of Englishmen, I am well aware. But the question in this case to be considered was not whether slavery should, under ordinary circumstances, be patronized and encouraged, but whether I should, in deference to the speculative opinions of my own countrymen, and in defiance of the wishes and feelings of those who were alone interested in the result, doom to certain death hundreds, if not thousands, of a starving population by refusing them permission

* Originally, "be no doubt very."

† Originally, "at the time."

‡ The word "any" is here expunged.

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sion to obtain the means of saving their lives upon terms, which, to them at least, seemed advantageous. To the natives of the east, who are practically acquainted with the effects of slavery, the *novel** prejudices of Europeans against that condition of civil life are quite unintelligible: and whatever motive I might have assigned for such a piece of cruelty, the Assamese would most undoubtedly have attributed it to a sordid determination on the part of their *new*† masters, not to sacrifice any portion of the capitation tax, let the consequences to their subjects be what they might.

21. As many female children continue to be sold in Assam, and instances occasionally occur of grown-up women voluntarily selling themselves with the view of discharging a debt or relieving the wants of their parents or relations, I beg to be instructed whether it is the desire of government, that the necessity for this practice should be removed, by affording the means of subsistence to those who may be reduced to have recourse to it for their own support or that of their offspring. I am afraid that any interference of the kind would lead to deception and great abuse. But as the honourable the Court of Directors have suggested the adoption of the measure, I am induced to solicit the orders of his Lordship in Council on the subject; and should the principle be approved of, I will be prepared to submit such rules as appear to me to be best calculated to check the evils to which it may be expected to give rise.

22. For the serious consequences that might be expected to follow the unconditional abolition of the practice of selling children in Assam, I beg to refer to the circular orders of the Nizamut Adawlut of date the 14th October 1815, and the communication from the superintendent of police upon which they were founded. As a prospective measure, I think it might not be unadvisable, as suggested by Captain White, to prohibit all future sales except those subject to redemption, and to limit the period of bondage either to a term of years, or to the lives of persons in being at the time of making the contract, so that all unborn progeny should be free. I would allow grown-up persons to sell themselves or to sell their children, as far as it might be consistent with their respective codes. But they should be disqualified from entailing servitude upon the progeny of their children, or upon their own immediate descendants born after one or both parents might become subject to bondage. Persons thus rendered subject to servitude should retain the right of redemption, upon payment, in the case of grown-up persons, of the principal sum advanced, and in that of young children, of that sum, together with a reasonable compensation for the expense of bringing them up,—this additional allowance to be fixed by law, and to be liable to be again gradually remitted according to the age the parties might have attained, and the services they might consequently be presumed to have rendered to their masters.‡

ABSTRACT of the above Letter from the Agent to the Governor-general to Mr. *George Swinton*, Chief Secretary to Government, dated 10th October 1830.

Para. 1. SUBMITS copies of reports on slavery in Assam and Sylhet.

Para. 2. Condition and number of the slaves in those districts.

Para. 3. Bondsmen, included in the numbers specified, although they are not in reality slaves.

Para. 4. Period from which slavery has obtained amongst the Hindoos.

Para. 5. Means of obtaining slaves in Assam; importation not practised.

Para. 6. Other means of obtaining slaves.

Para. 7. Price of slaves and conditions by which it is regulated.

Para. 8. Real value of slaves, except for domestic purposes, very small.

Para. 9. Mode in which the slaves are treated by the lower and higher classes.

Para. 10. The female slaves are frequently kept as concubines. The consequences of such connexions.

Para. 11. Mahomedan slavery, and the effects of the concubinage of the female slaves.

Para. 12. Abolition of slavery; and,

Para. 13. The objections thereto, viz.—

The expense; the infringement of our compact to administer to the natives their own laws; the advantages to the lower orders inconsiderable, whether reference be had to their moral or physical condition.

Para. 14. Proposes to tax slaves absolute, and by that means induce the masters to change their state of servitude into that of redemptioners.

Para. 15. Suggests the measure of fixing a price at which slaves might be emancipated.

Para. 16. Recommends that the subject should be referred to a committee of natives if government intends legislating on it.

Para. 17. Submits some further explanation respecting the permission granted to sell slaves in Assam.

Para. 18. The proclamation issued to that effect was consonant to the custom and practice of all our other Indian territories, and only abrogated for a time a local fiscal regulation.

Para. 19. Respecting the measure of supplying the natives of Assam with food in 1825, the probability of its being sanctioned, and its consequences.

Para. 20.

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* A correction in pencil.

† Originally, "relentless."

‡ This letter though signed was not despatched by Mr. Scott. After his death, it was found amongst his papers, and the corrections and additions in pencil above noted indicate intended revision.

Para. 20. Slavery, although repugnant to the feelings of Englishmen, is not so to those of the natives of the country, whose interests we must consult; and had the permission in question been withheld, it would have been imputed by the latter to mercenary motives on the part of government.

Para. 21. Female children being still sold in Assam, requests the orders of government on the subject of affording relief to their parents.

Para. 22. Is of opinion that, prospectively, a term of servitude might be fixed, as proposed by Captain White, but that the total prohibition of future sales would be productive of the bad consequences referred to in the orders of the Nizamut Adawlut of 14 October 1815.

D. Scott, Agent to the Governor-general.

No. 6.

EXTRACT of a Letter from Mr. *T. C. Robertson*, Commissioner of Assam, to Secretary to Government, Judicial Department, dated 28th February 1834.

4. THIS design has only been partly accomplished; but that the government may see that it has not been neglected, I enclose copies of the following rules, which I have drawn up in the English and native languages, for the guidance of the courts and parties in suits:—

No. 1. General rules of practice to be observed in the institution, trial and decision of civil suits.

No. 2. Rules regarding mortgages of land and real property.

No. 3. Rules regarding bondsmen or persons who may have pledged themselves in return for a sum of money borrowed by them.

No. 4. Rules regarding the sale of slaves in execution of decrees.

5. This last rule, although transmitted to the assistant in charge of the province, will not be acted on by him until he shall be apprized of its having received the confirmation of government. To understand its object, it is necessary to bear in mind that daily labourers are not to be hired in Assam. To meet, therefore, the wants of the inhabitants of Gowhattee, a certain number of paiks are sent in, according to an old custom, from the southern Doars. For these men a corresponding remission of revenue is granted; but this is covered by the amount received from the individuals, who hire these labourers at certain fixed rates from government. This forms one of the departments of the magistrate's office at Gowhattee, and the accounts are kept with the greatest regularity. Now, by the provisions of this rule, it is proposed to take advantage of this practice, in order to effect a partial but gradual emancipation of slaves, with little apparent and no real expense to the state. For every slave bought in on account of government, when subjected to appraisement in satisfaction of a decree, a paik less will be sent in from the Doars, and a corresponding increase will take place in the revenue paid by his superior to government. This will do more than cover the interest of the sum expended in purchasing the slave, while the principal will, unquestionably, if he lives for two or three years, be realized from the proceeds of his labour, after which he is to become a freeman, having in the interim had a portion of the waste land around Gowhattee assigned to him, on which it is probable that he will then permanently settle.

6. I sincerely hope that government will permit this experiment to be made, both on account of the money decree-holders, who cannot otherwise recover what is due to them, unless we sanction the absolute sale of slaves by auction, and also for the sake of the slaves themselves. My predecessor's rules permitted the sale of slaves in satisfaction of decrees. This, it will be seen from the 9th article of my 1st rule, that I have modified, in so far as to require the assistant, when applied to for the sale of slaves, to make a previous reference in each case to this office. This rule having been construed by the people into a positive prohibition of the practice, many petitions were presented, and many individuals also spoke to me, on the subject of the great injury sustained by them from the interruption of the only process by which, in many cases, the amount awarded can be realized. After much deliberation on the subject, I am of opinion that the scheme embodied in the rule under consideration is the only one by which we can, without positive injustice and disregard of rights of property, avoid the objectionable measure of permitting slaves to be seized and sold in satisfaction of decrees of courts.

No. 6. A.

EXTRACT Rules enclosed in above.

Section 9.

IF claimants petition that the slaves of debtors may be attached, the assistant is to make arrangements to prevent the escape of such slaves, and transmit a report by roobakaree to the commissioner, who will issue such orders as the case may appear to require.

No. 6. B.

RULE regarding Bondsmen.

1st. IF any individual has become or shall hereafter become bound to serve another in return for a certain sum of money during any clearly-specified term of years, such a transaction shall be accounted legal, and be upheld accordingly.

2d. If, however, any individual has become or shall become bound to serve in like manner for an unlimited term of years, under a general condition that his or her bondage is to

 continue

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continue until a certain sum of money be repaid, then on a suit being instituted by a person so situated, for his or her release, the court, before which it may be tried, shall, after fixing the price of the plaintiff's labour, and deducting therefrom what may be esteemed a fair equivalent for maintenance, carry the balance to the credit of the plaintiff. Whenever the sum total thus credited shall suffice to extinguish the original debt, with legal interest, or whenever a plaintiff shall pay up whatever may be wanting in the amount thus carried to his or her credit to effect such extinction of the said debt, in either case the court shall award to such plaintiff an entire discharge and liberation from his or her bondage.

3d. To prevent protracted investigations, as well as to protect masters from vindictive prosecutions, it is further enacted, that no master shall be required to account for any sum that may be carried to the credit of a plaintiff under the provisions of this rule, in excess of the amount of the original debt, with legal interest; and that no suit shall be entertained that may be instituted by a liberated bondsman for an amount alleged to be due to him on account of labour performed during the term of his bondage.

No. 6. C.

RULE regarding the Sale of Slaves in satisfaction of Decrees of Court.

WHEN a plaintiff shall point out slaves for sale in execution of a decree, then the assistant is empowered, if he judge it advisable, upon such person or persons being proved to be, according to the customs of the country, the property of the insolvent defendant, to cause them to be appraised, and to pay a sum equivalent to their estimated value to the plaintiff in satisfaction of his decree.

To indemnify government for the sum thus disbursed, slaves thus coming into its possession are to be employed on public works instead of the paiks furnished under the present settlement from the southern Doars. And the assistant is further authorized to hire them out to individuals requiring them, at the following rates; viz.—

Men, nine pice per day.
Women, six pice per day.
Boys and girls, four pice per day.

The sum to be thus realized is, after paying whatever may be the cost of their subsistence, to be carried to the credit of each individual slave; and such slave is to be held entitled to emancipation, upon the principal of the sum originally paid by government on his account to the plaintiff being made good.

Slaves employed on public works are to have credit given to them for a sum equal to what their labour would have yielded had they been hired out to individuals.

When the assistant does not consider it advisable to act upon the discretion allowed him by this rule, he shall, on application being made to him for the sale of slaves, proceed as directed by article 9th of the Instructions of the 9th November 1833.

No. 7.

EXTRACT of a Letter from Secretary to Government, Judicial Department, dated 25th August 1834, to Captain *F. Jenkins*, Commissioner of Assam.

Para. 9. THE subject of the state of slavery and bondsmen will be taken into consideration hereafter. In the meantime the Vice-president in Council desires that the courts will abstain from selling slaves in satisfaction of decrees, or for any other object. The sale of slaves in satisfaction of government revenue was prohibited some years ago.

No. 8.

EXTRACT of a Letter from Captain *F. Jenkins*, Commissioner of Assam, to Secretary to Government of Bengal, Judicial Department, dated 10th May 1835.

Para. 23. No other observations occur to me at present, to which I have to request the attention of the government, than that on the state of slavery and bondage referred to in the 9th paragraph of Mr. Macsween's letter of the 25th August last, No. 1,705. I have not as yet received the instructions of government. The subject, I am aware, is one of the greatest difficulty and delicacy with reference to some of the classes of our subjects. But I think, in Assam, some enactments for the gradual emancipation of slaves and bondsmen might be introduced with comparative facility and safety; and I would respectfully beg to request the attention of government to the correspondence of my predecessors, to which the above quoted paragraph was a reply.

No 9.

EXTRACT Section X., from the Original Draft Rules for the Administration of Civil Justice in Assam.

SECTION X.—SLAVERY.

Clause 1st. A PROCLAMATION shall be issued, calling upon all persons having claims upon others as being their slaves or bondsmen to register the names of such alleged slaves or bondsmen in the office of the assistant in charge of the division in which they live, within the period of six months, under the penalty of forfeiture of all claim on those whose names they shall omit to register as required.

Clause 2d.

Clause 2d. Those only shall be held to be absolute slaves whose own servitude, or that of their progenitors, can be proved to have originated prior to the day of 1817, which is understood to be the date of the Burmese invasion of Assam. But the sale or alienation of such slaves, excepting with their own concurrence by their actual masters to any other person, is declared to be illegal and invalid.

Clause 3d. All slaves whose own servitude or that of their progenitors has commenced subsequently to the Burmese invasion, as above defined, shall be accounted redeemable bondsmen, entitled to obtain their enfranchisement, under the conditions and in the manner hereinafter indicated.

Clause 4th. The offspring of slaves or bondsmen of every class, born after the date of the proclamation enjoined in clause 1st, are to become free on attaining the age of 18 years.

Clause 5th. Any slave-owner who shall be proved before a competent authority to have maimed, wounded or otherwise grossly ill-treated his or her slave or bondsman, or to have sent or attempted to send such slave or bondsman out of the province, shall be declared to have forfeited all dominion over such slave or bondsman, who shall be thereon liberated.

Clause 6th. Any slave-owner convicted of having derived profit by letting out a female slave, for the purpose of prostitution, shall in like manner forfeit all claim over such slave, who is thereon to be declared free.

Clause 7th. The sale of children by their parents is not prohibited; but it is to be understood that children thus sold are, on attaining the age of 18 years, to become free.

Clause 8th. The legitimate offspring of a freeman are to be held free from their birth, whatever may have been the condition of the mother; and no claim against any married female as a slave is to be admitted, if it be not preferred at the time of the marriage, or as soon after as circumstances would permit.

Clause 9th. The direct sale of slaves in satisfaction of decrees of court is prohibited. But slaves or bondsmen may be transferred with their own concurrence to a plaintiff who may have obtained a decree against their master or owner, at a price to be settled between the said plaintiff and the owner; but all slaves or bondsmen so transferred are to be enfranchised, on the liquidation, by the estimated value of their labour, of the sum at which they were appraised; or, in the event of that sum not being covered by their labour, at the expiration of the term of seven years.

Clause 10th. The slaves or bondsmen of a defaulter may in like manner be taken, with the sanction of the commissioner, in satisfaction of the demands of government for the public revenue, and are to be entitled to their liberation, on the sum, at which they were valued, being covered by the estimated price of their labour; or, at the expiration of the term of seven years. Slaves or bondsmen so taken are to be employed on the government khats or farms.

Clause 11th. All engagements executed by a man or woman, whose age shall exceed 18 years, binding himself or herself to serve another for a term not exceeding seven years, shall have full force and effect, and be maintained by the local authorities. But any contract to serve for a longer term of years is hereby declared to be null and void.

Clause 12th. Any bondsman or slave, entitled under clause 3 to be regarded as a redeemable bondsman, wishing to obtain his or her liberty, may institute a suit for the same, against his or her master, in the court of the assistant in charge of the division in which the said master shall reside; and the court before which such suit may be tried, shall, after determining the price of the plaintiff's labour, and deducting therefrom what may be esteemed a fair equivalent for maintenance, carry the balance to the credit of the plaintiff. Whenever, in the case of a slave of the class described in clause 3, the sum thus credited shall appear to constitute a fair return for expense incurred in the support and maintenance of such slave, or whenever a plaintiff in such a suit shall pay up whatever may in the judgment of the court be wanting to make up an adequate compensation to the master, then such slave shall be decreed by the court to be free. In like manner, if a bondsman be the plaintiff, and the estimated value of his labour, after a proper deduction for maintenance, shall be found to equal the amount of the debt due to the defendant, or if he shall pay up whatever may be wanting to effect the extinction of the debt, then such plaintiff shall be decreed by the court to be free.

Clause 13th. To prevent protracted investigations, as well as to protect masters from vindictive prosecutions, it is enacted, that no master shall be required to account for any sum that may be carried to the credit of a plaintiff under the provisions of the preceding clause, in excess of the amount to which the said master shall, in the judgment of the court, be held to be entitled; and that no suit shall be entertained that may be instituted by a liberated slave or bondsman for an amount alleged to be due to him on account of labour performed during the term of his servitude or bondage.

Clause 14th. It shall be essential to the validity of every transaction, by which a slave or bondsman may be acquired or transferred, that the same be effected by a written instrument; and no such written instrument shall be received in evidence in any court of justice, unless it has, within one month from the date of its execution, been duly registered in the office of the assistant in charge of the district in which the party to whom the transfer or sale or engagement is made may reside.

Clause 15th. Any sale, transfer or engagement of a slave or bondsman not so registered, is to be in future held to be null and void.

EXTRACT

Appendix VI.

Correspondence.

EXTRACT from Enclosures of a Letter,* dated 14th April 1836, from Captain *F. Jenkins*, Commissioner, to Sudder Dewanny and Nizamut Adawlut, viz. Opinions of Captain *Matthie* and Ensign *Brodie* on the said Original Draft Rules.

No. 10.

OPINION of Captain *Matthie.*

Para. 5. WITH reference to clause 7th of section 10, on slavery, that even under the Assam government the sale of male children was strictly prohibited, and is so at present; and as our object is to gradually abrogate the system, and to prevent any misinterpretation of the enactment, I would suggest the clause be modified by inserting "female" before the word "children."

OPINION of Ensign *T. Brodie.*

Section 10, clause 7. THIS clause seems to be founded on the supposition that parents have already the power to sell their children; but this is not the fact with respect to the male offspring of freemen. These owed their service to the state under the Assam government, and could not be sold; and if the power be now given to parents to dispose of the services of their male offspring, till they reach the age of 18 years, I beg to submit that they be prohibited altogether from disposing of the females of their families. Apprenticing females till 18 years of age, in a country such as India, appears to me to be open to many objections which will readily suggest themselves to any one upon reflection. I should also beg to suggest, that the female children of slaves born after the date of the proclamation enjoined in the 1st clause, be declared free on attaining the age of 10 or 12 years, instead of 18, as specified in the 4th clause, which would enable the parents to bestow them in marriage according to their own inclinations.

No. 11.

EXTRACT of a Minute by Mr. *T. C. Robertson*, Judge of the Sudder Dewanny Adawlut, dated 24th June 1836.

IN the rules for the civil department, several important alterations have been made, in pursuance of their suggestions, upon the draft as originally submitted to the consideration of the officers in Assam.

Of these, the most important are those connected with the different questions of slavery. In this section, I have, in deference chiefly to the opinion of Captain Jenkins, struck out the 2d, 9th and 10th clauses of the original draft, modified the 6th and 7th clauses, and added a clause providing for the punishment of parties convicted of harbouring runaway slaves.

I have some slight doubt as to the modification of the 8th clause of the original draft (which in the draft† now submitted is the 7th), and have marked with inverted commas a passage upon which I am anxious to have the opinion of my colleagues. I have, it will be observed, retained the clause No. 6 of the original, and No. 5 of the amended draft, notwithstanding Captain Jenkins's opinion recorded against it; my reason for retaining it is, that Captain Rutherford, whose knowledge of the people of Assam is more minute and extensive than that of any officer who has ever been employed in the province, was, I well remember, strongly in favour of such a provision being inserted in any rule that might be passed on the subject of slavery.

It is not without reluctance that I have struck out clauses 9 and 10, from the operation of which, I was inclined to hope for much being effected towards the gradual extinction of slavery. There is, however, I must admit, much force in Captain Jenkins's argument on this point, though I hope that, if the other provisions of this section are found to work beneficially, these two clauses may at some future period be added to the rule.

No. 12.

EXTRACT of a Letter‡ from Secretary to the Government of Bengal to the Register of the Sudder Dewanny and Nizamut Adawlut, dated 25th October 1836.

Para. 19. CAPTAIN JENKINS will consider the requisition conveyed by para. 4 of my letter of the 4th June 1835 to be still in force. The court will be pleased to hand up with an expression of their sentiments any drafts of "enactments for the gradual emancipation of slaves and bondsmen" which he may submit.

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* This letter of Captain Jenkins also gave cover to the remarks of Captain A. Bogle and those of himself. Both will be found in page 346-7 of the volume of papers on Slavery in India, 1838.

† This amended draft will be found in page 347, Slavery in India papers, published by order of the House of Commons, in 1828.

‡ Paragraph 11 of this letter is printed in the volume of "Slavery in India, 1838," p. 348, No. 35.

No. 13

FROM *J. F. Hawkins*, Esq., Register, Sudder Dewanny and Nizamut Adawlut, Fort William, to Officiating Secretary to Government of Bengal, Judicial Department, dated 14th April 1838.

Sudder Dewanny and Nizamut Adawlut.

PRESENT:
R. H. Rattray, W. Braddon, and N. J. Halhed, Esqrs., Judges; W. Money and J. R. Hutchinson, Esqrs., Temporary Judges.

HAVING laid your letter No. 385, together with its enclosures, before the court, I am directed to request, that you will submit the following observations for the consideration of his honor the Deputy Governor.

2. The principles recognized and the objects kept in view in the provisions of the 10th section of the proposed rules for the civil and criminal administration of Assam, submitted for the consideration of government, with my predecessor's letter, No. 1,648, dated the 29th July 1836, were the amelioration of the actual condition of the slave population of Assam, and the present restriction, with a view to the ultimate extinction of slavery in that province.

3. In reply, it was observed, at the 11th paragraph of Mr. Secretary Mangles's letter, No. 1,855, dated the 25th October 1836, "His Lordship is not prepared to pass this section. The subject is one of great and general importance, and must be taken up, as a whole, by the supreme government. But he considers it to be within his competence to declare, that all sales of persons as slaves shall be illegal and void from the date on which these rules of practice shall come into operation in Assam." The section, therefore, will stand as on the margin.

Section 10. "From the date on which these Rules of Practice shall come into operation in Assam, all courts of justice shall hold all sales of persons as slaves to be illegal and void; and no suit to reclaim the services, as a bondsman or woman, of the person so sold, shall be received in any court, on the plaint of any party."

4. With reference to a minute recorded by Mr. Robertson on the subject of section 10, as above amended, the court were induced to suggest to government in their letter, No. 2,648, dated 11th November 1836, the expediency of a reference to the local authorities, ere proceeding to promulgate it as the law for future observance.

5. Mr. Secretary Mangles, in his letter, No. 2,080, of the 22d idem, forwarded to the court a further amendment of section 10, as per margin, with instructions to the court, if they saw no objections to such a step, to print and promulgate the whole of the rules without further delay.

9. "From and after the date on which these Rules of Practice shall be promulgated in Assam, all sales of persons as slaves, not being transactions whereby an individual of mature age voluntarily binds himself or herself, in return for value received, to render personal service to another, shall be deemed illegal and void; and no suit to reclaim the services of a slave, or bondsman or bondswoman, so sold, after the date above specified, shall be received in any court, on the plaint of any person: provided, however, that nothing in this section contained shall be held to relate to voluntary obligations of personal service of the nature above indicated, otherwise than to render the transfer of such service to a third party, after the date of the promulgation aforesaid, illegal and void: provided also, that this prohibition shall not be construed to extend to any sale that may have been regularly executed, according to the law of the province or established usage, previously to the promulgation aforesaid; and the several courts of justice are empowered and directed to entertain such suits as heretofore; and in deciding the same, the courts are to be governed by the law and usage under which the said sales were made."

6. The court, however, were still of opinion (see their register's letter, No. 2,781, dated 2d December 1836), that the sentiments of the local authorities should be taken ere proceeding to the adoption of the amendment. They at the same time expressed a doubt as to the legality of legislating on the question of slavery without a previous reference to the home authorities.

7. The government, in the secretary's reply, No. 2,142, dated 6th December 1836, directed the proposed reference to be made to the local authorities, which was accordingly done.

8. With his letter, No. 87, dated the 24th May 1837, the commissioner of Assam submitted his own sentiments and those of his subordinates,* on the subject of reference. For the reason stated in the 6th paragraph of his letter, Captain Jenkins is adverse to the adoption of the amendment proposed in Mr. Mangles's letter of the 22d November 1836. The several officers under the commissioner are of opinion, that the rules of section 10, as they originally stood, might have been safely enacted; and Ensign Brodie, under the impression that Government had finally decided against them, considers that the section as modified in Mr. Secretary Mangles's letter of the 22d November can be productive of no mischief, and that it is expedient to promulgate it for the reasons therein stated: on the receipt of these opinions, Captain Jenkins was requested to prepare and submit a draft of the rules which he would propose for enactment. To this call he replied in his letter, No. 129,† dated 22d July last, in which he referred the court to certain rules already submitted by him. As these rules appear to have been forwarded direct to government, the court deemed it advisable to request Captain Jenkins to prepare and submit a draft for the consideration of the court. This was done, and the draft was received with the commissioner's letter, No. 169, dated the 25th November last, accompanied by the correspondence which had passed between himself and his subordinates in the year 1835, and which was submitted direct to government with his letter of the 22d August 1835.

9. The rules of which the commissioner has forwarded a draft have mainly the same objects in view as those formerly submitted to government by the court, viz. the present mitigation and general abolition of slavery. And in the event of legislation on the subject, irrespective of the previous sanction of the home authorities to the particular rules proposed for adoption being considered within the competence of the local government, the court, with reference to the sentiments of the authorities in Assam, which are entitled to the fullest consideration, and the reasons stated by Mr. Robertson in the minute above mentioned, in which the court concur, are still of opinion, that those objects should be strictly kept in view, in legislating on so important a subject with regard to a country in which it is stated, that

* Copies herewith submitted.

† Copy sent.

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that the greater portion of the property of the wealthier classes consists of slaves, and in which a declaration of immediate emancipation, or an absolute prospective interdiction of slavery and bondage, must be attended with serious detriment and loss.

10. In submitting the rules forwarded by Captain Jenkins, the court desire me to add, that they are not prepared to coincide in all the minor details of the provisions contained in them. Some of them (such as those which relate to the subject of corporal punishment) they consider may be advantageously altered, and the wording in parts may be considerably improved. They direct me, however, to forward them just as they were received for the consideration of his Honor; and on the determination by his Honor of the principles to be observed in legislating on the subject, and in the event of the approval generally of the rules submitted, they can be altered and corrected under the instructions of the court, on their being returned to the court for that purpose.

FROM Captain *F. Jenkins*, Commissioner of Circuit, Assam, to Register of the Sudder Dewanny Adawlut, Fort William, dated 24th May 1837.

IN obedience to the instructions contained in the second paragraph of your letter, No. 3,086, of the 30th December last, I have now the honour to forward the letters as below,* submitting the opinions of my assistants on the 10th section of the original rules.

2. Captain Bogle, referring to his letter of the 5th April, which was forwarded to the court, with my letter, No. 52, of the 14th April 1836, is of opinion, that with the amendments then suggested, the proposed rules might be easily enacted; but at the same time he expresses himself in the strongest manner against the policy and propriety of the government interference except by prospective and very gradual measures. Captain Bogle further recommends, that the original clauses regarding bondsmen should be maintained.

3. Ensign Brodie, under the supposition that his opinion was only required upon the clauses proposed and modified in Mr. Secretary Mangles's letters of the 25th October and 22d November 1836, merely expresses his entire approval of the clause as altered in the latter letter.

4. Lieutenant Vetch considers it proper, that rules to the effect of those proposed should be promulgated, but suggests several amendments thereof, and details his reasons for suggesting the alterations he recommends.

5. Captain Davidson also advocates the enactment of the rules, with some alteration proposed by himself.

6. I have attentively reconsidered the originally proposed rules, and the observations I had the honour to submit in my letter of the 14th April, and I am of opinion that, with the alterations and additions suggested by me, it would be preferable to enact those rules rather than the revised section in Mr. Secretary Mangles's letter of the 22d November, as this makes no provision for the eventual release of any persons now held or who may be born in slavery, and prohibits all sales in future of children under any circumstances. Such an enactment might, I fear, be attended with baneful effects in times of famine, and to the families of some of the miserable and degraded classes which are to be found in all communities.

7. On the whole, I am very much inclined to recommend that only the enactments regarding bondsmen should be promulgated, leaving the subject of slavery to be taken up whenever the legislature is prepared to issue any general regulations for the empire. I consider that the government, by withholding a regulation making it legal to have recourse to the criminal courts for the apprehension and restitution of slaves, have virtually abolished slavery. The means of escape from their owners being so easy, and the difficulty and expense of recovery, through the civil court, being so great, that no slaves, above the age of childhood, need be detained in bondage, except with their own free will.

FROM Lieutenant *Hamilton Vetch*, Junior Assistant, in Civil Charge of Durung, to Captain *F. Jenkins*, Commissioner of Assam, dated 29th April 1837.

IN reply to the 2d paragraph of your letter, No. 100, under date the 5th instant, desiring me to state my opinion on the whole of the provisions contained in the 10th section of the rules for the administration of civil justice that were forwarded from your office with your circular, No. 326, under date 28th November 1835, and on section 9 in Mr. Secretary Mangles's letter to be substituted for it, I beg to submit as follows:

SECTION X. OF ABOVE-QUOTED RULES.—SLAVERY.

Clause 1. I entirely concur with the provisions contained in this clause.

Clause 2. I object to this clause, because the sale of slaves appears to have been sanctioned under certain provisions by the late Mr. Scott, agent to the Governor-general; and I think, sales contracted under these should be held valid, as all others effected previously, if agreeable to the usages of Assam.

Clause 3d. The same objections apply here as to clause 2d.

Clause

* Captain Bogle's, 26th April; Ensign Brodie's, 27th do.; Lieutenant Vetch's, 29th do.; Captain Davidson's, 1st May.

Clause 4. In the provision of this clause, I entirely concur, adding as per margin.

And in case of a female, her offspring, by whatever father, before she has attained the age of 18 years, to be declared free born.

Clause 5. I entirely concur with the provisions made in this clause.

Clause 6. With the provisions made in this clause I also entirely concur.

Clause 7. Change the words, "the sale of children," and substitute as per margin; the rest to stand. This clause is called for in Assam as a provision for destitute children to save them from starvation in event of famine, or the parents not being able to support them.

The bonding of children.

Clause 8. For this clause substitute as per margin. I conceive this only the criterion to judge by in Assam, where to prove the father of a child begotten of a female slave would be difficult indeed.

The condition of the mother to decide that of the offspring.

Clause 9. Substitute as per margin. The object here gained will be putting an end to traffic in slaves. While every transfer will change a slave into a bondsman or woman, at the same time the owner will be accommodated, should poverty or other causes make a transfer desirable. The condition of the person so transferred is also likely to be improved during his or her bondage; as, if poverty be the object of the transfer, and no provision of this kind be made, the slave would have to share it with his master.

The sale of slaves to be illegal from the passing of these rules; but a slave may be disposed of as a bondsman or woman for a limited period, not exceeding 12 years, at the expiration of which he or she shall be declared free.

Clause 10. I concur with the provisions in this clause.

Clause 11. For seven years, in this clause, substitute as per margin. The rest to stand. As provision is made that the contracting parties should be of sufficient age to know their own interest, I see no objection to extending the limit to twelve years. The annexed translation of a bond put in for registry will show how far it is attempted to carry the system of bonding, without rendering the transaction contrary to a rule of the late commissioners, which required a limit to be specified in the bond to make it legal.

Twelve years.

Clause 12. Substitute as per margin. It appears absolutely necessary to fix some limit to the period of bondage, otherwise it almost assumes the form of slavery, which it had nearly, if not altogether reached, before the promulgation of Mr. Robertson's rules on the redemption of bonds; at which time the child or brother of a bondsman was considered by the custom of the country bound to service, in the event of the death of the father or brother, or until the sum bonded was restored. As the unexpected redemption of a bondsman, at the time of sowing or harvest, may be attended with much loss to the owner, I consider a short warning to be necessary. Although I highly approve of the provision proposed in this clause for the liquidation of the bond-money, I think it would be simplified still further, if a limit was taken as now proposed instead, as this would prevent the institution of suits where the bondsman is, after inquiry, found not to be entitled to release, and such suits may be made a handle for vexatiously bringing the bondholder into court, or to evade labour while the suit is pending.

Any bondsman or woman, wishing to obtain his or her freedom, may institute a suit in the summary court for the same, and on proving that he or she has served as bondsman or woman for 12 years after attaining the age of six years, or if from infancy, up to the age of 18 years, the said service shall be considered an equivalent for the bond-money, and he or she shall be declared free; but nothing in this is to hinder the bondsman or woman redeeming his or her freedom, on tendering the sum originally borrowed, at any period of the said service; always provided two months' notice is previously given to the bond-holder, and provided no term has been fixed in the bond for the release of the bondsman or woman, and which term shall not exceed 12 years.

Clause 13. The change now recommended to be introduced into clause 12 will render this clause unnecessary.

Clause 14. With this clause I entirely concur.

Clause 15. I concur entirely with this clause.

My remarks on clauses 9, 11 and 12, are applicable to section 9 in Mr. Secretary Mangles's letter, and with the modifications therein proposed, it might, I think, be adopted in Assam, without proving very injurious to the interest of the slave-holder, and would run nearly as follows:—

Section 9. The sale of slaves to be illegal from the promulgation of these rules; but a slave may be transferred for value, as bondsman or woman, for a limited period, not exceeding 12 years, at the expiration of which he or she shall be declared free.

All engagements executed by an individual of mature age voluntarily bonding himself or herself in return for value received, to render personal service to another, for a period not exceeding 12 years, shall be legal and binding, but for a longer period such contract shall be illegal. Nevertheless, any parent may enter into a contract and bind his or her child for a period not extending beyond the age of 18 years, on the part of the person so bonded. But no transfer of service to be legal without the consent of all the contracting parties. Suits for breach of such contracts shall be entertained in the courts of justice competent to decide suits for breach of contract in other matters.

TRANSLATED BOND above referred to, viz. Obligation of *Palone Koltah*, the son of *Thoolye*, to *Bryjonath Burrah Bundar*, *Boroowah*, &c.

I, *Palone Koltah*, of Mahaul Noadooar, Mowzah Cheelabhandah, do, in this document write, in the 1243 year B. S., for this purpose, that Dyahram, sepoy of Mowzah Morahdull, residing in Daoree Gaw, having obtained a decree of court on me, and my elder brother, Boodoo, and Peonah, and Kattee, for the sum of 19 rupees, and being much harassed for the same, in consequence of our not being able to pay the amount decreed against us, I, with my own free will, and at the request of my three relatives above mentioned, to liquidate the aforesaid sum, have taken a loan from you of 19 rupees, and in lieu of repayment, I bind myself as a bondsman for 41 years to you under the following conditions:—That you will feed and yearly clothe me with two arreah dhooties, one jol gamasah and chalong; for this I promise, as customary, to instantly obey all the orders you may from time to time give me, when I shall, after the expiration of the 41 years above stated, be entitled to my release. The money for which I have now bonded myself shall be considered as liquidated by

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by my services. But in the event of my dying before the expiration of the 41 years above stated, then, one of three above-mentioned relatives who may survive me, answerable with me for the same debt, and against whom the decree of court for the same 19 rupees is in force, shall become your bondsman, and work out the unexpired term of years. In event of issue by me and any of your female slaves, I disclaim all right to them, and they shall all be your property.

In confirmation, I hereby write and give this document, this 13th day of Falgoon.

WITNESSES.	RESIDENCE.
Rapooram Sirmah, son of Halee Sirmah -	Sakomatha.
Monooram Patghrs, son of Modhooram -	Mahal Chardooar Mowzah Mudphee.
Sumboo Hazaree, son of Koosoom - -	Mowzah Sutteeah.
Sadee Burrah, son of Chaw Seegah - -	Mowzah Cheelahbaundah.
Jattee Bhogah Burrah, son of Jewram -	Mowzah Borabhogeeah.

"Kaguttee," or writer, Locknath Sirmah, son of Seebnath.

The above I have written willingly. Also my elder brother, Boodoo, and my brother Katteeram are both of them willing.

(signed) *Peonah Koltah.*

(A translation.)

(signed) *H. Vetch,* Assistant-Commissioner.

FROM Lieutenant *T. Brodie,* Junior Assistant, in Civil Charge, Nowgong, to Captain *F. Jenkins,* Commissioner of Circuit, Assam, dated 27th April 1837.

I HAVE the honour to acknowledge the receipt of your letter No. 100, dated the 5th instant, giving cover to a new code of rules for the administration of civil and criminal justice in Assam, to come in force from the first proximo.

2. In the second paragraph, I am directed to give a report of my views and opinions on the whole of the provisions contained in the 10th section of the rules for the administration of civil justice, as forwarded from your office with your circular No. 326, under date the 28th November 1835, and the modifications proposed in Mr. Secretary Mangles's letter.

3. It appears from the eleventh paragraph of the secretary's letter to the address of the register of the Sudder Dewanny and Nizamut Adawlut, No. 1,855, under date the 25th of October last, that the Right honourable the Governor of Bengal is not prepared to pass the section in question regarding slavery and bondage as it originally stood, in consequence of the great and general importance of the subject, which in his lordship's opinion should be taken up as a whole by the supreme government, but it is proposed to prohibit in future the transfer of slaves and bondsmen to third parties.

4. If I understand the matter rightly, it is as to the expediency of this latter proposition only that my opinion is required, but otherwise I need only say that the provisions of the section as it originally stood seemed to be generally well adapted to put a gradual but complete end to slavery in Assam.

5. With respect to the question now mooted, as far as I have the means of knowing, I believe that it is not a very common occurrence in this part of the country for slaves or bondsmen to be transferred from their owners to third parties; and as the Right honourable the Governor has not thought it expedient at present to touch the general question whereby slavery was to have been extinguished, I am of opinion, that the section as modified in Mr. Secretary Mangles's letter, No. 2,080, dated 22d November last, can be productive of no mischief, and that it is expedient to promulgate it for the reasons stated in the second paragraph of the letter last quoted, namely, to discountenance the system of slavery in general, and to deprive that already existing of one of its worst features by disallowing the transfer by sale of property in persons.

6. It may perhaps be useful to refer to the rules now in force regarding the transfer of slave property. Mr. Robertson's letter of the 28th July 1833, to the address of the then officiating magistrate of Central Assam, authorizes the issue of a proclamation prohibiting the sale or mortgage of any individual, a native of Assam, to a foreigner, under pain of being punished by a fine not exceeding 100 rupees, or, in the event of the person so sold or mortgaged having been removed from his or her residence in progress to another country, by imprisonment for a period not exceeding six months.

7. Under orders of government of date the 25th August 1834, communicated in your circular of the 12th September following, a proclamation was directed to be issued notifying that government have prohibited the sale of slaves, by any court in Assam, in satisfaction of decrees, or for any other purpose or transaction that might originate subsequent to the date of such proclamation, and that henceforth no slaves should be sold in satisfaction of government revenue.

8. Besides these restrictions on the sale of slaves, I believe there are others to be found among the native proceedings of the late Mr. Scott; but I have not got them by me to refer to. But whether this be the case or not, I conceive that as government have already gone the length of prohibiting the sale of slave property in satisfaction of a slave-owner's lawful debts, it is neither unreasonable nor unjust that the same rule should be extended to prohibit the sale by the slave-owner himself for his own private benefit.

FROM

FROM *A. Davidson*, Esquire, Officiating Magistrate, Zillah Gowalparah, to Captain *F. Jenkins*, Commissioner 17th Division, Gowahattee, dated 16th May 1837.

AFTER duly perusing section 10 of the rules for the administration of civil and criminal justice in Assam, I beg to submit the following remarks as required by government :— Section 10.

Clause 1. I would add, that the mere fact of registering a person as a bondsman or slave should not be considered evidence in my court, as proof of the fact, and further, that when parties wish to register others as slaves or bondsmen, the said slaves or bondsmen should be produced in court, and proof given of their identity, as I have known instances when one man has been produced in court in place of another to confess himself a slave.

Clause 2. The concurrence of the slave or bondsman ought to be made in open court, before a European officer, and registered. Also proof of identity should be given.

Clause 3. No remark.

Clause 4. Ditto.

Clause 5. Ditto.

Clause 6. By this clause, which is essential, all women who are now compelled by their owners to prostitution will become free, as ninety-nine out of the hundred are slave-girls or bondswomen, both in Gowalparah and Assam.

Clause 7. It would, in my opinion, be better if the age were limited to fifteen, as most women become mothers before they reach the age of eighteen.

Clause 8. No remark.

Clause 9. The concurrence of slaves or bondsmen to be made in court and registered; and there it might then be proved how many years of servitude was unexpired.

Clause 10. No remark.

Clause 11. Such contracts to be acknowledged in open court and registered.

Clause 12. In cases where the bondsmen or slaves were longer than seven years with the party claiming them, the said party to pay all expenses of suit.

Clause 13. I am of opinion that the government should fix a certain sum per month as credit against the sum advanced to the bondsman or slave. Beyond this he would be entitled to food and clothing.

Clause 14. No remark.

Clause 15. Ditto.

FROM Captain *A. Bogle*, Assistant Commissioner, Zillah Kamroop, to Captain *F. Jenkins*, Commissioner of Circuit, Gowahattee, dated 26th April 1838.

IN reply to your letter of the 5th instant, requiring my opinion on the slavery clauses of the proposed Rules of Practice received with your letter of the 28th November 1835, and the modifications now suggested, I beg leave to refer you to my sentiments on section 10, as it formerly stood in my letter of 5th April 1836, paragraphs 24, 25, 26, 27, 28 and 29, wherein I remarked that, with a few amendments, the rules might be safely enacted.

2. By this, however, I would not have it supposed that I am an advocate for immediate emancipation; and I take this opportunity of observing, that I greatly doubt both the policy and propriety of any government interfering with property of which its subjects have been in the full enjoyment for a long series of years, even although the property in question be human beings, and the acts of the British Legislature afford a precedent, always provided that the possession has been legally obtained. At the same time, the province of Assam having been annexed to British India by conquest, the right of government to make any enactments it pleases will scarcely admit of dispute.

3. It must, however, be borne in mind, that the chief wealth of all the respectable people in Assam consists in the slaves they possess. Land is abundant, but it is only of value in proportion to the means of cultivating it; and although the inconvenience attending the emancipation of all the slaves in this province would ultimately create its own remedy, in the meantime the change would cause much embarrassment to the greater part of the better classes. The first families in the country would be reduced to poverty, and it is probable that the condition of the slaves would not be materially improved.

4. I must further observe, that the question in no way presses upon the government, so as to render it necessary to introduce any such sweeping measure as emancipation. On the contrary, so far from Assam standing particularly in need of such an alteration in the established customs of the country, there is perhaps no part of India where greater care has been taken, at the government expense, to reduce the number of persons in slavery to just and legal bounds. I allude to the investigation respecting slaves which took place some years ago, in which, although great roguery was practised, and the humane intentions of government were less conspicuous than the attempt to make the proceeding a source of revenue, some good was effected.

5. Should government, notwithstanding that this is the case, be desirous of enforcing a general measure of emancipation, I have only to say, that there is no fear of the peace of the country being disturbed; and of course it follows, that the restrictions on the sale of slaves proposed in Mr. Mangles's letter of the 22d November may be enacted without danger. But I think they had better be confined to the case of registered slaves born since the treaty of Yandaboo; and a rule prohibiting the forcible separation of members of a family, whether born before or after the above date, such separation being most revolting to the feelings, should be passed and strictly enforced. The entire abolition of sales might be attended with inconveniences which it seems scarcely necessary to encounter.

6. The

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6. The case of bondsmen, however, is entirely different; and I regret to observe that in the new rules no provisions regarding it have been inserted, which I think calls for immediate remedy; for the civil courts have long been employed in investigating such cases upon the authority of a rule passed by Mr. Robertson, of which I annex a copy, and I find that 211 cases have been decided, and there are now on the file, and nearly ready, 355 more.

7. Soon after I came to this district, I found that the practice of entering into engagements to serve either for a period of years, or until a certain sum of money should be repaid, had very generally obtained (and it still exists), and where money had thus been given in advance for services to be rendered, that the descendants of the person pledging him or herself were detained in bondage even to the third or fourth generation, which appeared to me so very unfair, that I addressed the commissioner on the subject. Copy of my letter is appended, and I have always considered it as a most fortunate event that I was instrumental in procuring, amongst other improvements, the enactment of a rule so favourable to persons in the above predicament, by which their services could be weighed in the scale against the money advanced for them.

I beg to draw attention to the fact, that amongst the advantages which I contemplated, was the inducing all persons engaging with bondsmen to execute written engagements with them, which should clearly specify the nature of the transaction; and another was to cause the masters to treat the bondsmen so kindly, that they should not be tempted to come into court. I have reason to believe that both these objects have been very fully attained, and I have now strongly to recommend that clauses 11, 12, 13, 14 and 15 of the original rules be maintained. Otherwise, the courts will be placed in a very awkward position, and there will be no restraint upon the illegal proceedings of parties employing bondsmen, which have frequently been of such a character, that they have not even attempted to defend them when once brought under investigation, but have resigned all claims to further servitude.

ENCLOSURE of above, being Letter from Captain *A. Bogle*, Officiating Collector, Lower Assam, to Mr. *T. C. Robertson*, Commissioner of Revenue, Gowahattee, dated 28th January 1834.

IN submitting the accompanying arzee from the punchaits, together with my remarks respecting the rules of practice received from your office, I think it proper to draw your notice to the following points:—

2. First to decrees on the raj. It has been the custom to entertain plaints of the most indefinite nature, with no further specification of the defendants than the insertion of a few names, "and Ghairo raj." On this the merits of the case have been tried, and decrees passed in the same indefinite manner, and levied by a burgoonee or mahtoot on the whole pergunnah. Where the pergunnah lay, became a second subject of consideration: and when we bear in mind, that it was probably composed of thirty or forty detached mouzahs, scattered all over the country from Durrung to Gowalparah, a large portion of the population of which may have been entirely changed since the transaction took place, or from other causes quite ignorant of the affair, further remark on this head seems unnecessary to show the ruinous consequences that must ensue by attempting to levy decrees of this nature. The first of them is to require payment from those who never borrowed.

3. For the future it is easy to provide; but respecting the past there are some obvious difficulties. I would, however, recommend, that in no instance whatever shall any person be called on to pay, whose name is neither in the plaint nor decree, and who has consequently never been served with a notice of the suit. Should this throw a sum borrowed by the raj on the shoulders of only a part of the borrowers, they have the power to sue for the remainder of their proper shares.

4. The next point is the legal rate of interest, at present 48 per cent. This, I am of opinion, may be safely reduced to one-half.

5. The third is one of even more importance; it relates to banda mattee, or mortgaged lands.

6. The pykes having all had certain quantities of land assigned to them by the former government, under the denomination of "gao" and "jumma mattee," it often happened that they borrowed money and placed their lands in pawn, generally engaging to pay the revenue, although the lender reaped all the fruits of the soil. The revenue they considered as, in fact, the interest of the loan.

7. As respects the question of right, involved in a case of this kind, it is simple. The land was, in a manner, the pykes's; for, although it was considered the property of the state, yet, from long occupation, it had, in fact, become a fixed possession, which it was optional with the pyke to place for a time in charge of another. If provident, he would, of course, have made an agreement as to the number of years his creditor was to enjoy it. Generally speaking, however, this was entirely omitted, and the land passed away for ever, or, at least, until the money was repaid. These lands are now often claimed, and it seems but right that the courts should have the power to estimate the value of the annual crops, according to the average produce of similar lands in the same neighbourhood; and whenever it may be proved that the creditor has held them long enough to have repaid himself the amount lent with all costs, to set the lands free.

8. In a revenue point of view, the necessity for a fixed rule, as to who is to pay the tax on mortgaged lands, is urgently required. If the poor pyke, who has given up his birthright to the rich man, is still obliged to pay the revenue for lands in the possession of another, it is clear that he must often fail and abscond; and when this is the case, the deficiency

deficiency in the chowdree's collections will be made up by a burgoonee on the rest of the village, he himself probably holding the lands rent free, which leads to the usual ruinous results; and in whichever way we look at the matter, it is evident the government revenues and the prosperity of the country must alike suffer to a dreadful extent.

9. The only argument I have ever heard against demanding the land-tax from the actual cultivator or mortgagor, is, that the revenue which the debtor engaged to pay was in lieu of interest, and that the money was lent on an understanding that the land should not be burthened with revenue. But to make an agreement for any thing except the proceeds of the lands itself, was clearly beyond the legal power of the pyke; for on the land alone can the government dues be collected; and he had no right to detach the assessment from it. Any man may privately agree to pay his neighbour's tax; but if he fails, the possessor of the property taxed must make it good.

10. The natural result of crying down the system of detaching the revenue from the soil is, that the creditor will reimburse himself for its amount by retaining the land a longer period. It does not appear to me that he will be a loser. I therefore propose that the collector shall henceforth merely look to the person in possession of the land for the revenue, and be authorized to levy from him, leaving it to the parties concerned to settle the difference amongst themselves. Without this, I see not how the tax is to be collected.

11. I next beg to notice the case of bondsmen; with respect to whom I venture to hope that powers to set them free may in certain cases be vested in the civil courts.

12. I have known instances in which not only men and women were retained in a state of slavery for their lifetime for a very small sum, but their children also, unless a fortunate chance placed it within their power to pay off the original loan with interest; which, considering the high rate of interest in Assam, can but rarely happen.

13. This is a lamentable state of things, and it does not appear to me inconsistent with justice that the courts should have the power to set off the value of the bondsman's labour against the amount of defendant's claim, and when the balance is in his favour to liberate him.

14. The value of labour is about two sicca rupees a month. The price of maintenance and clothing about one rupee. Thus, if the general rule were to value the bondsman's services at one rupee a month, a prospect of his eventual liberation would be opened to him.

15. No rule could of course affect cases in which it might be proved that a man had agreed to serve a specific time for the loan of a certain sum. The above would only have reference to those instances in which no such agreement had been made. It might increase the difficulty of borrowing money, but would cause greater honesty and industry, and could not, I think, diminish the happiness of the people.

16. The subject of slavery is one that has so often occupied the deepest attention of wiser heads, that I shall not touch upon it; although I am inclined to think that a small tax upon slaves (say two rupees a head) would not only draw some revenue from the higher classes, but if it did not lead to the voluntary liberation of a few, it might at least check its extension.

The master having to pay for the slave.
A. Bogle.

17. The points I have more particularly adverted to are of so much importance, that if time permitted of it, I should be glad that you took the opinion of your other assistants upon them.

(Circular.)

FROM *T. C. Robertson*, Esquire, Commissioner, Assam Division, Gowahattee, to Captain *A. Bogle*, Officiating Assistant Commissioner, Lower Assam, dated 11th February 1834.

IT appearing that cases frequently arise in Assam, involving the reciprocal rights of masters and bondsmen, which originate in deeds of mortgage executed by the latter, the following rules are enacted for the future guidance of the civil courts in deciding upon such transactions:

1st. If any individual has become or shall hereafter become bound to serve another, in return for a certain sum of money during any clearly-specified term of years, such a transaction shall be accounted legal, and be upheld accordingly.

2d. If, however, any individual has become or shall become bound to serve in like manner for an unlimited term of years, under a general condition that his or her bondage is to continue until a certain sum of money be repaid, then on a suit being instituted by a person so situated, for his or her release, the court before which it may be tried shall, after fixing the price of the plaintiff's labour, and deducting therefrom what may be esteemed a fair equivalent for maintenance, carry the balance to the credit of the plaintiff. Whenever the sum total thus credited shall suffice to extinguish the original debt, with legal interest, or whenever a plaintiff shall pay up whatever may be wanting in the amount thus carried to his or her credit, to effect such extinction of the said debt, in either case the court shall award to such plaintiff an entire discharge and liberation from his or her bondage.

3d. To prevent protracted investigation, as well as to protect masters from vindictive prosecutions, it is further enacted, that no master shall be required to account for any sum that may be carried to the credit of a plaintiff under the provisions of this rule, in excess of the amount of the original debt, with legal interest, and that no suit be entertained that may be instituted by a liberated bondsman for an amount alleged to be due to him on account of labour performed during the time of his bondage.

Appendix VI

Correspondence.

FROM Captain *F. Jenkins*, Commissioner of Circuit, Assam, to Mr. *Pierce Taylor*, Deputy Register of the Sudder Dewanny Adawlut, Fort William, dated 22d July 1837.

I HAVE the honour to acknowledge your letter, No. 1864, of the 30th ultimo, and in reply beg to refer the court to the rules which accompanied my letters of the 14th April 1836, (to the court,) and 22d August 1835, No. 121, (to Mr. Secretary Mangles,) as those which I still would propose for adoption, if the government should deem it fit to make any partial enactment.

2. I beg to repeat, that I consider any regulation which was to be attended with the immediate release of all slaves would be attended with very distressing consequences both to the slaves and their owners: and if no remuneration was given by the state for the services of the slaves, I should consider the measure as fraught with such serious injustice, that the effects might be very serious to government.

3. It seems to me, however, that this government may, ere long, be compelled by the British Parliament to legislate hastily on slavery, if the government delays much longer to originate some enactment on this most important subject: and, under this apprehension, I should be glad to see the government begin with some measures for the progressive extinction of slavery, as this I think would prevent the evils that may otherwise be anticipated; and with this view I should recommend a regulation to the effect of my proposed rules for Assam. I have no doubt they may be safely introduced here, and they would in some measure prepare the minds of our subjects for their adoption elsewhere, should the government not be prepared to make the regulation general to Bengal.

FROM Captain *F. Jenkins*, Commissioner of Circuit, Assam, to Mr. *Pierce Taylor*, Deputy-Register of the Sudder Dewanny Adawlut, Fort William, dated 25th November 1837.

I HAVE the honour to submit a copy of the rules required in your letter, No. 2,497, of the 18th August last, and regret the delay which has occurred in complying with the court's requisition.

2. I have annexed to the rules a copy of the correspondence which was forwarded therewith to government.

Rules proposed to be enacted in the Province of Assam, for the gradual Mitigation of Slavery and Bondage.

1. All children born after the date of the proclamation to be declared exempt from servitude for life.

2. That all such children born after that date shall be bound to serve their parents or owners until they have attained the age of 18 years, on the condition of being fed, clothed and well treated.

3. The children born to the above bond servants during their servitude shall be emancipated, at its expiration, by the state, for the sum of 10 rupees each, receivable by the master from the magistrate, in compensation for the support of the child during infancy.

4. All slaves and their children to be registered, within six months, before the putwarris of villages, and chowdries of pergunnahs; the registries so made to be returned to the magistrate of the division. No person not so registered within six months after the date of the proclamation shall be holden to be a slave, and the non-entry of the name of any person in such register shall thereafter be received in any court of justice as a sufficient proof of freedom.

5. The importation of any slaves from countries not under British rule shall be prohibited. The slaves so imported shall be released by the magistrate, and returned to their own country by the magistrate, if they wish it, and if not capable of maintaining themselves, shall be bound out by the magistrate for a term not exceeding seven years.

6. The above prohibition shall extend to the importation of slaves from the other provinces of British India, including the subjected Kassiah states, Cachar and Bengal (N. E. Rungpore inclusive).

7. Any person importing such slaves for sale shall be liable to a fine for each slave not exceeding 200 rupees, or six months' imprisonment, at the discretion of the magistrate.

8. The exportation of slaves from this province, for sale at foreign countries or the other provinces of British jurisdiction as above pointed out, shall likewise be prohibited.

9. The slaves so attempted to be exported for sale shall be declared free, and be allowed to settle or remove to where they choose, or be bound out as above directed, if children and their parents be not known or not capable of providing for them.

10. Any person so attempting to export slaves in breach of these rules shall also be liable to a fine for each slave not exceeding 200 rupees, or six months' imprisonment.

11. Nothing in the above regulations shall be construed to prohibit male or female slaves born in slavery, or domesticated for the period of five years, or if females who are pregnant or have borne children to their owners, from going out or coming into the province, together with their children; provided the slaves are brought before a magistrate, and declare that they are willing to accompany their owner, who shall then receive a passport for them, stating to the above effect.

12. The sale of children to servitude for life shall, after the proclamation of these rules, be declared illegal; but it shall be lawful to parents to sell their children in times of distress, for a term of servitude not exceeding the period in which they will attain their 21st year, after which they shall be declared free; and such sale shall be duly witnessed by three

three or more respectable witnesses, in the presence of the village officer, who shall also authenticate the deed; and it shall be by him copied and transmitted, through the chowdry of the pergunnah, to the magistrate, for registry. On failure of executing such a deed, the sale shall be declared invalid.

13. Every person owning slaves shall register all children born of such slaves, in the manner described in Rule 3, within six months of their birth, under the penalty of losing all right and title to every such child.

14. The children of female slaves to be considered as coming under the provision of Rule 2. The children of freewomen by slaves to be considered free.

15. In like manner, the children of bondsmen and bondswomen, under Rule 12, to be emancipated as in Rule 3.

16. The transfer of all slaves and bond servants within the province, by sale or gift, to be registered as aforesaid. But it shall not be legal to transfer the services of the children of slaves, so as to separate them from their parents, under the age of six years; nor shall it be lawful to separate the husband from the wife: and any breach of this regulation shall be punishable by the forfeiture of any right to the service of the husband, wife or child, which shall be emancipated, and by the infliction of a fine not exceeding 50 rupees, or three months' imprisonment.

17. It shall not be lawful for any adult person (that is, above 18) to bind him or herself for a longer period than seven years for any sum of money; and after that term he shall be unconditionally released. But a minor above the age of 12 years shall be allowed to bind him or herself for so many years in addition to seven years as he or she may be under the age of 18 years; viz. if 17 years of age, for 8 years; 16 years of age, for 9 years, and so forth. All bond servants shall be entitled to the same allowance of food and clothing as is now customary in the province.

18. The bond by which any person pledges his or her services shall be executed before, and authenticated by the village officer, and attested by at least three witnesses; and the village officer shall transmit a copy of the bond, through his chowdry, to the magistrate, for registry.

19. It shall not be lawful to transfer any such bond servant to another against his consent; and the transfer shall be authenticated as before directed with regard to the bond.

20. All bond servants after the proclamation of these rules, whose engagements have not been made for any definite period, shall obtain their release, after proving they have served seven years, on payment of his or her debt, in the liquidation of which his services shall be calculated at the value of four annas a month over and above the cost of his food and clothing; but if the four annas so calculated shall exceed the amount of his debt, the bondsman shall have no claim against his master for the excess, but only be entitled to his liberty.

21. Bond servants shall at any time obtain release by the payment of the sums for which they are bound.

22. The death of bond servants shall cancel the engagements entered into by them. The wife shall not be bound to serve for her husband, nor the husband for the wife, nor children for their parents.

23. The provincial customs relative to the marriage of slaves, and to their right to hold property, shall continue as heretofore.

24. All slaves or bond servants shall have a right to emancipate themselves, their wives or children, at a sum to be settled by a punchaet directed by the magistrate.

25. The ill-treatment of slaves or bond servants shall be cognizable by the magistrate as at present.

26. Slaves or bond servants for misconduct shall be liable to moderate correction by their owners, masters or mistresses, and be punishable by the magistrates, by flogging, not exceeding thirty-five stripes, for absenting themselves from their owners, continued contumacious behaviour or other gross misconduct.

27. Any persons harbouring runaway slaves or bond servants shall be liable to a fine not exceeding 200 rupees, or imprisonment for six months, on conviction before a magistrate; and such runaway slaves and bond servants shall be returned to their owners or masters and mistresses by the magistrate, who shall inflict such punishment as laid down in Rule 26, as he thinks the case may deserve.

28. Any complaints from slaves of being detained improperly, contrary to these regulations, or of owners, &c. against their slaves, &c. for absenting themselves, shall be heard and decided on summarily by the magistrate, leaving either party at liberty to enter a suit in a civil court, if the party considers itself aggrieved by the decision of the magistrate.*

No. 14.

FROM Mr. *J. F. Hawkins*, Officiating Register, Sudder Dewanny Adawlut, Calcutta, to Mr. *F. J. Halliday*, Officiating Secretary to Government of Bengal, in the Judicial Department, dated 22d December 1837.

Sudder Dewanny Adawlut.

PRESENT:
R. H. Rattray, W. Braddon, and N. J.

I AM directed by the court to request that you will lay before the honourable the Deputy-governor of Bengal the accompanying copy of a letter from the commissioner of Assam, relating to the case of a sepoy of the Assam Sebundy corps, whom the civil courts have adjudged to slavery in the event of his being unable to pay 90 rupees for his release.

2. The

* These rules, as well as the correspondence referred to in Captain Jenkins's letter to the Sudder Dewanny Adawlut of the 25th November 1837, were forwarded to the Bengal government in his letter dated 22d August 1835. The whole has already been published on Slavery in India papers, 1838, p. 351–357.

Halhed, Esqrs., Judges; W. Money, Esq., Temporary Judge; J. R. Hutchinson and C. Harding, Esqrs., Officiating Judges; and J. F. M. Reid, Esq., Officiating Temporary Judge.

2. The court are not aware of any reference such as that to which Captain Jenkins alludes in the fourth paragraph. Such a case of the kind having been before the government, the present one may be disposed of on the principle established at the time. But if no precedent can be found, the case may be referred to the military authorities, who would probably ransom the sepoy, and realize the money paid on his account by stoppages from his pay.

FROM Captain *Francis Jenkins*, Commissioner of Circuit, Assam, to Mr. *Pierce Taylor*, Deputy Register of the Sudder Dewanny Adawlut, Fort William, dated 25th November 1837, enclosed in above.

A CASE has occurred (particulars as below *), on which I have to request the instructions of the Sudder Dewanny.

2. The defendant, whilst the trial was pending, entered himself as a sepoy in the Assam Sebundy corps under another name, and was lost sight of until lately, when he was immediately claimed as a slave, being entirely unable to pay the amount as decreed, entitling him to his release.

3. I beg to know how I am to proceed, and whether the sepoy must be surrendered as a slave, or whether he can be retained in his regiment as a sepoy, on payment of any portion of his pay to his master.

4. I rather think a similar case was referred to government, or the Sudder Dewanny, some time ago, with regard to sepoys of the Arracan local corps; many of the sepoys in which regiment were to my knowledge slaves; but I am not aware of the decision that was given.

No. 15. FROM the Secretary to Government of Bengal, Judicial Department, to the Register of Sudder Dewanny Adawlut, dated 13th February 1838.

I AM directed by the honourable the Deputy-governor of Bengal to acknowledge the receipt of your letter of the 22d December last, No. 3,819, with its enclosure to your address from the commissioner of Assam, relating to the case of a sepoy of the Assam Sebundy corps adjudged to slavery by the civil courts, in the event of his being unable to pay 90 rupees for his release, and in reply to communicate the following observations and instructions.

2. From the correspondence below,† copies of which, to the extent not forthcoming on the records of the court, are herewith forwarded, his Honor observes, that Mr. Robertson, when commissioner of Assam, submitted a rule, regarding the sale of slaves in satisfaction of decrees of court, for the consideration of government, in principle very similar to that propounded in the 2d paragraph of your letter under reply. In respect to this rule, Secretary Mr. Macsween observed, "The subject of the state of slavery will be taken into consideration hereafter. In the meantime, the Vice-president in Council desires that the courts will abstain from selling slaves in satisfaction of decrees, or for any other object."

3. The subject was again considered, when the court submitted to government drafts of the Rules of Practice proposed by them for the guidance of the officers employed in Assam, in the administration of civil and criminal justice.

4. After some correspondence with the court, the government authorized them to print those rules, omitting section 9, relating to slavery, on which subject, at the suggestion of the court, the sentiments of the local officers were first to be taken. To the government letter of the 6th December 1836 No. 2,142, to the above purport, no reply has been received from the court, conveying the opinions of the local authorities and their own.

5. As the matter now rests there, it is clear that the sale of slaves by the courts for any object whatever is prohibited. But adverting to the delay which has occurred in bringing to an issue the consideration of the subject contemplated in Secretary Mr. Macsween's letter of 25th August 1834, No. 1,705, his Honor is inclined to think, that the shortest course in the case under reference will be to pay the amount of the value of the slave (90 rupees) to the decree-holder, a portion of his monthly pay being credited to the government, until the sum disbursed shall be liquidated.

6. The court are accordingly requested to provide for the disposal of the case in the above manner, if the military authorities, to whom a reference has this day been made, and of whose decision the court will be apprized hereafter, should not object; and in the meantime to submit a reply with the least practicable delay to Secretary Mr. Mangles's letter of the 6th December 1836, No. 2,142, before quoted, that no further time may be lost in laying down some definite rule on the important subject of slavery.

FROM

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* Girish Surmah *versus* Kurrikinah.—Claimed as a slave at the value of 64 rupees. Suit instituted 28th November 1833, in the court of the sudder munsif, of Gowalparah. Decree for plaintiff. The defendant to pay 90 rupees for his release, or become a slave. Kurrikinah appealed to sudder munsif, who upheld the judgment of the munsif, and the appellant has now applied for the execution of the decree.

† Rule regarding the sale of slaves in satisfaction of decrees of court, received from Mr. Robertson, late commissioner of Assam, in 1834. Rule regarding bondsmen. Extract from a letter written to the commissioner of Assam (Captain Jenkins), dated the 25th August 1834, para. 9.

FROM Captain *F. Jenkins*, Commissioner of Circuit, Assam, to Mr. *J. F. M. Reid*, Register, Sudder Dewanny and Nizamut Adawlut, Fort William, dated 5th January 1836.

No. 16.

I HAVE the honour to acknowledge the receipt this day of your letter, No. 2,973, of 13th November 1835, and its accompaniment, from the secretary to the law commissioners under date the 10th October last.

2. In reply, I beg to observe, that in the absence of any defined regulations regarding the rights of masters and slaves, the courts under me would require on disputed points the opinions of respectable inhabitants of the province. There are, I conceive, cases in these districts, in which slaves can acquire and inherit property; but, under other circumstances, any property they may acquire would be considered to belong to their owners. The relative rights of masters and slaves are, however, I believe, in this province more dependent upon local customs than on Mahomedan or Hindoo law; for neither system of law has had more than a partial prevalence in Assam, nor been introduced in a large portion of the province, but of late years; and a considerable part of the inhabitants are neither Mahomedans nor Hindoos.

3. In regard to criminal cases, I consider the courts would take the same notice of maltreatment of slaves by their owners, as of servants by their masters; and in certain cases of gross ill-treatment, would release the slave, under the precedent of the decision of the Nizamut Adawlut in the trial, No. 67, 1805, quoted by the law commissioners, though I am not aware of any case in question.

4. When slaves leave their masters, their recovery by their owners is very difficult, the slaves in such instances mostly appealing to the magistrate, and affirming that they have been detained unjustly in slavery, or denying that they ever have been slaves; on which the magistrate frequently refers the owner to a civil suit to establish his right to the person he claims as a slave.

5. This appears inequitable, as long as slavery is acknowledged by the law; and I conceive the magistrate ought to be empowered to take evidence and decide summarily, on the mere fact of previous possession. But where he had great reason to suppose that the slave was unjustly detained, the magistrate might be allowed to order the claim of the slave to be sued in the civil courts, at the expense of government; for otherwise he may be detained in perpetual servitude from the want of means to support his claim. The only other alternative seems to be to adopt the practice as described, and throw the burden of commencing a civil suit on the owner. But in many instances this procedure may be tantamount to emancipating the slave, from the inability also of the owner to prosecute his suit; for often the slave is the sole support of the owner.

6. The enactments of Regulations X. of 1811, and III. of 1832, against the importation by sea or by land, are in full force in Assam.

FROM Captain *F. Jenkins*, Governor-general's Agent, North-east Frontier, to the Secretary to Government of India in the Political Department, Fort William, dated 19th February 1840.

No. 17.

I HAVE the honour to forward for the consideration and orders of his Excellency the honourable the President in Council, the accompanying copy of a letter from the political agent in Eastern Assam, No. 271, of the 10th instant.

2. Captain Vetch appears to me to be mistaken in his construction of Regulation X. of 1811, to which I suppose he refers in his 3d paragraph. That regulation does not, in my opinion, extend to settlers or travellers coming into the British territory with their domestic slaves, but only to persons importing slaves for sale, as the regulation refers expressly to "such traffic" being against the principles of our administration. If I am right in this supposition, Captain Vetch would be at liberty to deal with runaway slaves in the same manner as is done by other magistrates.

3. If, however, his Excellency is of opinion that the regulation will not bear the construction I put upon it, it will be a subject for his Excellency's determination, whether Captain Vetch is at liberty to entertain petitions for runaway slaves, on the ground of the regulations not having been extended to the districts beyond the Booree Dehing.

LETTER from Captain *H. Vetch*, Political Agent Dibrooghur, Assam, to Captain *F. Jenkins*, Governor-general's Agent, dated 10th February 1840, enclosed in the above.

I BEG to acquaint you, that it is a matter of very frequent occurrence that whole families of Singphoos remove from the Burmese to the Assam territory, bringing with them all their household, including Assamese slaves, either of those originally taken from Assam or their descendants.

These Assamese for a time remain contentedly with their former masters, perhaps for years, when they either desert themselves, or are instigated to do so by persons having some object to gain with them.

2. I now solicit the favour of your instructions with respect to these, whether they are to be restored or not to their masters, who are resident in our jurisdiction, on the Singphoo chief establishing his right as master, when these resided on the Burmese side of the boundary.

3. The

Appendix VI.

Correspondence.

3. The circumstance of slaves coming from a foreign state would render their rights to freedom a matter of course in a regulation district. But the question seems considerably altered on this rude frontier, where the whole family shifts ground, and thereby affords the only opportunity the Assamese may ever have of re-crossing the frontier, and where dependents, not lands, constitute its respectability, which is destroyed by the loss of these, and reduced to poverty; and it is this cause of irritation that frequently renders the Singphoos on our frontier discontented and rebellious.

Enclosed I have the honour to submit a copy of petition from Punchoo Gaum, a very respectable Singphoo, who came over from Hookum some years ago, with all his household, and is now ruined by the desertion of all his followers, in the manner described in the foregoing paragraphs.

I solicit the favour of your early reply, as there are a large number of such deserters, with their women and children, claimed by the Singphoo chiefs, and who must either have a location assigned them, or be restored to the Singphoos from whom they have deserted, to save them from starving.

No. 18.

LETTER from Secretary to Government of India, Political Department, to Captain *F. Jenkins*, Governor-general's Agent, North-east Frontier, dated Fort William, 9th March 1840.

I AM directed by the Right honourable the Governor-general of India in Council to acknowledge the receipt of your letter, dated the 19th ult., submitting, with your opinion, copy of one from the political agent in Upper Assam, soliciting instructions regarding runaway Assamese slaves.

2. In reply, I am desired to inform you that, before passing any orders on this reference his Lordship in Council would wish to be furnished with further particulars regarding the class of persons to which Captain Vetch refers; as to their numbers; the mode in which they have been reduced to slavery; the manner of their treatment by their masters; whether the children of slaves are, like their parents, regarded as slaves; and whether they have, under any circumstances, a right to claim emancipation; with any other particulars that can be learned relating to them.

No. 19.

LETTER, in reply, from Captain *F. Jenkins*, Governor-general's Agent, to *T. H. Maddock*, Esq., Secretary to Government of India, in the Political Department, dated Fort William, 20th May 1840.

Political Department.

WITH reference to letters, as below,* I have the honour to forward the further report by Captain Vetch, of the 8th instant, No. 114, on the classes of persons referred to by him as being slaves, and the modes in which they have been reduced to slavery, as directed in your letter above quoted.

2. Captain Vetch states, that the persons to whom he alluded are Assamese by birth or descent, originally carried off from this province, previous to our occupation of it, and have been obtained by their present masters, either by purchase or from having been born in their families.

3. Captain Vetch further mentions, he has been informed that 31 of the runaway slaves have voluntarily returned to their old masters since he wrote his first letter.

LETTER (enclosed in above) from Captain *Vetch*, Political Agent, Upper Assam, to Captain *F. Jenkins*, Governor-general's Agent, Assam, dated 8th May 1840.

I HAVE the honour to acknowledge the receipt of your letter, No. 237, of the 26th March, and in reply beg to say that the number of runaways on the late occasion claimed as slaves by the Singphoos amount to 60 souls, of whom 21 are men, 28 women, and 11 children.

2. All these are either the captives formerly taken away from Assam by the Singphoos or Burmese, previous to our occupation of the province, or their descendants, either by Assamese parents on both sides, or by Assamese mothers and Singphoo fathers, and they are claimed by the chiefs, as either obtained by purchase or descent; but there are cases where the persons claimed as slaves are so by an after capture, by intercepting the runaways in attempting to get back to Assam, on the Burmah frontier; the claim to these I consider totally inadmissible. There are others who, after effecting their escape, took up their abode at the first Singphoo village that could feed and protect them on this side of the frontier, and became the servants of those who had received and sheltered them; the claim to the restoration of these should also, I think, be rejected. Those, again, who have made no attempt to regain their freedom since the occupation of Assam are those to whose cases I could solicit notice, and I should not think of recommending the restoration of any individual, until this case had undergone a separate investigation.

3. The Singphoo slaves are generally well treated by their masters; their descendants are considered slaves; most of them can speak Assamese, but some only Singphoo; among themselves, the Singphoo language is most used.

4. There can be no doubt but that all these persons or their parents were, in the first instance, captives carried off from Assam.

5. The Singphoos are, in a great measure, dependent on them for labour, and in some villages they much out-number their masters.

6. Since my former letter, I have received information that 31 of the runaways have gone back to their old masters of their free-will.

7. I beg to enclose the copy of my former letter, as required by you.

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* My letter to Mr. Prinsep, No. 35, of the 19th February, and your reply of the 9th March 1840. (*Vide supra*, Nos. 17 and 18.)

Appendix VII.

Arracan and Tenasserim Provinces.

Arracan.

Tenasserim.

From Captain *A. Bogle*, Commissioner of Arracan, to the Secretary to the Law Commission, dated 21st December 1839.

Appendix VII.

Arracan.

No. 1.

Herewith I have the honour to transmit copies of all the letters and native proceedings, to be found amongst the records of this office, relating to the abolition of slavery in Arracan.

2. I regret that so great a time has elapsed since my return to this province without my being able to submit these papers; but, under the impression that there were other documents bearing on the subject, I have caused all the departments to be strictly searched, in hopes of finding them. This search has occupied much time, and has, I am sorry to say, ended unsatisfactorily; for, nowhere can we find any thing more definite than the accompanying papers.

From Mr. *H. Walters*, Officiating Commissioner of Akyab, to Captain *T. Dickinson*, Superintendent of Arracan, dated 4th April 1833.

No. 2.

With reference to the state of slavery in this province, and the regulations and humane intentions of the government on the subject, I would request your sentiments as to the best mode of putting a stop to the practice in this province.

2. To prohibit the sale and purchase of slaves imported from other districts and countries, the law gives you ample discretion, and also to punish severely all parties guilty of such crimes; but with a view to check domestic slavery, it might be sufficient at present, perhaps, to interdict the recovery of the persons of slaves, or any money or consideration claimed on account of the sale, purchase, transfer or mortgage of slaves in our civil courts. A circular to the assistants ordering plaintiffs in all such cases invariably to be nonsuited would suffice, without issuing any proclamation on the subject.

3. On the other hand, any persons petitioning the criminal court for release from restraint imposed upon them on the pretence of their being slaves, should have their remedy, by an order being passed to the effect, that they are at liberty to go where they please, and that any persons illegally restraining them will render themselves liable to punishment, a copy of such order being given to the petitioner to produce to whomsoever it may concern.

4. Should you see no objection to the above suggestions, you are desired to give them effect.

Appendix VII.

Arracan.

FROM Captain *Dickinson*, Superintendent of Arracan, to Officiating Commissioner *H. Walters*, dated 3d September 1833.

No. 3.

WITH reference to the subject of your letter, No. 248, of the 4th April last, it does not occur to me how we can fairly and justly, and without creating a considerable sensation among the more influential classes, interdict the recovery of any money or consideration claimed on account of the purchase, transfer or mortgage of slaves in our civil courts, though I am fully agreed with you in the measure of interdicting the recovery of the persons of slaves, and the humanity of granting release from restraint on petition in our criminal courts. This will go far towards abolishing the practice, gradually introduce that order of things which we desire, and obviate the evils to which too sudden innovations on ancient customs and practices are liable.

All transactions of the above nature, subsequent to the conquest of the province, and by our Ramoo Mughs, after the promulgation of Regulation X. of 1811, are of course null and void. I shall be happy to have your further sentiments on this subject.

No. 4.

CIRCULAR, addressed by Mr. *H. Walters*, Officiating Commissioner of Arracan, dated 11th September 1833, to Captain *Browne*, Captain *Williams*, Captain *White* and Lieutenant *Mackintosh*, Assistant Superintendents of Ramree, Aeng, Akyab and Sandoway.

YOU will herewith receive copy of a letter from Captain Dickinson, No. 109, dated 3d September; and you are requested to report the actual state of slavery in the part of the province under your authority, and the means you would recommend for putting a stop to the practice.

2. You are also requested to state your sentiments on the point noted by Captain Dickinson, as to the degree of "sensation" which would probably be created by enforcing the interdiction referred to by him.

3. A copy of my letter on the subject, No. 248, dated 4th April, is annexed for your information.

No. 5.

RETURN to the above Circular, by Captain *J. L. Browne*, Officiating Magistrate, Akyab, dated 28th September 1833.

I HAVE the honour to acknowledge your letter, No. 2, in the judicial department, with annexed copies of letters, No. 248, to the address of Captain Dickinson, and his reply thereto, regarding slavery, and recommending measures for its total extinction.

There is hardly an individual, let his condition be what it may, that does not possess one or more of the following three classes of slaves:

1st, Phobyng, perpetual and hereditary; 2d, Appang, manumission to be obtained on paying the purchase-money, which is on an average 40 rupees; 3d, Monhe-tolling, a woman sells herself for, say 20 rupees; she is obliged to serve the person to whom she mancipates herself for 20 years; she also receives, at the expiration of each year, one rupee, so that at the end of her servitude she will have been paid 40.

Among the Kyengs, slaves are allowed half the profits of their own labour.

The Mughs, generally speaking, treat their slaves well, at least as well as their wives, which inclines me to think that few would avail themselves of their liberty; for it is only when a woman is cruelly beaten and ill-treated that she flies to the court for protection, and release from thraldom. The defendant's loss in that case would not be unmerited if nonsuited. But so few are these cases, that contentment is manifest.

The plan proposed by you in your letter, No. 248, to Captain Dickinson, I highly approve of, as most effectual, and gladly will I adopt it; indeed I have acted hitherto on the same principle, nor do I dread any thing from its general adoption. But from Captain Dickinson's long residence in this province, and from his thorough knowledge of the Mugh character, I am induced to offer the following; viz. that each slave-owner be compelled to give one or two rupees per month to each slave, which would enable her to free herself, if frugal, in two or three years. A proclamation to that effect was once issued by Mr. Paton, so I understand.

The slave-owner failing to pay the stipulated sum (for some fixed period, the same elapsing), the slave, on petitioning, to be manumised. Any dispute concerning the price of a slave of the first class could be settled by arbitration.

No. 6.

RETURN to the above Circular, by Captain *D. Williams*, Senior Assistant Superintendent, Ramree, dated 1st September 1833.

I HAVE the honour to acknowledge the receipt of your circular, No. 2, and its accompanying correspondence.

On my first assuming charge of Ramree, I liberated three slave-girls (Munnypoories), the property of the most respectable man in this district, the soogree of this town. I must, however, in justice to this man, mention his cheerfully submitting to the order, and presenting the girls with presents. I have since given general circulation to the prohibition of selling and purchasing slaves, or introducing them from other countries, and have emancipated several

several others, and in one instance, the owner sued the emancipated slave for her price; a decree was given in his favour, and consequent incarceration of the defendant; but she was soon released again, no subsistence being provided. A short time ago I nonsuited a plaintiff who had sued a woman for the price of her infant. The plaintiff was a serang of one of the military boats, and I would have punished him to the extent sanctioned by the regulations had it not appeared that he felt justified by his intention of bringing up the child as a follower of Islamism, and thereby doing a meritorious act. However, that appeared doubtful, as he kept a Mugh woman, whose slave the child would have become on her separation from the serang.

There is a practice amongst the Mughs of pledging their wives or children for the payment of a debt, which they maintain is not slavery. I have, however, most peremptorily prohibited it, allowing only the debtor to pledge his own body.

It is the policy of the owners to keep their slaves as poor as possible, to prevent any chance of their manumitting themselves. I do not, therefore, see from whence the money or consideration for the purchase, transfer or mortgage of a slave is to come. However, to remove all cause for complaint by owners of slaves manumitted, I would permit their suing for the purchase or transfer money in the civil court, and the court might, in all aggravated cases, nonsuit.

RETURN to the above Circular, by Captain *M. G. White*, Assistant Superintendent, Sandoway, dated 1st October 1833. No. 7.

I HAVE the honour to acknowledge the receipt of your letter, No. 2, of 11th ultimo, with copies of your letter, No. 248, dated 4th April last, to address of the superintendent of Arracan, with that officer's reply thereto, No. 109, of 3d ultimo, and I have to acquaint you, that there is little or no slavery in this district, most of the slaves having been released on petition, and the few that remain continue in their state voluntarily, they being aware that they may be released on application; and I do not fail to make the people acquainted with the humane intentions of the government on the subject, by frequently questioning the soagrees and roagongs, and directing them, as also the police, to promulgate the same.

2. I am of opinion that slavery or domestic slavery throughout this province might be entirely checked by the enforcement of the suggestions contained in the second and third paragraphs of your letter to the superintendent of Arracan; and I should not apprehend therefrom any ill consequences as imagined by Captain Dickinson.

3. I would, however, respectfully suggest, that a proclamation from yourself be issued, declaring that the magistrates are authorized to grant the release from slavery of any person whatever, on petition, on unstamped paper, and that any persons restraining another from preferring such plaint will render themselves liable to fine or imprisonment; that the present owners of slaves are at liberty, within six months of date of proclamation, to file a civil suit for the *bonâ fide* purchase-money of a slave against the actual receiver of the purchase-money, if in existence, but that he be prohibited from prosecuting the heirs or the slave in the event of the demise of the actual receiver of the purchase-money.

4. I do not myself see that it would be unfair or unjust to interdict altogether the recovery of any purchase-money by owners of slaves, as suggested in the latter part of the 2d paragraph of your letter, No. 248,* as such transaction must necessarily have taken place before the date of the treaty of Yandaboo, viz., 24th of February 1826, nearly eight years ago, for during this period the owner of the slave must have recovered the full value of his purchase-money by the labour of the slave; and such purchase-money, viewed even as a loan of cash, could not now be recovered in a civil court in this province, as, by Rule 3, for the administration of civil justice in the province of Arracan, framed by the honourable Mr. Blunt, when special commissioner, and sanctioned by government and duly promulgated, no civil suit is cognizable in any court in the province in which the cause of action originated three years antecedent to the institution of the suit; and although a limitation of 12 years antecedent to the date of treaty of Yandaboo was allowed for cause of action, all such suits ought to have been filed within three years after promulgation of Mr. Blunt's code. Consequently, at the present date, I do not see why the purchasers of slaves should be allowed to recover their purchase-money in a civil suit, when, by Mr. Blunt's rule above quoted, no civil suit could now be cognizable in our courts, however honest or honourable the transaction, should the cause of action have originated upwards of three years from the present date. At any rate it would be legal to nonsuit the plaintiff; therefore there would be no illegality in nonsuiting a slave-dealer, whose cause of action must have originated upwards of eight years from the present date.

RETURN to the above Circular by Lieutenant *H. Mackintosh*, Junior Assistant Superintendent, Sandoway, dated 9th October 1833. No. 8.

I HAVE the honour to acknowledge the receipt of your circular letter, No. 2, in the judicial department, under date the 13th ultimo, on "slavery."

2. That the system of holding the person in bondage is one of common practice in the province would seem not to admit of doubt. I do not, however, learn that it is of more general occurrence in this than in the adjacent districts. And although the term and practice

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* *Vide supra*, No. 2 of this Appendix.

Appendix VII.
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Arracan.

tice of slavery is daily becoming more and more offensive to all civilized nations, its operation, as we find it established among this people, is so mild, that apart from those general considerations which the contemplation of the subject presents to the mind of the philanthropist, there appears to be nothing in the system to awaken those intense feelings of sympathy, which the horrors of African slavery must ever give rise to. Yet it must be admitted that its suppression even here becomes desirable.

3. I will endeavour briefly to sketch its state, as in existence here, and

1st. *Of Children.*—It is found that the general cause of their being led into captivity is, where the parents, either from pecuniary losses or from advancing old age incapacitating them from labour, place their child in bondage for a sum which is to relieve them in the one case from the unfortunate demands of a creditor, or, as may be, actual starvation arising from a reduction to that state, possibly from unsuccessful efforts in trade. In the other case, it would seem to be adopted distinctly with a view to secure a retirement free from labour! that acmé of Mugh desire, which the parents thus enjoy at the expense of the freedom of their child.

2d. *Of Adults.*—In all these cases the parties have pledged their persons on failure of restitution of a sum borrowed.

3d.—*Of Female Children* sold and bought, to be maintained in a state of concubinage.

4th. *Of Wives.*—A husband embarking in an adventure requiring a sum which he happens not to possess, he pledges his wife as a bondmaid to the individual from whom he borrows.

4. The above form the chief cases occurring; and the restraint imposed upon a bondsman or bondmaid is greatly alleviated by rules apparently well understood by the people themselves, and which, if only acted upon, must reduce their system of slavery to that of ordinary servitude. For example, if a child is ill-used or dissatisfied in the family in which the parents have placed him or her, the parents endeavour to find out another family, who by an advance of money enable them to remove the child under the care of these new contractors for its labour; in the case of adults, they look out for another place if unhappy in their first selection, and if they can find another willing to advance the sum, they are held in bondage; for they immediately with the money transfer themselves from the one to the other. Old parents making over young children for an advance, and dying, a child may work out its own freedom, and if a female child, marriage would seem not impossible, if the future husband has no objections to buy his wife. From 20 or 30 rupees, up to 80 rupees, is advanced here for one child. These slaves, if they may so be termed, generally perform the work of, and are fed and clothed by, the family they are in. If misfortune befal the family, and they are unable any longer to keep the child, they demand from the parents the sum advanced, who borrow it from another, and the child is removed as the security.

5. I doubt not that I shall carry you along with me in opinion, that it is difficult to determine, where we find slavery so gentle in its operation, what steps would in any way render the system of holding the person in bondage less nugatory than it really is; for it does not deserve the appellation of slavery. And as this people are yet an immeasurable way off from that point in the scale of civilization where any unnatural or unlawful restraint imposed upon the active energies of the individual is held to be a loss to the commonalty, can we advocate manumission on the score that they would employ themselves better in labouring of their own free will, and for self advantage, than as they are now obliged in a measure to do for another? In the face of knowing the Mughs in general to be the very laziest of the lazy, I am inclined to think, that was it possible to put a stop to the system as in vogue here at present, the people would be little bettered in condition by the humane intent of any legislative Act on the subject.

6. The evil here is purely a moral one. If the parent's love for his child is not strong enough to prevent his delivering it over in charge to another, instead of cherishing and protecting it himself, and if that child, when arrived at a certain age, does not see or feel any degradation in his position in society, or, more properly, among the community, I fear no enactment that we could enforce would bring them within the influence of that bright ray which emanates from reason's light, and through the cheering influence of which we are enabled not only to distinguish but to appreciate the difference betwixt freedom and restraint. So long as the indolence and want of feeling on the part of the parent remain manifest, as they are found to be, the one in excess, the other in diminution, so long, I apprehend, will this system continue.

7. The foregoing remarks have reference only to the system which exists around me here. It is far otherwise in the Akyab district. There slavery does really exist, for there they are bought and sold (I am told), and the children born to slavery; in which case it will last from generation to generation, if the law is not made to put a stop to it.

8. With advertence to the degree of sensation which any decisive declaration of abrogation might create, I must bend, of course, to the lengthened local experience which no doubt suggested the remark to the superintendent. Yet, at the same time, I beg permission to say, that I have in vain looked around me during my stay hitherto in Arracan for that influential class alluded to. There are individuals, no doubt, who exercise a certain influence over their fellows, but, as to the existence of a distinct influential body having a place in the community, I think it will generally be admitted that it is a *desideratum* in this province.

9. In conclusion, I should suggest, that the court here should be open to grant unconditional liberty to all who should petition for it, and who may at the time be under any unnatural or unlawful restraint; and further, that all transactions connected with the system, as we find it established in this part of the province, should be so far discountenanced, as to render sums given or received not recoverable by a civil suit.

10. A father

10. A father borrows money to game with, (not an uncommon case). His child becomes the bondsman of another. Is it just or proper that that child should be compelled to labour for a series of years on account of the worthlessness of the parent?

PROCLAMATION from the Foujdary Office of the Superintendent of Arracan, dated 1st October 1831, issued by Captain *T. Dickinson.* No. 9.

"THE inhabitants of this country advance money to men and women, and retain them as slaves. For the sake of getting money, these people then may be slaves to all. Seeking subsistence, they do not give their lives. This practice is the bane of the country; nor is it usual with all the Mughs. It is requisite that all should promptly release persons, men and females, refunding the price of their bodies. If any person, contrary to this proclamation, should not receive price tendered, and retain another as a slave, on complaint and proof, the person so retained, together with price, will be discharged."

N.B.—The original of the above is written in such an unintelligible jargon, probably by a Mugh attempting to use a foreign dialect (Hindoostanee), that a translation is not possible. A paraphrase can only be given.—*J. C. C. S.*, Secretary.

PROCLAMATION issued from the Court of Zillah Arracan, by Captain *D. Williams,* Senior Assistant Superintendent, 29th April 1832. No. 10.

"FROM the date of the accession of the English Government, under Regulation X. of 1811, all slaves imported for purposes of traffic into this province are at once absolutely released and free, whether from a foreign country, from the English country, or the territories of rajahs and others. Therefore, this proclamation is published for general information. The date of the conquest of this province, that is, of the treaty of Yandaboo, is 24th February 1826. Since that date, all slaves purchased from a foreign country (and brought into this), or sold from that province into any other place in the Company's territory, shall have their liberty. If hereafter any person shall act contrary to this notice, and shall, from a foreign state, import into this province and sell any human being, or shall export into and sell a human being in the English territory, on apprehension and proof, the offender will be imprisoned six months and fined two hundred rupees; and if he do not pay the fine, will be imprisoned a further period of six months."

LETTER from Mr. *E. A. Blundell,* Commissioner in the Tenasserim Provinces, to the Register of the Sudder Dewanny Adawlut, Fort William, dated 11th July 1836. No. 11.

1. I HAVE the honour to acknowledge the receipt of your letter of the 20th May last, conveying the court's desire to be furnished with information on the subject of the modified system of slavery existing in this country.

2. Though the terms "slavery and slave" be applied to certain classes of individuals in these provinces, yet, in reality, no such state as that of slavery exists here. The regulation on the subject that was issued very shortly after our obtaining possession of the country (copy of which is herewith forwarded) so far modified the state of debtor-slavery, as it existed under the Burmese rule, as to reduce it to mere domestic service paid for in advance.

3. The description of debtor-slavery, under Burmese rule, will be found in the accompanying paper.

4. Even the modified system of debtor-service introduced by us is now fast disappearing; and though I am in possession of the sanction of government for doing away with it altogether, yet I think it preferable to allow it to die a natural death, as the people are fast evincing a sense of its inapplicability to their improved state under our government.

DEBTOR-SERVANTS' REGULATION, enclosed in above, signed by Mr. *A. D. Maingy,* Commissioner in the Tenasserim Provinces, and dated Moulmein, 10th February 1831. No. 12.

1. NOTICE is hereby given, that from and after this date no contract or agreement, binding persons to serve in the capacity of debtor-servant in consideration of a sum advanced for their labour and services, shall be valid, unless such contracts or agreements shall be acknowledged by the contracting parties before the commissioner, his deputy or assistants. These contracts shall be regularly drawn out and entered in a register to be kept at the youm; and the debtor servant furnished with a copy of his contract, signed by the commissioner, his deputy or assistants.

2. The contracts so registered shall specify as far as possible the nature and degree of the service to be performed by the debtor, and always fix a definite term of servitude, with the sum which shall tend towards the monthly liquidation of the money advanced to him or her, and which sum shall on no occasion be less than two pice per day. No youth of either sex, under the age of sixteen years, shall be deemed competent to enter into a contract for future services.

Appendix VII.

Tenasserim.

3. No parent or parents shall be allowed to mortgage the labour or services of his or her or their children; and no children of debtor-servants shall be liable for the debts contracted by his, her or their parents, for the mortgage of his, her or their labour or services. The children of all debtor-servants are free; but if the father and mother be unable to support their offspring, the master or mistress shall be entitled to the gratuitous services of the children so supported, until they attain the age of sixteen years, as a recompense for the expense incurred in their maintenance. But no master or mistress shall transfer or mortgage the labour or services of such children.

4. In case of the death of the master or mistress, the debtor shall have the option of repaying to the estate such sum as the commissioner, his deputy or assistants, may conceive equitable for unexpired services, or serve out the remaining period with the legal representative.

5. No debtor-servant shall, on any occasion, be transferred to another person by his or her master or mistress, unless the terms of his or her contract included such provisions.

6. In the case of females mortgaging their labour or services, their debt shall be cancelled by the commissioner, his deputy or assistants, in every instance of its being proved, that the master has cohabited with her, or that her master or mistress has been in any manner accessary to her prostitution.

7. Whenever it shall be proved, to the satisfaction of the commissioner, his deputy or assistants, that any debtor-servant has not been provided with proper food, clothing or habitation by the master or mistress, or has been otherwise treated with inhumanity or cruelty by him or her, the contract or debt of such servant shall be cancelled, in addition to such other punishment as the commissioner, his deputy or assistants, may deem necessary on the master or mistress.

8. If a debtor-servant fails to serve with fidelity, or has been neglectful from improper or vicious habits, the commissioner, his deputy or assistants, on such being proved, shall punish the party in the same manner as in the case of a common servant so offending.

9. No contract or agreement, binding persons to serve in the capacity of a debtor-servant in consideration of a sum of money advanced for their labour or services, shall be valid, unless the amount so advanced be paid in the presence of a magistrate to the persons mortgaging their services.

No. 13.

PAPER of Remarks by Mr. *E. A. Blundell*, the Commissioner, in regard to the above, dated Moulmein, 11th July 1836.

THOUGH the system of slavery under the Burmese rule be nominally mere bond-service, yet, owing to the but little limited authority of the master, to the impoverished state of the country, and to the small chance of a debtor-slave obtaining justice against his creditors in the courts, it may be looked upon as real "slavery." The chief alleviation of such a state is derived from the slave having it in his power to transfer his services to another creditor, should he find one willing to pay the amount of his debt.

The nature of the slave-bond is very diversified—for general service, for house service, agricultural service, &c. Many are mere engagements to pay some enormous rate of interest by daily or monthly payments; and those of the former description are often changed into the latter, the slave engaging, on being permitted to follow his own business, to pay so much a day out of his earnings. All these bonds are mere acknowledgments of certain debts, on repayment of which the slave again becomes free. These debts, augmented by the expenses incurred by the master on account of the slave for clothes and other items (not including food, however), descend to the children, whether born in slavery or not, and must be discharged by them either by payment or the substitution of one of them for the deceased parent. Children born in slavery become the slaves of the creditor, and are not released by the payment of the original debt of the parents. If grown up, the amount to be paid for such born slaves is 30 ticals (rupees nearly) for a male, and 25 for a female.

In satisfaction of a debt, parents can sell their children, husbands their wives, heads of families their dependent relatives. The amount for which they are sold is considered their debt, for which they alone are answerable, and until it be paid to the creditor, they and their posterity are his bond-servants. On becoming a slave for a certain amount, it is a usual custom to provide security; and such security is answerable, not only in case of the slave absconding, but even on his death. These securities are generally relations of the slave.

In Burman law the price of a male is fixed at 30 ticals, and that of a female 25. These sums are constantly decreed in their courts, in numerous cases. For such sums the children born in slavery can redeem themselves. A master having connexion with his female slave against her consent, forfeits 25 ticals from the amount of her debt. These sums are also made use of in apportioning the children of slaves, where the parents belong to different creditors.

In stating, however, what the law may be in the several cases relating to slaves, or indeed to any other subject, we are too much in the habit of attaching our own ideas of legal rights of persons. Slaves may be looked upon in Burmah as the property of their masters, as much as the cattle in their fields; and though, generally, their condition is far from being one of hardship, or looked upon as a disgrace, yet, once slaves, they have but a slender chance of ever manumitting themselves.

Appendix VIII.

Hindoo and Mahomedan Laws of Slavery.

Appendix VIII.

Hindoo Law of Slavery.

Hindoo Law. No. 1.

In the technical language of Hindoo law, the susrushaka, or person owing service (susrusha), is five-fold. The pupil (sishya), the apprentice (antevasi), the hireling (bhrittaka), the overseer (adhikarmakrit), and the slave (dasa). Breach of obedience due is one of the eighteen titles of law. The four first are denominated servants (karmakara), and are liable to pure work.

Narada. *Vide* Digest, b. 3, c. 1, v. 3, p. 205, vol. 2.*

2. There are fifteen descriptions of slaves enumerated by Narada, who are said to be liable to impure works. 1st. The house-born (grihajata), one born in the house of a female slave; 2d, the bought (kirta); 3d, the obtained (labdha); 4th, the inherited (dayadupagata); 5th, the self-sold; 6th, the captive in war; 7th, the apostate from religious mendicity or asceticism; 8th, the maintained in a famine (anakala bhritta); 9th, the pledged by his owner; 10th, the slave for a debt, who submits to slavery for discharge from debt; 11th, the won in a stake (panejita), one who is overcome in a contest, who had agreed to submit to slavery in that event; 12th, the self-offered with the words "I am thine;" 13th, the constituted (krita) for a stipulated time; 14th, the slave for his food (bhakta das); 15th, the slave for his bride (badavahrita).

Idem, v. 26, p. 222, vol. 2.

Idem, v. 29, p. 224, vol. 2.

3. The labdha, or obtained slave, is described in the Mitakshara, as obtained by acceptance and the like. Mr. Colebrooke has rendered the term "received by donation;" the author of the Digest, in his comment, says, "by acceptance of donation and the like." If not included in this denomination, the female slave, acquired by her marriage to a man's slave, is a 16th class. According to a text of Katyayana, and its comment in the Vivada Chintamani, she may be either a free woman or slave of another, if he has assented to her marriage. Another instance, which may perhaps be included in the labdha, is below noticed (para. 9).

Digest, b. 3, c. 1, v. 55, p. 252, vol. 2.

4. The freeman in the last eight instances must consent to slavery. The maintained in a famine is described by the author of the Mitakshara, as "preserved from death for slavery." The apostate becomes the king's slave, if he fail in performing atonement. The author of the Digest says, that the captive in war must also assent to slavery to save his life; but in the Mitakshara this assent is not implied.

5. Menu enumerates seven slaves. The captive; the slave for his food; the bought; the house-born; the given; the paternal; and the penal (danda dasa), explained to be one consenting to slavery to discharge a fine and the like. The author of the Mitakshara says, that this enumeration is not exclusive of other descriptions of slaves; which opinion the author of the Digest adopts.

Menu. c. 8, v. 415 cited in Digest, b. 3, c. 1, v. 33, p. 228, vol. 2.

6. Any person bound to obedience is only bound to render service suitable to his class; according to which also is he to be treated. In the Digest, b. 3, cap. 1, s. v., 7, the verse of Narada which implies this position is not rendered according to the comment, and the more obvious sense of the text. But it is said, generally, that all slaves are to perform the lowest offices.

7. By the old law in the direct order of the classes, a Brahmin might have a wife of each of the three classes inferior to himself. A kshatriya, one or both of his two inferior classes; and a vaisya, a sudra wife. On the same principle servitude is said to be in the direct order of the classes. The superior cannot be the slave of the inferior, but an equal may be of an equal.

Digest, b. 3, c. 1, v. 56, 57, 58.

8. But the Brahmin is not liable to slavery. The apostate is stated generally to be the slave of the king in the Mitakshara; which does not cite the text of Katyayana, in which it is said the apostate Brahmin is to be banished. The rule of slavery in the direct order of the classes does not apply to the apostate slave. According to the author of the Digest, a kshatriya or vaisya apostate may, if he assents, serve an inferior Hindoo slave.

Digest, b. 3, c. 1 v. 30.
Idem, v. 50.

9. In treatises of adoption an extract imputed to the Kalika Purana (though of doubtful authenticity) is prominently cited. See translation of the Dattaka Mimansa, s. iv., sec. 22; and Mitakshara, on Inheritance, cap. 11, s. 1, sec. 13. It has a passage, which declares, that adopted sons duly initiated may be considered as sons, "else they are termed slaves."

The

* The volumes of the 8vo., a London edition, are referred to.

Book 3, c. 1, Comment on v. 27.

The author of the Digest, commenting on the words "bought" and "received" in Narada's description of slaves, observes, that they may mean also boys purchased or received for adoption, but who have become slaves through some failure in the form; and he adds, that they become slaves independent of consent; and he is not shaken in his position, though it should be urged that thus a Brahmin might become a slave.

10. Sir T. Strange, in his Appendix to the 5th Chapter of his Hindoo Law, quotes a letter of Mr. Colebrooke on Hindoo slavery generally, in which he discusses the peculiar point just referred to. Mr. Colebrooke quotes the elaborate exposition of the author of the Dattaka Mimansa (s. iv., sec. 40, 41, 46,) which is in effect, that the informally adopted falls to the condition of slave, if the adoption fail from three causes: 1, excess of age; 2, rights omitted; 3, impossible from their prior performance. Mr. Colebrooke does not treat the construction of the author of the Digest with much respect; and adds, that but for the commentary of the author of the Dattaka Mimansa, he should consider the words in the passage of the Kalika Purana as figurative, and merely intended to declare the adoption void.

11. The author of the Mitakshara, in his comment of the labdha, or obtained slave, as already noticed, says "By acceptance (parigraha) and the like." Parigraha means also adoption; but if he contemplated the case of the informally adopted, he would probably have been more explicit.

12. I think the first impression of Mr. Colebrooke, that the passage in the extract imputed to the Kalika Purana is not to be construed literally, is correct; nor does the comment of Nanda Pundit appear to me opposed to this. He merely deduces from the text three predicaments, in which in an informal adoption the adopted are said "to be slaves," that is, do not acquire the filial relation.

Digest. Idem, v. 11. (Half verse omitted.)

Sir William Jones has used "servant" in his translation of this text; so also elsewhere, v. 415, in particular. But Mr. Colebrooke here substitutes "slave." *Vide* Dig., b. 3, c. 1, v. 33.

13. The power of moderate chastisement of slaves seems a necessary condition of the relation of master and slave. Menu (cap. 8, v. 229 and 300) declares that a wife, a son, a slave (dasa), a pupil, and a younger brother, may be chastised with a rope, or a slip of bamboo (venudala); they are to be beaten on the back part of their bodies. The person chastising contrary to this rule incurs the penalty of theft. The commentator, Kulluka Bhatta, says the chastisement is "for the sake of instruction," and that the venudala is a light sulaka slip or lath. A text of Katyayana, cited in the Rutnakara, is this: "Corporal punishment (tadana) and binding, so also vexation (vidambana). These are in the penalties of a slave. Pecuniary fine is not ordained." The author of the Ratnakara explains, that by corporal punishment is meant flagellation with a whip, and the like; by vexation, tonsure, exposure on an ass, and so forth.

Digest, v. 19. Idem, v. 12.

14. Narada declares, that the pupil deserting his master may be corporally punished and confined; and Gotama says, that for ignorance and incapacity he may be corrected "with a small rope or cane." The Ratnakara, commenting on another text of Narada, enjoining the duty of the pupil, says, that he is thus declared to be a servant.

Idem, v. 10.

15. By another text of law (smriti), the mutual litigation between husband and wife, teacher and pupil, father and son, master and servant, is not legal. The author of the Digest remarks, that this does not exclude special cases, and that the text implies that the teacher and the rest have the power of correction; and adds, that if the pupil or the son violate his duty, and the teacher or father be weak and unable to correct him, it is consistent with common sense that "he should then apply to the king."

Idem, v. 19.

16. Narada, in his text, has the words "badha and bandha" (binding). The former might mean death; and the author of the Mitakshara obviates that sense by declaring that corporal punishment (tadana) is meant, "on account of the slightness of the fault." It is not important whether the mode of punishment indicated by "a rope" is tying up or stripes. It appears clear that the Hindoo law recognizes the power of the master to inflict moderate chastisement on his slave. He is, however, liable to punishment for abuse of that power.

Digest, b. 3, c. 1, v. 51 and 52.

17. Can a slave own or earn property independent of his master? There are two nearly identical passages of Narada and Menu (chap. 7, 416) on this subject, which declare that a wife, a slave (dasa), and a son can have no exclusive property, and that their gains belong to their owner. A passage of Katyayana declares the dominion of the master over the slave's goods. "But the master has no right to the goods acquired by his favour or sale." According to one reading, "by public sale." Another reading rejects the negative. The passage quoted is as it occurs in the printed copy of the Chintamani, the author of which says, whatever property is obtained by a slave by the favour of his master, and by self-sale, is the slave's property. The master is not entitled to it.

Idem, v. 54.

18. Kalluka Bhatta, commenting on the above text of Menu, says, that it is to declare the dependence of the wife and the rest; and he illustrates the case of Stridhan as an instance of property in the wife. The author of the Digest, in his comment on these passages, seems of opinion, that the slave may have exclusive property; and in a prior passage he combats the objection, that a slave maintained, having no property, cannot repay his food, by asserting that he may, through affection, possess property.

Idem, v. 43.

19. As a general position, it appears, however, to me correct to say, that the goods and earnings of a slave belong to his master; the exceptions being, the case in which the master has assured the slave's ownership, the proceeds of a self-sale, or any thing analogous.

Idem, v. 42.

20. By the preservation of his master's life from imminent danger, a slave is not only emancipated, but entitled to inherit as a son; and if a female slave bear a master a son, according to a text of Katyayana, both are entitled to liberty. But according to the explanation of the Prakasa Parijata, and other Maithila books, as noticed in the Chintamani and

and Digest, this must be only considered in the case where the master has no legitimate or adopted son.

21. Except by the preservation of his master's life and his will (and in the case of the female slave, by bearing him a son), there is no emancipation of the first five slaves enumerated in par. 2. This is distinctly stated by the author of the Matakshara, who does not even allude to the text of Gatama favourable to the female slaves in the case premised. Digest, b. 3, c. 1, v. 35.

22. According to the comment of Vijnaneswara, on a very obscure text of Yajnyawalkya (which he declares applicable to the apprentice as well as slave), the slave maintained in a famine, and the slave for his food, are emancipated by relinquishing their support, and replacing what they have consumed from the commencement of their slavery. But the words of this text do not suggest this latter position. Idem, v. 44.

23. Narada says, the first is released by giving a pair of oxen; for what he consumed in a famine is not discharged by labour; and he adds, that the second is released immediately on relinquishing his food. The author of the Ratnakara holds, that the slave fed in a famine obtains his liberty by relinquishment of food and gift of a pair of oxen. In this, the more obvious sense of the text, the author of the Digest concurs, noticing, however, that the author of the Vivada Chintamani holds that he must give the oxen in addition to what he has consumed. Idem, v. 43.

24. According to the Chintamani and Digest, the slave for his food is released by relinquishing the same; and this appears the most reasonable doctrine. It does not seem unreasonable, that he whose life was saved in famine should make some return besides his labour; but that he should give both a pair of oxen and the value for his support is hardly just, and probably not intended.

25. The debtor-slave is released by liquidation of his debt, with interest, according to Narada. The comment in the Mitakshara on the obscure text of Yajnyawalkya already noticed, says, that the debtor-slave is discharged on repaying with interest his present creditor what he paid to redeem him from a former creditor. This seems the mention of a special instance by way of illustration. Idem, v. 46.

26. The pledged slave reverts, of course, to his master who pledged him, if he redeem him from the mortgagee. This is declared by Narada. But an involved and obscure comment on the above obscure text of Yajnyawalkya in the Mitakshara bears this construction, that the pledged slave is released on his paying the amount for which his master pledged him, with interest. It, however, hardly can have been meant, that an owner pledging his slave at an under valuation should give the slave the right of redemption at that under price. Idem, v. 45. Cited in Dig. b. 3, c. 1, comment on v. 46.

27. The slave for his bride (literally attracted by a female slave) is emancipated by separation, "because (says the author of the Mitakshara) it is prohibited to cohabit with a slave."

28. The slave for a term is, of course, emancipated by the lapse of the period. The captive, the stake-won, and the self-offered, are emancipated, according to Narada, cited in the Mitakshara, by finding a substitute equally capable of labour, that is, according to the Vivada Chintamani, another slave. For the apostate, the only release is death. He is the slave of the king. Texts of Hindoo law specially provide for the release of those enslaved by force, or by fraud of kidnappers, and the interference of the king is required. Idem, v. 46. Idem, v. 47. Narada, cited in the Vivada Chintamani and Yajnyawalkya, in the Mitakshara. Digest, 40, 41.

29. It thus appears, that for the mass of slaves which fall within the first five classes, the law has given little hope of emancipation.

30. There are two texts of Menu, which, if taken literally, abridge that hope. A Brahmin may compel any Sudra, though unbought, to render service of a slave (dasa) to him; for he was created to serve the Brahmin; and even the emancipated is not released from his servile state, which is natural and indelible. (Chap. 8, v. 413 and 414.) Digest, b. 3, c. 1, v. 36 and 38.

31. The commentator adds, "For spiritual purposes it is necessary that obedience be paid by a Sudra to the Brahmin, or other twice-born man. This is what is meant, else the subsequent enumeration of slaves would be nugatory;" that is, if a Sudra can never escape from servitude. The author of the Chintamani, commenting on the last of the two texts, states it is meant to express contempt of slaves; otherwise purchase and other causes of slavery would not be pertinent in regard to Sudras, nor would they be capable of manumission. It is mentioned by him as a passage of the Markandeya Purana.

32. The author of the Digest has a long, and, as usual, unsatisfactory comment on the above terrific texts. He denies that the Sudra is born a slave to all men, or becomes the slave of any one who takes him; but intimates that the relation of master and slave is indissoluble. Regarding the text as applicable to the slave licensed, not enfranchised, he supposes the case where such slave undertakes the service of a second master. In that case he belongs to him, and may be coerced to do servile work, without penalty incurred by the second master.

33. In one instance the power of the master to sell seems limited. According to a text of Katyayana, cited in the Chintamani, a man, not urged by distress, who attempts to sell his female slave who is obedient, and objects, is to be fined two panas. The text implies that the sale would be illegal. Digest, b. 3, c. 1 v. 60.

34. The issue of a slave is a slave. This is implied by the definition of the house-born, and the position that the free woman who marries a slave becomes a slave of her husband's master. If a man, without stipulation to the contrary, allowed his slave-girl to marry a freeman, it should follow that she would be released from her master. But if his assent were wanting, his property in her would remain undisturbed, and the offspring, on the general principle of the greater right of the owner of the soil, would be his. This principle is distinctly laid down in Menu, chap. 9, v. 48 and 55. But if some of the natives examined

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by the law commission are accurate, this rule on defect of stipulation does not seem always to be the local usage. One witness, a resident of Cuttack, says, the local usage is the converse of the legal rule; and others have stated that in the absence of special agreement, the masters of slaves who have intermarried share the progeny.

35. The eighth of Mr. Macnaghten's Collection of Precedents on slavery has a construction of Hindoo law resting on reasoning. If A. would sell his slave B. to C. for a fixed price, and by such sale a great grievance would be inflicted on B., as for instance, his removal to a distant country, then in that case, if another purchaser at the same price offer, whether designated by B. or not, A. must sell to such other purchaser. The reason assigned is, that the master would suffer no loss. The present pundit of the Sudder Dewanny Adawlut, Vaidya Nath Misr, who gave this opinion, has been examined by the law commission, and states, that it would be considered as oppressive to sell a slave, so as to place him beyond the reach of communication with people of his own class, or to separate families. The courts ought to interfere to prevent such sales. There does not appear to be any legal authorities manifesting such tenderness for the slave; and if the pundit's doctrine is to be taken for law, it must be considered as resting on popular usage and feeling, to which is opposed any oppressive exercise of his power over his slave by a master.

Calcutta, February 1, 1839. *J. C. C. Sutherland*, Secretary.

No. 2.

ADDENDA to the above.

SINCE my first paper on this subject, dated 1st February, annexed to the Report of the Law Commission, I have investigated three points, by the desire of the commission, which I proceed to notice.

I. Does the legal krita, or "slave-bought," include the child sold by his parents; that is, have they legal authority to sell their child?

Digest, b. 3, c. 1, v. 29 and 33.

The "krita," or bought-slave, of the texts of Narada and Menu is merely explained, in the Commentaries, as "bought by price." It is necessary, therefore, first to consider the texts which exist most akin to the subject proposed, viz. the parental power to dispose of a child by gift, in which sale is, of course, implied.

Dig. b. 2, c. 4, v. 4.
Dig. b. 2, c. 4, v. 5.
Dig. b. 2, c. 4, v. 16.
Dattaka Mimansa, s. iv., s. 5, p. 43.
Dig. b. 2, c. 4, v. 9.
Dig. b. 2, c. 5, v. 6.
Dig. b. 2, c. 5, v. 8.

There are, a text of Narada which enumerates son and wife amongst things not to be given even in calamity; a text of Vrihaspati prohibitory of such gift; a text of Yajnyawalkya allowing, in distress, gift of property for support of family, except a wife and a son; an anonymous text which declares "the father is not absolute over a son in respect to gift and sale;" a text of Data which enumerates a wife (but not a son) as not to be given, even in distress. The giver is said to be a fool, and must expiate his sin by penance. There is also a text of Katyayana prohibiting gift or sale of a wife and son, without their assent, except in extreme necessity. Some verses likewise of Vasishtha occur prefatory to the subject of adoption. These declare, in very extensive terms, the power of parents to give and desert their son, because authors of his existence.

Dattaka Mimansa, s. iv., s. 5 and 6.

We have then three positions; 1st, the general prohibition; 2d, the exception to it in Katyayana's text; and 3d, the absolute power implied by Vasishtha's text.

The Mitakshara on the subject of things not to be given, cites the texts of Yajnyawalkya and Narada. The comment notices, that a wife and son are not to be given. The Vyavahar Mayukha cites the same texts with the same gloss. The Vivada Chintamani of Vachaspati Misra (a Tirhut work) on this topic, first cites the text of Narada. Commenting on it, the author says that against the assent of a wife and son, even in a calamity, they are not to be given. He then cites the text of Katyayana, to show, that if they be willing they may be given, and directs his comment to this point. The exception, apparently made in case of extreme distress, the author does not notice, and leaves us to infer that assent even then is wanted, according to his doctrine. He then proceeds to quote Vasishtha's text, which he says contemplates assent.

The texts of Narada and Yajnyawalkya are alluded to by the author of the Dattaka Mimansa (a treatise on adoption), who cites the text of Vasishtha. He says that the prohibition of the gift of a son, contained in the texts of Yajnyawalkya and Narada, and in the anonymous text, refer to the case of a single son, to make them square with the texts of Vasishtha and Saunaka. He alludes to the sequel of Vasishtha's text and a parallel text of Saunaka, forbidding the gift of an only son with reference to adoption. It is a violent effort of construction to attempt to reconcile these texts which regard distinct subjects, and I think the authority of Nanda Pandita, the author of the Dattaka Mimansa, may be disregarded as irrelevant.

The author of the Digest, in quoting Katyayana's text, says, that in the exceptive clause, "with assent," must be understood to obviate collision with Narada's text.

He adopts what seems the opinion of the Vivada Chintamani, and gets out of the difficulty by a strained construction.

Comment on Narada text, v. 7.

The author of the Digest justifies the gift of a child in adoption, on the principle of the distress of the adopter who has no son; and not on the principle of "silence gives consent."

sent." Therefore, if assent be required, according to him, it must be the assent of a boy or wife arrived at, or approaching to, the adult age. The power to give or sell with assent only, is not irreconcilable with the general prohibition.

The text of Vasishtha, as already noticed, is introductory to adoption, and the Vivada Chintamani construes it as regarding the case of assent. Unless qualified or explained, it is at variance with the other authorities.

It might be also objected, that the text of Katyayana, or any of the other texts, cannot refer to reduction to slavery under any circumstances, because they are general, and would apply to a Brahmin who is not liable to slavery. I am not disposed to avail myself of this argument, because a Brahmin, though he would not become a slave, might be given as a pupil or dependent to be brought up, assisting his fosterer in any suitable mode. If a Brahmin would prostitute his willing wife to a Brahmin (at least), I fear the Hindoo law regards the immorality with no great indignation: though, perhaps, the rajah, under his general power to preserve his subjects in the right path, might interfere, as it would be his duty to do, if a Brahmin were inclined to degrade his son.

The author of the Digest, in commenting on the bought and given slaves of Menu's text, says, " sold or given by parents, or self-sold or self-given." But in the comment on the parallel text of Narada, before cited by him, he only gave this usual gloss, " bought by price." In his comment on Menu's text on slaves, the author of the Digest may have forgotten the text of Katyayana which he had before construed, or he may have considered assent of the son to being sold or given as understood; or most likely he only adverted to local usage, with which the late famine had made him familiar.

Mr. Colebrooke, in his paper cited in Harington's Analysis, declares that the Hindoo law recognizes sale and gift of children into slavery by parents; and Mr. Macnaghten has quoted that paper without questioning the position. But Sir Thomas Strange cites a letter from Mr. Colebrooke, in which he mentions the slave bought of his master, as an instance of the " krita," or bought-slave. But the omission of the child sold by a parent is not conclusive that Mr. Colebrooke questioned the parent's power.

Translation of the vyavastha of the pundits of the Sudder Dewanny Adawlut, taken on the reference in 1808, made by Mr. Richardson, forms part of Slavery in India papers, printed in 1828. It is made from the Persian translation, which is always subjoined to the original Sanscrit of those expositions. These versions are generally slovenly made; but they sometimes contain words of illustration introduced by the pundits who aid in the translation. Thus in the English version noticed, the " krita" slave is described as one bought from his parents or former masters. On reference to the original Sanscrit, I do not find these words of illustration. Mr. Macnaghten has also in his work given (apparently from the English version) an abstract of the vyavastha. In this he has retained the illustration of the slave sold by his master, but omitted the instance of purchase from parents. As in his section on slavery, he has not questioned the parent's power (mentioned by Mr. Colebrooke, whom he quotes), it may be presumed, that the omission did not proceed from doubt in his mind. I consider it as almost certain that the words of illustration found in the Persian version (from which the English version was made), were inserted on the explanation of the pundits. We may conclude, therefore, that they entertained no doubt generally as to the legal power of the parents to sell their children; though, probably, they had not investigated the origin of such power, whether resting on texts of law or popular usage and recognition.

Of the subsidiary sons legal under the old law, the son bought of his parents is now reprobated; but Menu, and other inspired writers, recognize the power of the parents to sell their sons for adoption. But it would be a stretch of construction to argue therefrom that they recognize the power to sell their children into slavery. I have not, therefore, taken them into account.

If a father, without assent, could in necessity by the Hindoo law give or sell his son, it would follow, *a fortiori*, he could give or sell his daughter. But do the texts prohibitory of a gift of a son bar that of a daughter? I am inclined to think they do; the words " wife" and " son" being only illustrations. If they do not, what scriptural authority is there that a man may sell his female children, unless it be the verses of Vasishtha, which we have seen, in the instance of the son, are contradicted and construed (though with little show of reason) as implying assent?

On the whole, it appears to me, that it would be difficult on direct scriptural authority to establish the legal right of the parents to sell their children into slavery under any circumstances. That power, exercised as it always has been by particular classes, seems to me to rest rather on popular recognition and usage, and is subject to those limits and restraints which varying local institutions may impose.

A Brahmin cannot, as already observed, legally be a slave. If, then, a Brahmin were to sell his child into slavery, the contract would be hardly valid, and the ruling power, on Hindoo principles, ought to restrain a Brahmin who would dispose of his child so as to degrade it. The same observations would apply to the Xatriya, who cannot be the slave of an inferior. Those, therefore, who buy children as slaves should be prepared to show that they belong to classes liable to slavery according to local usage, which the evidence taken by the law commission shows to vary considerably.

II.—Power of the Master over the person of his female Slave.

The opinion of the pundits of the Sudder Dewanny Adawlut, taken in 1809, has already been mentioned. The 4th question put to them was not sufficiently searching so as to draw

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draw out an exposition of the whole law on this topic. It was limited to the case of the unadult. The pundits, therefore, answering only what was asked, declare, that if the master violate his unadult female slave, or allow another to have connexion with her, the court cannot adjudge emancipation, but may impose a fine of 50 pans. As the answer stands, it may be understood as implying the power to violate an adult female slave.

On reference to the original opinion, I find, that this answer rests on a text of Yajnya-walkya, cited in the Mitakshara in the chapter on the intercourse of the sexes, a topic of Hindoo criminal law which does not appear to have been investigated, and to which for the present occasion reference must be had.

Penalties are prescribed by Hindoo law for connexion with married women and girls, and for their violation. The penalties for the four classes vary according to circumstances, the caste of the parties, the guarded or unguarded condition of the females. Thus, for adultery with a guarded Brahmini, or rape on any Brahmini, a Sudra is to suffer death; but a Brahmin for rape on a Sudra woman is only fined 1,000 pans; except when the male offender is inferior in caste, the penalty for adultery is fine.

For rape the penalty seems to be death when the parties are equal, and when the male is inferior. But when the male is superior, this penalty is not prescribed. What the prescribed penalty may be, is not, indeed, clear. There is a text of Menu, which would imply death to be the penalty of adultery in all cases; but this is explained away either to apply to a particular case, or to the case of the Brahmini offending with an inferior man.

After noticing penalties for offences against wives and unmarried women, the author of the Mitakshara passes on to penalty for connexion with common women. The text quoted by the pundits of the sudder is here adduced. It is to the effect, that the male, who has connexion with female slaves interdicted from going abroad or kept as concubines, is to be fined 50 pans, although otherwise intercourse with them had not been illegal. It is explained, that they are approachable by all, inasmuch as they are common; that is, neither wives nor protected daughters. The principle of this penalty is, that such slave-girls are *quasi* wives as appropriated women. Narada, who is cited, says, that with the wanton woman, not being a Brahmini, the courtezan, the unrestrained slave-girl, intercourse is allowed if not superior in tribe. A long moral argument now ensues, in which it is discussed, whether there be any class of women with whom casual intercourse is allowable. The result is, that, though it is an immorality to be expiated, it is not a temporal offence for which penalty is awarded. After some words on the subject of atonements, which may be omitted, the author passes on to an exception as contained in this section of Yajnya-walkya. Ten pans are prescribed as the penalty for connexion with a female slave by force. The penalty for several who coerce her is 24, payable by each. The gloss says, that the fine is payable by him who, with force, has connexion with female slaves living by prostitution, wanton women and the like, without paying them their hire.

The further analysis of this section cannot be decently pursued. It is curious, as showing the lax morality of Hindoo legislation, which even provides rules in regard to the hire of prostitutes. The comment cited implies, also, that the text does not refer to the slave of the man himself, since mention of hire is made. It shows, also, however, that it applies to any prostitute; and therefore the smallness of the fine does not necessarily suggest impunity of the master who commits violence on his female slave. It is obvious that the text cited by the pundits of the Sudder Dewanny Adawlut is quite irrelevant to the point in support of which it is adduced.

If the master's violence on the person of his unwilling female slave, adult or unadult, be illegal under the Hindoo law, other argument or proof must be sought. If lawful, it can only be so from the plenitude of the dominical power; and on the same principle it might be contended, that the master might kill or mutilate his slave. But these are the offences which the Hindoo rajah, in exercise of his discretionary power, is competent to restrain and punish; and so also for the sake of good government to keep his subjects in the right path, the rajah must be held by the Hindoo law as competent to restrain and punish the violence of the master on his female slave. Sexual intercourse with his willing female slave is immoral. The violence is doubly so.

The Hindoo criminal code does not define every offence; nor even where penalties (as in the case of adultery and rape) may vary according to the class of the parties do the provisions of the Hindoo law meet all instances. Thus, texts of law define the penalty, if a Xatriya ravish a Sudra female, the wife of another man, but not if he ravish a Sudra unmarried girl. Again, there are express texts which give the king power to extend the mulct for adultery, when inadequate from the wealth of offenders. On the whole, then, it appears reasonable to me to hold, that it is not by Hindoo law lawful for the master to violate his female slave. But the offence, when at least the female is adult, is not in the eye of Hindoo legislation very grave; for the aggravation of the master's inferiority of class is of course wanting.

III.—The power of the Master to correct his hired Servant under the Hindoo law.

A doubt in this regard arose with reference to the text cited as anonymous by the author of the Digest in his notice of slaves. It is noticed in the 15th para. of my first paper.

The author of the Mitakshara has cited this text in his chapter treating on actions not receivable. He explains that it is not meant to exclude litigation in extreme cases between the correlatives referred to in the text. For instance, if the pupil be corrected beyond the legal sanction, the king shall take cognizance. So also if the born slave (here designated "garbh

"garbh das") save his master's life, he should have his action for the benefit to which he is entitled. The author adds, "The instance of the case of the slave for his food will be given." He refers to the text of Yajnyawalkya, cited in the section on slavery, which says, that such slave is released on relinquishing his food. Therefore, if detained, he has his remedy. His conclusion is, that the pupil and other inferior, shall at first be checked and prohibited by the king and assessors. The word "bhritya," translated in the Digest as "servant," means any person supported, a slave or hired person. The author of the Mitakshara, in his copious illustration of the text, has not adduced the instance in which the action of the bhritya in the sense of a hired person shall be received. It perhaps may be, that he considered the word as used in the sense of slave. Swani, "rendered master," in its primitive sense, is "owner."

Vide Dig. b. 3, c. 1, v. 44.

Dig. b. 3, c. 1, s. 3. v. 68.

Passing on to the subject of wages and hire, the author of the Digest cites a text of Apastamba, which provides that the agricultural servant and herdsman may be beaten (and moreover the cattle of the latter be detained) if they abandon their work, and if the work be lost. The latter condition is omitted in the translation.

The Chintamani explains the default meant to be that of running away. This renders consistent the detention of the cattle of the runaway. This text, extended as it reasonably may be, and connected with the declared illegality of litigation between certain correlatives, may be construed as supporting the master's power of moderately correcting a hired servant.

The 299th verse of the 8th chapter of Menu provides that "a wife, son, pupil, dasa and younger brother may be corrected, if they commit a fault, with a rope or small shoot of cane." This seems to include the same correlative as the anonymous text, the bhritya and dasa being considered as synonymous, and so in fact they are; for both may denote a servant generally, and a slave specially; though "das" is most generally used to denote the latter.

If the contempt in which the Hindoo law in its primitive rigour regards the servile class be considered, it does not seem unreasonable to recognize, as contemplated by it, the master's power moderately to chastise the hired servant of the servile class.

Against, however, this conclusion, there may be adduced an argument, drawn from the texts of other inspired writers, which are silent as to the master's power to punish and indicate other recourse. For instance, the recusant servant is to be coerced and fined.

Vrihaspati Dig. b. 3, c. 1, s. 3. v. 71 and 75.
Yajnyawalkya, Id. 72.
Narada - - Id. 73.
Katyayana - Id. 74.
Menu - - Id. 76.

These texts, however, seem to regard the case of recusancy, and not that of neglect and fault falling short of refusal. Menu's text has the word "bhritta," which is necessarily rendered by Sir William Jones "hired servant," because the text has relation to wages.

OPINION of *Vydia Nath Misr*, Pundit of the Sudder Dewanny Adawlut, on the power of Parents to sell their Children into Slavery. No. 3.

FOR the sake of obviating calamity, the father is competent to sell, as slave to another, his son or daughter, who is incapable of giving assent, that is, who is not adult; and according to usage the buyer becomes master of the slave, male or female, so bought. But by the Shaster, the father is not competent to sell into slavery his son or daughter without their assent, even though it be to obviate a calamity. The assent of his son or daughter being obtained, the father may sell them into slavery whether calamity exist or not.

Proofs.

1. Vishnu,* cited in the Veira Mitra Daya and other books: "Man, produced from virile seed and uterine blood, proceeds from his father and mother as an effect from its cause; therefore his father and mother have power to give, to sell or to abandon their son."

2. Text of Katyayana, cited in the Vivada Chintamani, and other books: "A wife, or a son, or the whole of a man's estate shall not be given away or sold without the assent of the persons interested. He must keep them himself. But, in extreme necessity, he may give or sell them with their assent; otherwise he must attempt no such thing: this has been settled in codes of law."

Answer to the second question.

In every class, the father or mother, with his leave, or both, have the power to sell their children to obviate calamity, their assent existing; for this is shown in the cases of sons given and bought. But slavery of a Brahmin is universally prohibited. The prohibition, therefore, of sale of his children into slavery by a Brahmin is established by inference. Thus the Brahmin's power to sell his children into slavery is barred in law.

Proofs.

Text of Menu, cited in the Mitakshara, and other books: "He is called a son given (datrima) whom his father or mother affectionately gives as a son, being alike (by class) and in a time of distress; confirming the gift with water."

Text of Yajnyawalkya, cited in the same and other works: "The son bought is one who was sold by his father and mother."

Text

* Elsewhere cited as Vasishthas text.

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Text of Yajnyawalkya, cited in the same and other works: "In the direct order of the four classes slavery is legal. Not in the inverse."

Text of Katyayana, cited in the Vivada Chintamani, and other works: "The law permits the servitude of men of the military, commercial and servile classes, to one of an equal class, on some account. But on no account let a man compel a Brahmini to perform servile acts."

Answer to the third question.

For the sake of obviating calamity, the mother, with their assent, is competent to sell her children, whether the father be alive or dead; his authority or assent (implied by non-opposition) existing. Otherwise she is not competent. The sale cannot be made by a near kinsman or a guardian.

Proofs.

Two authorities in support of answer to first question.

Text of Vasishtha, cited in the Dattaka Mimansa, and other works: "Let not a woman either give or receive a son in adoption, unless with the assent of her husband."

Passage in the Dattaka Chandrika comment: "If there be no prohibition, even there is assent, on account of the maxim: "The intention of another, not prohibited, is sanctioned."

27 February 1840.

No. 4.

OPINION of *Vaidya Nath Misr*, Pundit of the Sudder Dewanny Adawlut, as to the power of the Master to correct his adult free Servant for misconduct, dated 31st March 1840.

PUNISHMENT, consisting of corporal chastisement, and so forth, is to be inflicted by the king. On account of any fault of his hired adult servant, who receives wages, the master cannot inflict it. He can only dismiss his servant; for there is not any text of any Muni ordaining this.

No. 5.

MUSLIM LAW OF SLAVERY.

Preface to Hamilton's translation of the Hidayah, page 43.

1. BEFORE the power of Mahomed, slaves (captives in war or their issue) formed an important part of the wealth of his countrymen. The wars, by which his faith was spread, must have added greatly to the slave property of the conquerors.

Do. b. 9, c. 1 and 2, p. 140 and 145. v. 2.

Do. c. 4, p. 159, and opinion of the Muftis of the Sudder Dewanny Adawlut, being 28th precedent Macnaghten's Mahomedan Law.

2. The Koran enjoins the slaughter of idolaters and war with infidels, until they confess the unity of God. Such confession, or submission to the Jaziyat or capitation tax, entitles them to protection; otherwise the imaum is to direct the army of the faithful against the refractory infidels, and if he prevail, he may either slay them or reduce them to slavery. They are to be distributed amongst the conquerors. Proselytism, after capture, did not save the captive from slavery; nor is it a legal exception to servitude.

See Slavery in India papers, printed in 1828, and Macnaghten's Mahomedan Law, "Slavery," 2d precedent. This opinion was given in 1808, in consequence of a general reference by Mr. Richardson, magistrate of Bundelkund.

3. The muftis of the Sudder Dewanny and Nizamut Adawlut have laid down, that only capture in a holy war, or descent from such a captive, constitutes the slave legal to a Muslim master. Though the Hidayah does not allude to any other source of slavery, yet it does not seem to restrict its legality to these conditions, which, in fact, would exclude descendants of a large mass of slaves existing before the holy wars. According to the Kaduri, Muhit, Inayah and Zakhirah, self-sale may be a legal origin of slavery: but it is qualified with the condition of extreme distress; for instance, to preserve life, or to satisfy a debt when compulsory measures are threatened. The Hidayah (though not alluding to self-sale) says, that the sale of a freeman is null, because he cannot be property, and sale is the exchange of property for property.

Vide Macnaghten's Mahomedan Law and Precedent of Slavery, Case 4.
B. 16, c. 5, vol. 2, p. 428.

4. Hamilton's English translation of the Persian version of the Arabic Hidayah was published in 1791. Both were undertaken under the authority of the Governor-general. The author of the Arabic compilation was the celebrated lawyer, Burhan-ud-din-ali, a native of Marghinan, who wrote in the sixth century of Islam. His compilation embodies the doctrines of Abu Hanifah, and his disciples Yusaf and Muhammad. The former, the founder of the orthodox school, was a native Kufa, and flourished in the 2d century of Islam, having been born A.H. 80. The Kaduri is the surname of Ahmud ben Muhammad, the author of the Adab-ul-Kazi. He expounds the doctrines of Hanifah. He died A.H. 438. The Muhit is the work of Raza-ud-din Muhammad, of Sarakhs, in Syria. He was principal of the college of Aleppo, and died A.H. 571. There are three legal compilations under the name of Zakhirah.

The author of the Inayah was Akmal-ud-din, the son of Mahmud, the son of Ahmad Al Hanifi, or orthodox. He died in A.H. 789, particulars of his birthplace and life are not known. He was probably a native of Syria.

Vide Appeal of Shekh Khawaj and others, case 21, printed Reports, Sudder Dewanny Adawlut for 1830.

5. The Sudder Dewanny Adawlut in 1830, in an appeal, adopted the opinion of its muftis just noticed, and imposed on the claiming master the burthen of proving, that the slavery of his claimed slaves was derived from the narrow legal origin defined by the muftis. The effect of this decision in this part of India is, that no Muslim can ever make good his title to the services of a recusant slave.

6. After this virtual extinction of Muslim slave-ownership, a very minute investigation of the civil law of the Arabs applicable to the relation of master and slave is not required. But the knowledge of adjudged points slowly spreads amongst our native subjects; and since the notions of the Indian Muslims as to the reciprocal rights and obligations of master and slave

slave must always be strongly influenced by the Muslim law, as laid down in standard works, it is, on the present occasion, an object of some importance to inquire into the state of that law, and collect from such works the leading principles and rules affecting the rights and obligations premised. But perhaps, in India, Muslim slave-ownership may have more relation to local usage than the civil law of the Arabs.

7. In the preface to his translation of the Hidayah, Mr. Hamilton remarks, that the discussion concerning slaves occupies one-third of the whole work,—a strong proof of their importance as property in the early centuries of the Arab empire. Many of the rules and usages which are there collected are in India unknown and unpractised, even though sanctioned by the Koran; whence it may be inferred, that the slaves owned by Indian Muslims are comparatively fewer and less regarded as property.

8. The absolute slave (abd) is said to be (mahur) interdict, and (the case of divorce excepted) his act, unsanctioned by his master, is not binding so long as his slavery continues. Hidayah, b. 35, c.4, vol. 3, p. 469.

9. But if the master license his slave to trade, he constitutes him "mazun" or licensed; and the acts of such a slave in the way of traffic are binding, until interdiction be revived by the master. His person, and the effects of his business, are liable to be sold for the benefit of his creditors; and if his master has appropriated out of his gains more than a suitable equivalent (ghalla misla) for the slave's labour, he must refund to the creditors. Excess of sale proceeds belongs to the master. Idem, p. 472. Hidayah, b. 36, vol. 3, p. 493. Idem, v. 3, p. 504.

10. Manumission of a Muslim slave is enjoined by the Koran as a pious act, and the law has provided for several modifications of bondage and prospective freedom. Hidayah, b. 50, c.1, vol. 1, p. 420.

Mudabbar.

11. The slave to whom liberty after his master's death is promised, is technically called a "mudabbar." This *post obit* manumission (tadbir) existed as a usage at the time of Mahomed. Tadbir was sometimes restricted (mukayad) by the condition of the master's death, within a defined time, or from a particular illness. It did not confer the privileges of the absolute mudabbar. The promise of *post obit* freedom is essentially a bequest, and the slave is said to be enfranchised out of the bequeathable one-third of his master's estate. Thus, in case of exhausting claims of creditors or of deficiency of assets, the expectant slave might owe emancipatory labour (saat), for the whole or part of his value, to the creditors or heirs of the deceased. B. 6, c. 6, vol. 1, p. 475, *et seq.* Preface of Translation, p. 68. B. 6, c. 6, vol. 1, p. 477. Idem, 475.

Umm-ul-vald.

12. On a *dictum* of the Prophet, the female slave, who has borne a child to her master, establishes her freedom, and she is absolutely entitled to it on his death, provided the master acknowledge the child. Could she claim it before, concubinage with her would be illicit. She is technically called Umm-ul-vald. Hidayah, b. 5, c. 7, vol. 1, p. 479.

Mukatab.

13. The Koran also exhorts the master to grant a covenant (kitabat) to his slave, in whom he finds "good," that is, to his Muslim slave; this, also, probably, was a pre-existing usage. The covenanted slave, after acceptance, becomes a mukatab. A deed, as is implied by the words, was usual, but not indispensable; in this transaction the master assures to his slave liberty for a consideration (badal) in return to be paid by him, usually a sum in instalments. The slave acquired his freedom, defeasible in case of default in the payment of the consideration; but annulment of the covenant must be judicially awarded, and a short grace is allowed after inquiry. *Vide* Hidayah, b.32, c. 1, vol. 3, p. 377. Hidayah, b. 18, c.3, vol. 2, p. 604.

14. Covenanted enfranchisement is distinct from manumission in exchange for property (itak b'ivazul jaal). The distinction is one of those ingenious subtleties in which Arabian jurists delight. If a slave accept the proposal of his master, that he shall be free for 1,000 dirams, he is free at once before payment, and owes the money, for which bail may be taken. This is said to be a contract of exchange of property for what is not property, the slave not being owner of his own person, and the effect of the contract (his freedom) is established on acceptance by the slave of the stipulation; but the stipulated consideration in kitabat is not considered as a debt, nor is it cautionable. It is allowed to exist, from necessity, together with what is repugnant, viz. the duration of servitude, though in a suspended state. Hidayah, b. 5, c. 5, vol. 1, p. 468. B. 18, c. 3, vol. 2, p. 604.

15. If a master were to propose to his slave that he should be free when he shall have paid him a sum of money, and the slave accept, kitabat would not be constituted thereby, for the freedom would only begin from the payment of the money; whereas, in the case of kitabat, freedom, though defeasible, begins from the time of the bargain. But in the case now put, the slave becomes licensed, because the master excites him to earn; and the master may be compelled to take the stipulated exchange. Hidayah, b. 5, c. 5, vol. 1, p. 469. Idem.

16. The mukatab slave, till, in consequence of default, he is brought back into slavery, is practically free, and the master cannot exercise over him any act of dominion; nor can he alienate by sale or gift, nor pledge his umm-ul-vald or mudabbar. He may let out to hire these latter two; other classes of slaves he may sell, or dispose of as he pleases. B. 5, c. 6, vol. 1, p. 479. Idem, 475.

17. A slave is considered as property, and often denominated "mamluk," or owned. The theft of an infant slave is punishable as such. The acquisitions of a slave belong to the master, except when made under the contract of kitabat and during its continuance. B. 8, c. 2, vol. 2, p. 91.

18. A slave, even though covenanted, cannot marry without the assent of his master, and (except the mukatab) may be contracted in marriage against his will. Married with assent of his master, a male slave may be sold for his wife's dower; but if he be mukatab or mudabbar, he must work it out by labour. Hidayah, b. 2, c. 4, vol. 1, p. 161. Idem, p. 162. B. 5. c. 7, vol. 1, p. 481.

19. The state of the child follows that of the mother. If she be slave, her children are the slaves of her master of the same quality and in the same degree as she was at the time of their births respectively. Idem, p. 477. B. 32, c. 3, vol. 3, p. 400.

20. A slave cannot be the spouse of his or her owner. If, then, one spouse become the owner of the other (a slave), the latter is emancipated; and a wife, married when a slave, may dissolve the contract when free. B. 4, c. 2, vol. 1, p. 225. B. 2, c. 3, vol. 1, p. 168.

21. The

B. 5, c. 1, vol. 1, p. 432.

21. The relation of master and slave cannot obtain between those related within the prohibited degrees.

B. 44, sect. 4, vol. 4, p. 102.

22. The dominical power seems under the law to be most extensive. The master may use and abuse the person of his female slave, who is neither a mukatab, nor married with his assent to another.

B. 7, c. 5, vol. 2, p. 70.

23. The embrace of his pagan slave is illicit; and if the master enjoys his mukatab, he is liable to pay her an akar or portion.

B. 32, c. 1, vol. 3, p. 381.

24. His liability,—to lose his slave guilty of an offence, involving fine to the injured party, or to pay the fine,—may have been supposed to justify an extensive power of restraint and coercion. Shafi,* a celebrated jurist, contends that his power is absolute and greater than that of the kazi; whence he argues his right to inflict the defined penalty of fornication on his offending slave. The jurists of the Kufa school, though they deny his power in this case, admit his power to chastise. It is exercised in vindication of an individual right.

B. 50, c. 4, vol. 4, p. 385.

B. 7, c. 1, vol. 2, p. 13.

B. 100, c. 6, p. 75.

25. There seems indeed reason to believe, that, according to the doctrine of the lawyers of the early centuries of Islam, the master might put his slave to death with impunity. In the Hidayah there are no less than four cases propounded, in which, as if it were a matter of course, the master is supposed to have exercised this authority.

B. 16, c. 4, vol. 2, p. 413.

26. One case deserves particular notice. It occurs in the chapter which treats of the option which arises to the buyer in case the object of the sale prove defective. I translate it from the Arabic text: "Should the buyer have killed the slave bought, or (if the article were food) have eaten it, he has no recourse against the seller according to Abu Hanifah. The first instance is mentioned in the Zahirul Rawayut. But, according to Abu Yusaf, he has such recourse; for no worldly sentence attaches to the murder of a slave by his master, and the case becomes the same as if the slave had died a natural death, and the transaction therefore becomes concluded. The reasoning of the zahir is this. By murder, responsibility is always incurred, which, in the case propounded, only fails in respect of proprietary right, and the master gets as it were a *quid pro quo*, contrary to the case of enfranchisement; for, certainly, that is not the cause of responsibility, any more than the manumission by a pauper of a slave owned in partnership."

B. 49, c. 2, vol. 4, p. 279.

Idem, 299.

27. The legal penalty of murder is retaliation, which is considered a private right, demandable or componible, at the discretion of the legal representatives of the slain. It follows, therefore, that, in the case premised, this penalty cannot be enforced, and it may be argued that this is what is meant, and that it does not follow that the murderer would be necessarily unpunished; for the ruling power, on the principle of good government, is held by Mahomedan jurists to be invested with a discretionary power to punish crimes and misdemeanors when there may be no specific penalty or no private vindicator. This may be the case; but the strict jurists of the early schools of Mahomedan law took little account of the possible exercise by the sovereign of a power beyond the letter of the law. In another passage in the Hidayah it is distinctly laid down as a general principle that the master is not liable to punishment (akubat) on account of his slave.

Hidayah, b. 7, c. 5, vol. 2, p. 63.

28. The futwah of the muftis of the Sudder Dewanny Adawlut already mentioned, however, distinctly lays down that the master can only inflict moderate correction on his slave, and that any cruelty or ill-usage inflicted on his slave legally exposes him to a discretionary punishment (akubat or tazeer) by the ruling power; and such discretionary punishment extends to death.

29. If, for the sake of good government, the ruling power may visit with discretionary punishment the murder of a slave by his master, it should follow also that, on the same principle, it can punish instances of cruel treatment. The Hidayah says, "It is abominable to affix an iron collar on the neck of a slave, whereby he may be unable to move his head. Such is the custom of tyrants, for this is the punishment of the damned. It is therefore abominable,† like burning with fire." The author adds, however, that a Mussulman may imprison his slave, whereby he may not abscond, and the master's property may be preserved. This is said to be analogous to the custom which prevails amongst Muslims, of confining insane and mischievous persons. According to Abu Hanifah and Abu Yusaf, what is abominable approaches in its character to what is unlawful without actually being so.

Hidayah, b. 44, s. 7, vol. 4, p. 125.

Hidayah, b. 44, vol. 4, p. 86.

30. It is necessary to notice here a passage in the Persian version of the Hidayah (book 50, c. 4, v. 4, p. 399). By it, it is imputed to the elders, Hanifah and Abu Yusaf, as their doctrine, that the master is always responsible if he maim his slave or take his property. Such a position would imply that protection is extended by the law to the ill-used slave. The passage, however, is an explanatory interpolation of the Indian moulvis who made the Persian translation, and seems inconsistent with the reasoning of the disputants in the case put, as it also is with the case above cited. Hamilton's version of the Persian paraphrase of this case is loose and careless. For this reason and the importance of the question, I subjoin a translation of the Arabic text.†

31. Defined penalties, under the denomination of "hudud," are ordained for fornication and adultery (zina), the slanderous imputation of this offence, and for drinking intoxicating liquor. The slave is only liable to half the flagellation ordained for these offences, and is exempt from the penalty prescribed for adultery. To the amputation, single or double, ordained for theft and highway robbery, and to the punishment of death in the right of God, when

B. 7, c. 1, vol. 2, p. 12.

* Shafi is founder of one of the four orthodox sects, and descended from Mahomed's maternal grandfather. He was a native of Palestine. He died A. H. 204.

† Hamilton has here substituted "unlawful" for "abominable," which occurs in the text.

‡ *See* "Case," in pp. 439, 440.

when murder is committed in the attempt or perpetration of robbery, the slave and freeman are equally liable.

32. Offences against the person (janayat) are atoned for by retaliation or price (diyut), according to circumstances. The right to exact retaliation and fine is a private right remittable and componible.

33. Retaliation of murder obtains between the slave and freeman, but is barred if the murderer be master or father of the master of the slave. It does not take place in matters short of life, if either the offender or offended be a slave. But Shafei contends that the offended freeman might exact it against the slave. In this class of offences by a slave the general rule is, the surrender of the slave to the offended party, in slavery or redemption. In case of several offences, the single surrender or redemption is a satisfaction of all; but a renewed offence involves novation of liability. B. 49, c. 2, vol. 4, p. 279. Idem, 282. Idem, 295. B. 50, c. 4, vol. 4, p. 388.

34. But the mudabbar and umm-ul-vald (who are not transferable) are not liable to surrender by their master. He is to pay the value of the offender or the fine of the offence, whichever may be least, and no fine is incurred for numerous offences beyond one value. B. 50, c. 4, vol. 4, p. 416.

35. A mukatab is not liable to surrender during the continuance of his covenant; but in case of offence (other than murder) sentence of fine may be awarded against him. If, after sentence, from his insolvency, the covenant become annulled, he may be sold in satisfaction. If the covenant be annulled, he reverts to slavery; and, for any offence then committed, is in the predicament of any other slave.

36. Offences (short of murder) against a slave's person render the offender liable to pay to his master the value of the slave, or a consideration for the injury, according to circumstances. The extreme value of a slave is 9,990 dirhams, 10 less than the extreme fine applicable to homicide, not amounting to murder when the slave is free. If the hand of a slave be cut off, half of his value is incurred, not exceeding, however, the half of the extreme value when an entire faculty is destroyed. It is doubtful whether the master, in case he does not abandon (when he is entitled to a full value), shall not forego all remedy, or may not obtain compensation for the injury. B. 50, c. 4, vol. 4, p. 405. Idem, p. 408.

37. The evidence of a slave is not admissible, nor will his confession in questions of property bind his master. A sentence of a fine, for instance, or of surrender of his offending slave, cannot be awarded against the master on the confession of his slave. But the slave may undergo a defined penalty or retaliation for murder on his confession. B. 20, c. 3, vol. 2, p. 683. B. 8, c. 14, p. 120. B. 35, c. 3, vol. 3, p. 472.

38. A partial emancipation entitles a slave to work out the completion of his freedom. If the owner of a slave emancipates him entirely, the slave is free at once, unless the emancipator be unable to satisfy his partner; in which case the slave works out the rest of his freedom. He has also a legal right to maintenance. The separation of slaves nearly related, if one be an infant, is declared to be abominable; but this does not apply to husband and wife. B. 4, c. 4, vol. 4, p. 419. B. 16, c. 5, vol. 2, p. 462.

39. A remarkable result of emancipation is the relation of "wala," whereby the emancipator becomes, as it were, the agnate kinsman of his freedman. He may also become liable to pay the fine of an offence of his freedman under some circumstances, as his akila. B. 33, vol. 3, p. 436.

40. The relation of wala confers on the emancipator the right of succession to the residue of the freedman's estate, on failure of the agnate kin of the latter. The emancipator is thus preferred to the freedman's cognate kin. By the residue is meant what was left after satisfying the ordained portions of particular relatives. The right of wala rests on passages of the Koran. This right of inheritance descends to the agnate heirs of the emancipator, and not his heirs general. It extended, in the case of a male emancipator, to the children of the freedman; but a female emancipator has only the right of wala in regard to her slave enfranchised.

41. It is not clearly laid down that ownership in a Muslim slave is illegal to the infidel. In one case it is stated that if the umm-ul-vald of a Christian become Muslim, and the master cited refuse to embrace the faith, she becomes virtually his mukatab, and is to work out her value by labour. Zaffr contends that she becomes immediately free, because it is no longer lawful for her to continue the slave of a Christian. The other jurists argue that the degradation is removed by making her mukatab. It seems implied by this case, though not very clearly, that ownership of a Muslim slave is not legal to the Christian. B. 5, c. 7, vol. 1, p. 483.

42. The Mahomedan civil law seems to regard the slave as a degraded being, and scarcely entitled to protection, except as the property of his master, whose power over his slave is absolute. The Koran has some ordinances and several exhortations for the amelioration of the condition and prospects of slaves, and in conformity with these the early Mahomedan jurists have laid down some salutary provisions, but insufficient to meet the severities or supply the defects of the strict law, the administration of which, unmitigated by regulation and construction, would be impossible to a civilized government.

J. C. C. Sutherland, Secretary.

CASE.

"A. emancipated B., his female slave. Subsequently he said to B. that he had cut off her hand when she was his slave, to which she replied that he had so done when she was free. In such case her assertion prevails, and so also in regard to every thing which he may have taken from her; the enjoyment of her person and her earnings being excepted on a liberal construction. This is the doctrine of the two elders. Muhammad maintained that the master was only liable for an article of which specific restoration might be awarded against him according

Appendix VIII. Muslim Law.

according to the opinion of all jurists; for he denied his liability, inasmuch as he referred the act to a state which is opposed to such obligation, just as in the case first put and the cases of sexual intercourse and earnings. In regard to an extant object, he has acknowledged the possession in admitting the abstraction from her. Subsequent to this he asserted his proprietary dominion over her, which she denied. Hence her word, as that of negator, prevails, and the award of restoration passes. But, according to the elders, he admitted a cause of responsibility, and then pleaded ground of exoneration. Therefore his assertion does not prevail."

No. 6. OPINION of *Ghulam Subhan*, Kazi-ul-kuzat of the Sudder Dewanny Adawlut, as to the power of the Master to correct his adult free Servant for misconduct; dated 26th March 1840.

Question.—Under the Mahomedan law, may a master, for fault and neglect, correct and chastise his free adult servant?

Answer.—No; for correction and chastisement are a species of punishment. Now, to inflict this, according to all the imaums, belongs to the ruling power. Therefore, the master who hired the servant cannot legally in any way punish the servant or the party hired on the ground of fault or neglect. He can only cancel the contract of hire; that is, discharge him.*

APPENDIX IX.

OFFICIAL RETURNS as to SLAVERY in the Provinces included in the Presidency of Fort St. George, Madras.

1. LETTER from the Law Commission to the Register to the Sudder and Foujdary Adawlut, Madras, dated 10th October 1835.
2. Reply thereto from the Register of the Madras Sudder and Foujdary Adawlut, dated 10th September 1836.

Answers of the Judges of the Provincial Court, Subordinate Judges and Magistrates.

NORTHERN DIVISION.

3. Provincial Court.
4. Mr. E. Newberry, Acting Assistant Judge, Auxiliary Court, Masulipatam.
5. Mr. J. Rohde, Acting Assistant Judge, Auxiliary Court, Vizagapatam.
6. Mr. C. Dumergue, Head Assistant Magistrate in charge, Rajahmundry.
7. Mr. R. Grant, Judge, Nellore.
8. Mr. F. H. Crozier, Acting Head Assistant Magistrate in charge, Masulipatam.
9. Mr. A. Freeze, Magistrate, Vizagapatam.
10. Mr. A. Crawley, Judge, Chicacole.
11. Mr. A. Mathison, Head Assistant Magistrate in charge, Guntoor.
12. Mr. J. Stephenson, Magistrate, Ganjam.
13. Mr. T. V. Stonehouse, Magistrate, Nellore.
14. Mr. H. D. Phillips, Acting Assistant Judge, Auxiliary Court, Guntoor.
15. Mr. J. Rohde, Acting Register, in charge of the Zillah Court, Rajahmundry.

CENTRE DIVISION.

16. Provincial Court.
17. Mr. F. Lascelles, Judge, Chittoor.
18. Mr. P. H. Strombom, Judge, Cuddapah.
19. Juckeey-ood-din Mahammud Khan, Native Judge, Zillah Cuddapah at Cumburn.
20. Mr. A. E. Angelo, Judge, Bellary.
21. Mr. H. Bushby, Acting Judge, Chingleput.
22. Mr. W. Morehead, Assistant Judge, Auxiliary Court, Cuddalore.
23. Mr. G. M. Ogilvie, Magistrate, North Division, Arcot.
24. Mr. G. J. Casamajor, Magistrate, Cuddapah.
25. Mr. F. W. Robertson, Magistrate, Bellary.
26. Mr. A. Maclean, Magistrate, Chingleput.
27. Mr. J. Dent, Magistrate, Southern Division, Arcot.
28 to 30. Copies of Decrees and Judgments in criminal cases forwarded by the Judge of Chingleput.

SOUTHERN DIVISION.

31. Provincial Court.
32. Mr. G. S. Hooper, Judge, Madura.
33. Mr. T. Pendergast, Assistant Judge, Auxiliary Court, Tinnevelly.

34. Mr.

* Nos. 3, 4 and 6 were translated by the secretary.

34. Mr. F. M. Lewin, Judge, Combaconum (Tanjore).
35. Mr. J. Goldingham, Acting Judge and Criminal Judge, Salem.
36. Mr. J. D. Bourdillon, Acting Assistant Judge, Auxiliary Court, Coimbatore.
37. Mr. J. Blackburne, Magistrate, Madura.
38. Mr. J. Bishop, Joint Magistrate, Tinnevelly.
39. Mr. H. M. Blair, Magistrate, Trichinopoly.
40. Mr. N. W. Kindersley, Magistrate, Tanjore.
41. Mr. John Orr, Magistrate, Salem.
42. Mr. W. C. Ogilvie, Joint Magistrate, Salem.
43. Mr. W. Elliot, Assistant Magistrate, Salem.
44. Mr. G. D. Drury, Magistrate, Coimbatore.
45. Mr. T. A. Anstruther, Joint Magistrate, Coimbatore.
46 to 54. Copies of sundry Decrees referred to in Report of the Provincial Court.

WESTERN DIVISION.

Reports of the Judges of the Provincial Court and Subordinate Judges and Magistrates, in answer to a Letter from the Deputy Register to the Foujdary Adawlut, dated 3d March 1826.

55. Provincial Court.
56. Mr. J. Vaughan, Judge of Canara.
57. Mr. F. Holland, Judge of Malabar.
58. Mr. J. Babington, Magistrate of Canara.
59. Mr. W. Sheffield, Magistrate of Malabar.

Answers of the Judges of the Provincial Court, and Subordinate Judges and Magistrates, to the Letter from the Law Commission, dated 10th October 1835.

60. Provincial Court.
61. Mr. C. R. Cotton, Magistrate of Canara.
62. Mr. F. Clementson, Magistrate of Malabar.
63. Mr. E. P. Thompson, Judge of Canara.
64. Mr. R. Nelson, Judge of Malabar.
65. Mr. T. L. Strange, Assistant Judge of the Auxiliary Court, Malabar.
66. Syud Zeea-uddin, Native Judge, Canara.
67. Shanteya, Native Judge, Honore, Canara.
68. Pundit Soobramany Shastry, Provincial Court.
69. Sherishtadar and Malabar Munshi, Provincial Court.
70 to 142. Abstracts of Decrees in Suits concerning Slaves, and Documents recognized in Civil Causes, used for transferring Slaves.

MADRAS.

Appendix IX.

Returns.

No. 1.

FROM the Secretary to the Indian Law Commission to the Register of the Sudder and Foujdary Adawlut, Madras, dated 10th October 1835.

THE Indian Law Commissioners having under their consideration, as connected with the preparation of a criminal code, the system of slavery prevailing in India, I am directed to request that the courts of Sudder and Foujdary Adawlut will favour them with information on the following points:—

1. What are the legal rights of masters over their slaves, with regard both to their persons and property, which are practically recognized by the Company's courts and magistrates under the Madras presidency?

2. And, as more immediately connected with the criminal code, to what extent is it the practice of the courts and magistrates to recognize the relation of master and slave, as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment? What protection are they in the habit of extending to slaves on complaints preferred by them of cruelty or hard usage by their masters? And how far do they continue to Mussulman slaves the indulgences which in criminal matters are granted them by the Mahomedan law?

3. Whether there are any cases in which the courts and magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters?

With the exception of Regulation II. of 1826, which merely rescinds, as being unnecessary and inconsistent with the Act of the 51 Geo. 3, c. 23, a clause in a former regulation prohibiting, under a specific penalty, the exportation of slaves from Malabar, clause 2, sect. 15, Regulation VII. of 1802, and sect. 15, Regulation VIII. of 1802, annulling the exemption from capital punishment in cases of murder, where the person murdered is a slave, the commissioners do not observe in the Madras code of regulations any specific provision on the subject; and they are therefore desirous of being informed by what law or principle the civil

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and criminal courts and the magistrates have regulated their proceedings in cases of the nature indicated in the preceding inquiries.

If the rule contained in clause 1, section 18, Regulation III. of 1802, for observing the Mahomedan and Hindoo laws in suits regarding succession, inheritance, marriage, caste, and all religious usages and institutions, has been considered to embrace cases of slavery, though not mentioned in it, and the courts have guided themselves accordingly, the commissioners would wish to know what course would be pursued in cases where the claimant was a Mussulman, and the party claimed as the slave a Hindoo; and when according to the Hindoo law the slavery would be legal, but according to the Mahomedan law, illegal; and how a case, the conditions of which were the converse of the above, would be dealt with. Also, slavery not being sanctioned by any system of law which is recognized and administered by the British Government, except the Mahomedan and Hindoo laws, they are desirous of being informed whether the courts would admit and enforce any claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant; and if so, on what specific law or principle the courts would ground their proceedings. The commissioners are aware that very different kinds of slavery exist in different parts of the Madras territories, and they are desirous of obtaining the information now applied for with respect to all, but especially in regard to the slaves in Malabar.

No. 2.

REGISTER of the Sudder and Foujdary Adawlut, Madras, in reply to the Secretary of the Indian Law Commission.

10 Sept. 1836.

I AM directed by the judges of the courts of Sudder and Foujdary Adawlut to acknowledge the receipt of your letter, dated the 10th October 1835, requesting information on certain points connected with the system of slavery in India.

The first point on which information is required is, as to "What are the legal rights of masters over their slaves, with regard both to their persons and property, which are practically recognized by the Company's courts and magistrates under the Madras presidency?"

The right of the master to sell or mortgage his Hindoo agrestic slave, with or without the lands to which they are attached, appears to have been recognized generally on the western coast; but in the rest of the provinces under the Madras government, where agrestic slavery exists, it is believed that the transfer of such slaves separately from the land is contrary to local usage, and not generally acknowledged by the courts or the officers of government, though in one instance it seems to have occurred in Tinnevelly; and it appears equally clear that slaves are every where capable of acquiring property independent of their masters, though they possess none in their own offspring who belong to their masters.

Secondly, the law commissioners require to be informed, "To what extent is it the practice of the courts and magistrates to recognize the relation of master and slave, as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment? What protection are they in the habit of extending to slaves on complaints preferred by them of cruelty or hard usage by their masters? And how far do they continue to Mussulman slaves the indulgences which in criminal matters are granted them by the Mahomedan law?"

It is not the practice of the courts to make any distinction whatever in cases which come before them. The magistrate may, under the circular order of this court of the 27th November 1820, copy of which is understood to be with the Indian Law Commission, recognize the right of a master to inflict tazeer on his slave in certain cases therein specified; though in practice it would appear that no distinction is made. Such cases, whether before the courts or magistracy, appear to have been of very rare occurrence.

And, in reply to the third question, the judges would observe, that neither the magistrates nor criminal courts would, in any case contemplated therein coming before them, afford less protection to slaves than to free persons.

In the second paragraph of your letter it is observed, that "with the exception of Regulation II. of 1826, which merely rescinds, as being unnecessary and inconsistent with the Act of the 51 Geo. 3, cap. 23, a clause in a former regulation prohibiting, under a specific penalty, the exportation of slaves from Malabar, clause 2, section 15, Regulation VII. of 1802, and section 15, Regulation VIII. of 1802, annulling the exemption from capital punishment in cases of murder, where the person murdered is a slave, the commissioners do not observe in the Madras code of regulations any specific provision on the subject; and they are therefore desirous of being informed by what law or principle the civil and criminal courts and the magistrates have regulated their proceedings in cases of the nature indicated in the preceding inquiries."

The criminal courts and the magistracy have had for their guidance, since 1820, the circular order of this court under date the 27th of November of that year, before referred to.

The civil courts have been guided in their decisions by the local customs of the country, and there is no enactment other than section 17, Regulation II. of 1802 available as a rule in such cases.

And with reference to the question as to "What course would be pursued" by the courts "in cases where the claimant was a Mussulman, and the party claimed as the slave a Hindoo; and when according to the Hindoo law the slavery would be legal, but according to the Mahomedan law, illegal; and how a case, the conditions of which were the converse of the

the above, would be dealt with?" the court would observe, that as neither of the questions stated has been judicially determined by this court, the judges are not prepared to state how it would be dealt with. It is probable that local custom would be taken into consideration in deciding either question.

With respect also to the question "Whether the courts would admit and enforce any claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant, and if so, on what specific law or principle the courts would ground their proceedings?" there are no decisions of the courts to elucidate the question; but from the concluding paragraph of the letter from the assistant judge of Tellicherry, dated the 6th instant, and its enclosures, it will be perceived, that the government in former days were both the sellers and purchasers of slaves in the province of Malabar.

In order that the Indian Law Commissioners may have before them every information connected with the system of slavery prevailing in the provinces subject to this presidency, the provincial courts were directed to call upon the several zillah assistants and native judges to submit copies of any final decrees, whereby property in slaves has been recognized or rejected, or which determine any question respecting slavery, together with all information in their power on the various points enumerated in your letter of the 10th October last; and copies of their replies, and of such decrees on the subject as have been forwarded to this office, I am directed to transmit to you for the purpose of being laid before the Indian Law Commission.

The records of the Sudder and Foujdary Adawlut do not contain any information on the several points noticed in your letter which is not contained in these returns, and in the papers on Slavery in India printed by order of the House of Commons in 1828, copy of which the court conclude is already in possession of the Indian Law Commissioners.

The judges, however, direct me to transmit to you, together with these returns, a copy of the reports received in this office on 10th December 1826, from the criminal judges and magistrates of Canara * and Malabar, on the system of slavery prevailing in those provinces, because it is expressly quoted by the acting judge of Canara as containing information which is therefore not repeated by him on the present occasion.

The acting judge of this court, whose attention has been specially directed to the consideration of slavery in India, begs to refer for his sentiments on this subject to the 10 enactments in modification of it, which he continues to advocate, as recapitulated in para. 17 of his reply to the queries of the India Board in 1832, given at page 576 to the Appendix in the Public Department to the Report of the Select Committee of the House of Commons in 1832 on India Affairs, which no doubt is in the possession of the Indian Law Commission.

Returns of the Judges of the Provincial Court, subordinate Judges and Magistrates.

Northern Division.

Return by the Provincial Court.

No. 3.

Masulipatam, 10th March 1836.

4. The judges of the Sudder and Foujdary Adawlut will understand from the papers now placed before them, that, in the provinces subject to the jurisdiction of this court, slavery is but a name, and that the law is available to such as by usage fall under its denomination, in common and in equal degree as to all other classes.

5. They will also understand that neither decree nor document has been met with calculated in anywise to cast a doubt on the perfect claim to freedom possessed by individuals choosing to adhere to a condition which subjects them to the appellation of slaves, and but one opinion exists among the officers whose returns are now submitted.

6. Slavery in the provinces subject to the jurisdiction of this court may be considered a voluntary submission to the loss of liberty for the assurance of a certain but undefined subsistence comprehended in the general term "livelihood." It is an irregular system of servitude involving no loss of social rights, nor exposing the individual within its denomination to any other restraint than ordinary service imposes, where the agreement between the party who serves and him who is served is more clearly defined, or rather where an individual sets a fixed price on his labour.

7. The court have consulted its own records, and met with a decree in which a girl is sued for (*in propriâ personâ*), the suit arising out of a sale by the mother. The girl is sued for under the denomination of "slave," and for the recovery of certain "joys" which it is alleged she carried off from the house of the plaintiff, who had purchased her for the purpose of instructing her, and profiting by her as a dancing girl. The suit being directed against the girl, is of itself a virtual denial of her possessing that character. The court refused to investigate whether the girl had been bought on the grounds that her mother had no right to sell in the case. The decree does not bear on the general question of slavery, and therefore is not forwarded.

8. The court refrain from discussing the subject before them at greater length, as they think the doing so would be profitless.

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* *See* No. 62, *infra*.

No. 4. *E. Newberry,* Acting Assistant Judge, Auxiliary Court, Masulipatam.

11 Feb. 1836. With the exception of a few domestic slaves maintained in the houses of some of the richer Mussulmans in this town, I am not aware of the existence of any slavery in this part of the country. Even these can scarcely be called slaves, as they are never sold, and are merely domestic servants without pay. There is no civil decree on this subject in the records of this court.

In the year 1833, one Ruzza Mahammud was tried and sentenced by the court of Foujdary Adawlut to three years' hard labour without irons, for having purchased or otherwise procured children for the purposes of slavery; and this is, I believe, the only case of this nature that has been tried in this court.

No. 5. *J. Rohde,* Acting Assistant Judge, Auxiliary Court, Vizagapatam.

18 Feb. 1836. I beg to state, that my experience does not permit me to state any instance in which the system of slavery has been recognized; on the contrary, though I cannot quote the particular instances, I remember that, in some cases, where the complainant had purchased children during the famine, and had complained to the police of their having absconded, the right of the master was not acknowledged by the magistrates; and though I have made every inquiry, I can hear of no one instance of the relation between master and slave having been brought before this court, or that any distinction is made in a criminal court between slaves and other subjects.

No. 6. *C. Dumergue,* Head Assistant Magistrate in charge, Rajahmundry.

20 Feb. 1836. 2. The term "slavery" cannot be applied, in the sense contemplated by the commissioners, to the service performed by those persons in this district usually denominated "slaves;" it exists simply in the designation. The rights of this class of people, both as to their persons and property, are recognized by the magistracy equally with those of all others living under the laws. Their servitude is perfectly voluntary, and cannot be coerced beyond the limitation of regular service with impunity. This applies equally to all descriptions of slaves in this district, Hindoos or otherwise.

3. It may be here remarked, that the slaves form a distinct class by themselves; they cannot be admitted by marriage into any caste without conveying a stigma of dishonour upon the family with which they become connected, owing to their degraded state as the offspring of notorious prostitution among themselves.

4. The condition of the men is, however, by no means fixed or stationary; in some zemindaries and estates, particularly in the zillah of Guntoor, instances may be found of several, who, by their fidelity and merit, have been advanced to situations of consideration and respectability, as killadars and superintendents of villages.

No. 7. *R. Grant,* Judge and Criminal Judge, Nellore.

22 Feb. 1836. 2. I beg leave to state in reply, that no decrees on the subject of slavery are to be found on the records of this court; and as it appears, from all the inquiries I have made, that no slavery of any description has existed in this zillah, it is out of my power to furnish any information upon the subject required.

3. I understand that some few Mahomedans in this part of the country have persons residing in their houses as family domestics, who were formerly purchased by them from their parents when young. But as these domestics are at liberty to leave the service of their masters whenever they think proper, they cannot be considered in the light of slaves.

No. 8. *T. H. Crozier,* Acting Head Assistant Magistrate in charge, Masulipatam.

23 Feb. 1839. In reply to your communication received in the beginning of February 1836, I have the honour to inform you, that slavery, in the usual acceptation of the word, does not exist in this district. It would appear that there are three descriptions of persons who commonly fall under the designation of "slaves;" but the term does not apply to them in the sense in which it is understood in the other parts of the world.

1st class are attached to zemindars, &c.; these slaves are called (the males) "khasauloo," and (the females) "danseeloo."

2d class are attached to cultivators. These are called "paulailoo."

3d class are in the service of Mussulmans; the males are called "goolams," and the females "baundees."

2. To these persons, however, although they live in a state of perpetual servitude to their masters, the term of "hereditary servants" might be more properly applied, as they are neither saleable, nor is the authority of the master legally recognized.

3. I believe the following is the only case on the records of this office in which a slave or master was complainant or defendant:—

4. In the year 1833, during the late famine, two moor-men purchased some children in the frontier talooks, with the intention of taking them to the nizam's dominions for slavery; but

but they were apprehended and brought to trial, and the case was committed to the criminal judge at Masulipatam.

A. Freeze, Magistrate, Vizagapatam. No. 9.

IN reply to your letter under date the 30th November, I have the honour to state, that although instances do often occur, during a famine, of parents selling their children as slaves, the magistrates of this province do not recognize such sales as conferring any legal rights either over the persons or property of the individuals purchased. Nor do the people of the province seem to consider that they have any real or just claim consequent to such purchases; for in various instances that have been brought before us, the purchasers have immediately consented to restore the children to their parents. 1 March 1836.

A. Crawley, Judge, Chicacole. No. 10.

I CANNOT find, with reference to these questions, that the legal right of masters over their slaves and property has ever been brought before the civil or criminal courts of this zillah; and I understand that the right of Mussulmans to slaves has never been recognized in this part of India. 2 March 1836.

The right of a master over his slaves, male and female, is defined by the Hindoo laws; but no cases respecting such right have ever been brought before the court. In case such should occur, as the law now stands, I conceive the court must, under section 16, Regulation II. of 1802, be entirely guided by those laws. The case of a Hindoo having a Mussulman slave or claiming such, is, I conceive, out of the question, from the nature of the Hindoo religious tenets.

A. Mathison, Head Assistant Magistrate in charge, Guntoor. No. 11.

1. I HAVE the honour to acknowledge the receipt of your letter under date the 30th November last, and in reply beg to state, that slavery in the strict sense of the word cannot be said to exist in this district, which must account for my not forwarding specific answers to the questions proposed by the law commissioners. 6 March 1836.

2. The only class of individuals whose situation at all approaches to slavery are the male and female servants attached to the zemindars, and who are certainly designated as "slaves." They have been for the most part attached to their families for several generations, and their children look forward to continuing in the same employment. Whatever might have been the case formerly, the engagement has been for many years voluntary, and can be said to exist only as long as the zemindar is willing to pay for their subsistence, and they have no wish to change their condition. In default of either of these reasons for its continuance, the connexion would be most probably dissolved.

3. These individuals are certainly as fully within the protection of the law as any other class of the community: and while the fact of their being slaves would not in any way exonerate the master from punishment for any offence committed against them, no measure would be taken to enforce the right of the master to their services against their own consent.

4. Though, from my inability to discover among the records of my office any trace of such a case having ever been mooted, I am unable to speak with certainty on this point; still I think it may be inferred, that slavery is considered to be practically illegal in this district, and that no claim of ownership would in any way be recognized by the magistrate; nor do I think that it would be expected by any party that such a recognition should take place. This idea may probably have arisen from the knowledge that slavery is forbidden by our laws, and that its existence is at variance with the wishes of the government.

J. Stevenson, Magistrate, Ganjam. No. 12.

I HAVE the honour, in reply to the court's letter, and its enclosures, on the subject of the system of slavery prevailing in this district, to report, that, from personal experience, I can afford no information. No case involving the right of master and slave has ever come before me in my official capacity. 4 March 1836.

Excepting amongst zemindars, I believe the several systems of slavery here existing to be of the mildest nature, and not likely to give cause for complaint; where disputes have arisen, the magistrate has never, as far as my inquiries go, recognized the master's right.

The zemindars exert over their slaves the most despotic power, not because it is allowed by, but because they are out of the reach of, the law. In one or two instances where slaves have succeeded in escaping out of the zemindars' territories, they have been protected, and the right of the rajahs to the person of the slave denied.

T. V. Stonehouse, Magistrate, Nellore, No. 13.

STATES, that he has no information to afford on the subject, there being no system of slavery prevailing in his collectorate. 16 March 1836.

H. D. Philips,

No. 14. *H. D. Philips*, Acting Assistant Judge, Auxiliary Court, Guntoor,

19 March 1836. STATES, that his inquiries lead him to believe that slavery is not known in this zillah.

No. 15. *J. Rohde*, Acting Register in charge of the Zillah Court, at Rajahmundry.

21 March 1836. I HAVE the honour, in reply to your letter of the 29th November 1835, to state, that I am unable to add any thing to the information contained in my letter on the same subject which I had the honour to address to you while in charge of the auxiliary court at Vizagapatam, further than that I am informed that the same rule of practice exists in this as in that court on the subject of the rights of masters and slaves, and also with regard to the relations of the latter in respect to the law.

I have received information of only one case which has in any way been brought to the notice of the court for many years, where it appears the magistrate in charge, Mr. Cazalet, admitted a rauzeenamah; but it does not appear that any civil suit has ever been brought.

CENTRE DIVISION.

No. 16. Provincial Court.

4 May 1836. 2. THE zillah judge of Chittoor states, that there are no materials whatever in his office to throw any light on the subject, or which will enable the higher court to decide by what law or principle the civil or criminal courts have regulated their proceedings in cases of the nature under consideration, and explains, that, as slavery is not sanctioned by any system of law which is recognized and administered by the British Government, excepting the Mahomedan and Hindoo law, his court would dismiss all claims made by a Mussulman to the compulsory or involuntary services of a Hindoo, such being illegal according to the Mahomedan law, and that the criminal court has no power by which, under any circumstances, it could enforce obedience on the part of a slave, on the ground that imprisonment would effectually for the time deprive the complainant of the labour of the person complained against, and that the court would not sanction the master's resorting to corporal punishment to obtain obedience, while the civil court would not recognize any right to the property of a slave grounded merely upon his being the slave of the complainant.

3. The zillah judge of Cuddapah and native judge of Cumbum state, that no information on the subject of slavery can be gleaned from the records of their courts.

4. The officiating judge of Bellary declares, that his records are likewise barren of information on the subject of slavery, but explains the course which he would pursue in the cases stated in the secretary's letter.

5. The acting judge of Chingleput states, that the cultivators of the Vellala caste in his district possess Pariah slaves, who serve them from generation to generation, and that they are kept in a very abject and low condition; but that complaints of ill-treatment are seldom if ever preferred by slaves against their masters, although such complaints are cognizable by the criminal courts under the circular order of the Foujdary Adawlut court of 27th November 1820.

6. He also explains the respective ownership of the master and father in the progeny of a female slave married to a freeman, the manner in which children of both sexes generally become enslaved, and the right of their owners to the profits of their labour; and has submitted copies* of two decrees, and two decisions of the criminal court of Chingleput, in cases of contested claims to slaves, which are herewith forwarded.

7. The assistant judge in the zillah of Cudallore declares his inability to afford the information required by the higher court, no cases of slavery having ever been brought before his court.

8. The acting magistrate of the northern division of Arcot states, that it is quite out of his power to reply to the several points relative to the system of slavery in his district, no case of that description having ever been brought before him, or appearing, from a reference to the records in his kutcherry, to have ever occurred in any part of the country under his control.

9. The acting magistrate of Cuddapah states, that the records in his office do not contain any materials to enable him to give any information respecting slavery.

10. The magistrate in the zillah of Bellary reports, that after examination of his records, he has not been able to discover that any case connected with slavery has ever been brought before his office.

11. The magistrate of Chingleput states, that the systematic slavery does not prevail in his district, but that the people, however, purchase individuals, generally of the Pariah caste, for the purpose of assisting them in carrying on their agriculture, and maintain them at their own expense, mortgaging their services, selling and giving them away according to their necessities or pleasure,—a practice he observes admitted and recognized both by the courts and magistrates; that no instances in which slaves have been punished by their masters, by virtue

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* *Vide* No. 28, *infra*.

virtue of their supposed right over them, or where such a proceeding has been admitted by the courts as justifiable, can be discovered; but that when the slaves are found to be remiss or negligent in their labours, the master contents himself with threatening, cautioning or suspending the payment of their wages; that no complaints of cruelty or any other maltreatment have ever been brought by the slaves against their masters before the courts or magistrates, nor are there any instances in which cases of that sort have been looked upon differently than those preferred by other individuals, nor do the masters of slaves consider themselves entitled to any mitigation of punishment to which they have subjected themselves by ill-using their slaves; that all complaints preferred by Mussulman slaves against their masters, on account of cruelty or hard usage, would be disposed of, under the Mahomedan law, without showing any leniency to the latter, and that cases brought by either class of slaves are inquired into and disposed of by the authorities according to the laws peculiar to each class.

12. The magistrate of the southern division of Arcot observes, that two species of slavery, one agricultural and the other domestic, prevail, the former to a considerable extent among Hindoos in South Arcot, but more particularly in the two southern talooks bordering on Tanjore, and the latter among Mussulmans in the large towns of Cuddalore, Portonova, and Chellembarrum, especially in Portonova, where the population is nearly two-thirds Mahomedan, whose domestics are generally of this description; but in both these cases, though the parties are termed slaves, their labour may be said to be voluntary; that the only cases that have been brought before him have referred, 1st, to the detention of parties against their will; 2d, to one ryot having enticed the agricultural slave of another from his land; and 3d, to the purchase and forcible detention of children, male and female; that in the first case, upon the detention being proved, the parties have been instantly set free; but if the slave had incurred any pecuniary obligation, it has been the practice to ascertain by means of a punchayet what period he should have to work out his obligation, although, it is apprehended, were the complainant to insist upon his right to be set at liberty immediately, that the magistrate must concede it, leaving the owner to recover the sum he had paid by civil process; that in the second cases, when no pecuniary obligation has existed, the slave had either been declared at liberty, or an endeavour was made to settle the cases amicably, according to the custom of the country; and that in the third cases, which happen principally in seasons of famine and distress, no child, male or female, is permitted to be retained by the purchaser if the parents appear to claim and can prove their relationship, or if the child desire to return to its parents. In conclusion, he observes, that his practice is to make no distinction in a case of this kind between slave and freeman, and that on proof thereof, of cruelty by a master towards his slave, he would be visited with the same degree of punishment as if it had been committed on a servant wholly free.

13. In reply to the 1st query in the letter from the secretary to the Indian Law Commission, the judges beg to state, that they are of opinion that, where Puller or Pariah slaves attached to the soil from very remote periods exist under the Madras presidency, the criminal courts and magistracy have occasionally, though very rarely, interferred upon complaints brought by masters against these slaves for having struck work without any sufficient reasonable cause for so doing, and compelled them to resume their work; but few, if any, of the Puller slaves, which is the most degraded and miserable class in Southern India, are to be found within the centre division.

14. These agricultural slaves are sold and mortgaged, sometimes without, but generally with, the land; and it sometimes happens, that the husband and wife and children belong to different masters. But no legal rights of the owners either to their persons or property, beyond those of masters over their servants, appear to have been recognized by the courts or magistrates.

15. The judges are well aware that it frequently happens, in seasons of dearth and famine, that persons sell themselves, and parents their children, in order to escape starvation, and preserve the lives of their offspring; but these persons do not thereby become slaves in the strict sense of the term, nor do they entail bondage on their children, and are only bound by the gentle tie of gratitude, the purchasers seldom if ever claiming even compensation when such ingrates desert them.

16. In reply to the 2d query, they beg to state, that it is, practically, almost a mooted question in their division; but that they are of opinion, that all complaints of masters against slaves, or *vice versâ*, would be treated by the criminal courts and magistrates in their division in the same manner as those between master and servant, or master and apprentice, and, consequently, that the relation of master and slave would not be recognized or considered in deciding upon such complaints.

17. And in reply to the 3d query, they have no hesitation in declaring, that, with exception of the distinction explained in their reply to the 1st query, they cannot conceive it possible that there can be any case in which equal protection in person and property will not be afforded to slaves so called, as to all other native subjects of the government; slavery, although existing in the territories under the Madras presidency to the extent above described, never having been distinctly recognized or sanctioned by our government, either in law or practice, and being directly repugnant to the first principles of British law and justice, and natural justice.

F. Lascelles, Judge, Chittoor. No. 17.

12 February 1836.

The zillah judge has the honour respectfully to state, that after a careful examination of the records of his office, he has not been able to discover any civil decrees whereby property

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in slaves has been recognized or rejected by the court, or which have determined any question respecting slavery. It therefore does not appear that the civil court has ever practically recognized any legal right of masters over slaves with regard either to their persons or property; nor do the proceedings on the criminal side of the court furnish any information relative to the practice in cases where a slave is a party concerned. As, therefore, no materials whatever exist in this office to enable the zillah judge to throw any light on the subject, or which will enable the higher court to decide by what law or principle the civil or criminal courts have regulated their proceedings in cases of the nature under consideration, it only remains for the judge to explain what course would be pursued by the court in cases where a claimant was a Mussulman and the party claimed as the slave a Hindoo, when, according to the Hindoo law, the slavery would be legal, but according to the Mahomedan law, illegal; and also how a case, the conditions of which were the converse of the above, would be dealt with.

2. As slavery is not sanctioned by any system of law which is recognized and administered by the British Government, except the Mahomedan and Hindoo law, the court would dismiss all claims made by a Mussulman to the compulsory or involuntary services of a Hindoo, such being illegal according to Mahomedan law. The court has no power by which, under any circumstance, it could enforce obedience on the part of a slave. Imprisonment would effectually, for the time, deprive the complainant of the labour of the individual complained against, and this would be sufficient of itself to prevent any action being brought. Necessity would therefore oblige the master to resort to corporal punishment to obtain obedience, and this the court would not sanction.

3. The next point is, whether the civil court would admit and enforce any claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant; and if so, on what specific law or principle the court would ground its proceedings. The court would not recognize any right which was made against the property of a slave, which was grounded merely upon his being the slave of the complainant; and the judge has already shown that the criminal court does not possess, under any circumstance, the power of securing obedience to the services of a slave.

No. 18.

P. H. Strombom, Judge, Cuddapah.

28 December 1835.

No acts of slavery have been brought to the notice of the court, or have formed part of any suit filed before it.

No. 19.

Juckeeyoodeen Mahammud Khan, Native Judge, Zillah Cuddapah, at Cumbum.

23 January 1836.

No cause connected with slavery has ever come before him in the civil or criminal department.

No. 20.

A. E. Angelo, Judge, Bellary.

15 January 1836.

No materials whatever exist in this department for forming any judgment or throwing any light upon any part of the subject under review. It only remains, therefore, to state the mode of proceeding which he would adopt under either of the hypothetical cases in question. It may be clearer to premise, that he would not deem the term "slavery" applicable to any case in which the bondsman has sold his services, on whatever terms, to a master. Such would be treated as a sort of apprenticeship to be held binding, provided it involved no cruel or immoral condition. But the claim of a Mussulman to the services of a Hindoo slave, that is, of one who had come under his bondage without being personally consulted, and *vice versâ* of a Hindoo to a Mussulman slave, would be at once rejected, as it is impossible that the legislators of one race of people could have provided for bondage to another race; and, as regards people of all other countries, the claim of the master to the involuntary and not self-conditioned services of a bondsman would be dismissed as unsupported by the enactments and inconsistent with the principles of the power now in rule.

No. 21.

H. Bushby, Acting Judge, Chingleput.

26 December 1835.

THE acting judge has the honour to forward copies of the only decrees * and cases to be found on the records of this office either on the civil or criminal file.

2. With reference to the various points enumerated in the letter from the secretary to the Indian Law Commissioners, dated 10th October last, the acting judge will confine his observations to the extent of slavery carried on in this zillah.

3. Cultivators of the Vellala caste in this zillah keep Pariah slaves, and they by reason of this bondage are obliged to obey whatever orders they may receive from their masters, provided such orders are not repugnant to law, justice and reason.

4. The

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* Two Civil and two Criminal, *vide infra*, No. 28, *et seq.*

4. The masters merely feed and clothe them for the work performed by the slaves, and they generally are kept in a very abject and low condition.

5. The master considers himself justified in inflicting moderate chastisement upon his slave for disobedience of orders, and it seldom, if ever, occurs of a slave complaining to the constituted authorities of the ill-treatment he may receive from his master. But the courts do not recognize his right to punish the slave in an unlawful manner, without any just or good cause of provocation.

6. Under the Mahomedan law, a master is competent to inflict correction (tazeer) upon his own slave. If, therefore, the master should in a lawful manner correct his slave for committing an act by which tazeer is incurred, he is not liable to punishment; but if a master should chastise his slave without his having been guilty of any offence incurring tazeer, or in the event of the slave having committed such an offence, if the master should not correct him in a lawful manner, but treat him with violence and cruelty, the master would be liable to tazeer. (*Vide* extract from the proceedings of the Foujdary Adawlut, dated 27th November 1820.)

7. Slaves in this zillah serve the master from one generation to another.

8. If a female slave marries a free person, and has issue, the master can claim the female progeny, and the husband the male progeny, and the husband cannot carry his wife away without the consent of the master. And when it happens that the husband, who is a free person, consents to become also slave to the master, the master can in that case claim the services of both the male and female progeny.

9. If the master should turn poor, the slaves can be employed to work for hire, in order to procure the common necessaries of life for their masters, and the earnings of the slave are made available for the use of the masters. And so it is the case with dancing-girls purchased for the use of the pagoda or for other native ceremonies. The purchasers derive the whole benefit of the earnings of the purchased.

10. Children are generally sold as slaves by poor parents whenever a famine happens.

W. Morehead, Assistant Judge and Joint Criminal Judge, Auxiliary Court, Cuddalore, No. 22.

STATES, that, regarding slavery, no civil and criminal cases have ever been filed in his court. He is therefore unable to submit copies of decrees in cases of this nature; nor can he furnish any information on the various points enumerated in the copy of the letter from the secretary to the Indian Law Commission. 16 January 1836.

G. M. Ogilvie, Acting Magistrate, Northern Division, Arcot, No. 23.

STATES, that it is quite out of his power to reply to the several points relative to the system of slavery prevailing in this district, as called for by the judges of the centre provincial court, slavery not existing in any part of the northern division of Arcot, to the best of his belief, nor is there on record any decision by the magistrates of this zillah, nor has there ever come before him a case to determine any question respecting slavery. 15 April 1836.

G. J. Casamajor, Acting Magistrate, Cuddapah. No. 24.

THERE are native officers now in the kutcherry who have known all the business of the magistrate's office at different periods almost from its first establishment; and they all say, after consulting and referring to the records, that they contain nothing upon the subject. 12 March 1836.

F. W. Robertson, Magistrate, Bellary. No. 25.

AFTER an examination of his records, he has not been able to discover that any case connected with slavery has ever been brought before the magistrate. 3 March 1836.

A. Maclean, Magistrate, Chingleput. No. 26.

2. SYSTEMATIC slavery does not prevail in the district of Chingleput. People, however, are in the habit of purchasing individuals, and maintaining them at their own expense. When a person thus purchased abandoned his master against the latter's consent, the former is considered to have a priority of claim to any property which he may have. Masters also mortgage the services of, and sell and give away, their slaves, according to their necessities or pleasure; and the practice of doing so is admitted and recognized by the courts and magistrates. 21 April 1836.

3. No instance in which slaves have been punished by their masters by virtue of their supposed right over them, or where such a proceeding has been admitted by the courts as justifiable, is forthcoming.

4. Slaves are generally of the Pariah caste, and, when found remiss or negligent in their agricultural labours, the master contents himself with threatening, cautioning or suspending the payment of their wages.

Appendix IX.

Returns.

5. No cases of cruelty, wounding, flogging, putting in the stocks, &c., are ever brought by the slaves against their masters before the courts or magistrates; nor are there any instances in which cases of this sort have been looked upon differently than those preferred by other individuals. Masters of slaves do not consider themselves entitled to any mitigation of punishment to which they may have subjected themselves by ill-treating their slaves.

6. All complaints preferred by Mussulman slaves against their masters on account of cruelty or hard usage are disposed of under the Mahomedan law. No leniency, as far as the magistrate has been informed, is ever shown to the latter.

7. Cases brought by either class of slaves are inquired into and disposed of by the authorities according to the laws peculiar to each class. Few Hindoo slaves are employed under Mahomedan masters, and those who are, are generally converted to the Mahomedan religion.

8. No decrees are procurable in this district regarding the disposal of cases of slavery.

No. 27.

J. Dent, Magistrate, Southern Division, Arcot.

28 February 1836.

SLAVERY, in the sense in which it is understood, as applying to the servitude in our colonies, is unknown in South Arcot, because neither the regulations of government nor the practice of the magistrate recognize the right of any individual to detain another in his service contrary to his will.

There are, however, two species of slavery, if such they can be called; one agricultural, where the cultivators are in a manner attached to the soil, and this is chiefly among Hindoos; the other domestic, where the slaves act as household servants,—this is chiefly confined to Mussulmans. But in both these cases, though the parties are termed slaves, their labour may be said to be voluntary, as they are at liberty to quit their service at pleasure, provided they are under no pecuniary obligation to their master.

Since the magistrate's appointment to the southern division of Arcot, the only cases that have been brought before him have referred,—1st, to the detention of parties against their will; 2d, to one ryot having enticed the agricultural slaves of another from his land; and 3d, to the purchase and forcible detention of children, male and female.

In the first cases, upon the forcible detention being proved, and no pecuniary obligation existing, the parties have been instantly set free, with full liberty to go where they pleased; but in some instances it has occurred that the slave had incurred a heavy pecuniary obligation in the shape of an advance for marriage or other ceremony, &c.; and when this has been made out, it has been the practice to ascertain by means of a punchayet what period the slave should serve to work out his obligation. Although, it is apprehended, were the complainant to insist upon his right to be set at liberty unconditionally, that the magistrate must concede, leaving the owner to recover his advance by civil process.

In the second cases, when no pecuniary obligation has existed, the slave has either been declared at liberty to serve whomsoever he pleased, or an endeavour was made to settle the cases amicably, according to the custom of the country,—a course that has been generally successful.

In the third cases, no child, male or female, having been purchased, is permitted to be retained by the purchaser, if the parents of the child appear to claim and can prove their relationship, or if the child desire to return to its parents.

Agricultural slavery of the description here described, it is believed, prevails to a considerable extent in South Arcot, but more particularly in the two southern talooks of Munnargoody and Chellumbrum, bordering on Tanjore. Domestic slavery is confined almost entirely to Mussulmans, whose domestics, male and female, are generally of this description; but it is chiefly to be found in the large towns of Cuddalore, Portonova and Chellumbrum, particularly Portonova, where the population is nearly two-thirds Mussulman (lubbies). Regardnig female slavery, little is known; they are commonly domestics, sometimes concubines, and they may not have the facility to complain that the males have; but it is not believed that ill-treatment is exercised towards them.

The practice of purchasing children, it is believed, is not carried to any great extent, except in seasons of famine and distress.

Such, then, is a general description of the species of slavery prevailing in the southern division of Arcot; and though such is tolerated and winked at, as being the custom of the country, neither the regulations of the government nor the practice of the magistrate recognize any rights of the masters of slaves over the property or persons of such slaves different from what they have over any other of their servants who are absolutely free. A complaint preferred before the magistrate of cruelty by a master towards his slave would be visited with the same degree of punishment as if it had been committed on a servant wholly free. The practice of the magistrate makes no distinction in a case of this kind between

27 November 1820.

slave and freeman, and the circular order of the Foujdary Adawlut, referred to in the margin, especially provides for the punishment of ill-treatment by the master of slaves.

Neither the regulations nor the practice of the magistrate's court recognize any distinction whether an injury be committed upon a slave by his own master or by an indifferent person. By "injury" is here meant some grievous harm, in opposition to that wholesome correction which amaster of slaves is acknowledged to have the right to exercise over them, as a master over his servants.

The magistrate having no jurisdiction in civil cases, he cannot state whether the courts would admit a slave to sue on the same terms as an undisputed free person; but he believes that no distinction whatever would be made.

Were

Were a Mussulman to prefer a claim before the magistrate to a slave that was a Hindoo by birth, or a Hindoo prefer a claim to a slave that was a Mahomedan by birth, the same decision would be given in both cases, viz. that neither party had any recognized right to the slave according to the regulations, and the case would be dismissed, and the slave permitted to go where he pleased.

The magistrate, in this return, has endeavoured to state as briefly as possible what the practice is regarding the system of slavery prevailing in South Arcot; and though in some instances he has been obliged to wink at it, his endeavours have been used, as far as legitimate means were in his reach, to put a stop to it.

DECREES* forwarded by the Acting Judge of Chingleput, with his Report, dated 26th December 1835.

DECREE of the Register of the Zillah Court of Chingleput, dated 15th December 1826. No. 28.

Case No. 45 of 1825.

THE plaintiff brings this action to recover 686 rupees, compensation for loss sustained by him for a period of 15 months from the 3d Audhy of Taurana to 29th Pooratausy of Parthepah, or from 16th July 1824 to 13th October 1825, at the rate of $\frac{7}{16}$ pagoda a day, owing to the defendants having failed to conform to an engagement they entered into with his grandfather, Ginjah Chetty, to work his boats, cattamarans, and drag his nets, which they continued to do up to the day they withdrew their labours as mentioned above.

In support of the claim to the services of the defendants, the plaintiff has filed two agreements, and states that it is customary in every other fishing village, as well as that of Wooroorcoopum, near St. Thomé, where the parties reside, for families in succession to work under the same employer.

As the seventh and eighth defendants, who are the sons of the sixth, named Casee Covil Yagapen (who died during the pending of this suit), have entered into an engagement with the plaintiff to work for him, or on failure to pay 285 rupees as their portion of the claim and costs, which they admitted before the court, the court proceeds to determine how far the rest of the party sued are to be made answerable. The fourth and fifth defendants are connected with the prosecution, as being the persons who withdrew the plaintiff's labourers, and the witnesses for the plaintiff prove that they occasionally worked for them; but, as this is not sufficient to show that they were the means of creating any injury to the complainant, as the same evidence does not state precisely which of the defendants or how long they were with them, the court exonerates them from this decree.

It is mentioned on behalf of the first, second and third defendants, that the plaintiff's business was never interrupted during the time he mentions; that they are not his labourers; and that they only mutually assist each other in their occupation as fishermen, because the first defendant's mother and the grandfather of the plaintiff were sister and brother; but they were not bound to serve him. They deny any engagement to have been executed to that effect, and mention that the one marked No. 11 was forcibly obtained.

The witnesses for the complainant depose, that the three first defendants left the plaintiff's employ at the beginning of Audhy of Taurana, or in July 1824; that they worked till now, sometimes with fourth and fifth defendants, but most usually on their own account, and that thereby the plaintiff sustains a daily loss of about 20 fanams. They also mention that there was no undue means used to obtain the document marked No. 11; which, after noticing that the first defendant and his ancestors worked at the plaintiff's nets, &c. to that period, conditions, that, whereas the first defendant (by whom it was given) "having obtained permission of plaintiff to keep a separate net, he will cause his son, Moottappun, the second defendant, to work at the plaintiff's large net; on failure he will pay a penalty of 24 rupees to his caste people."

The other document is one which was given to the grandfather of the plaintiff by the first defendant and his father, and another person, engaging "on the receipt of 9$\frac{3}{8}$ pagodas to work his boats and cattamarans and drag his nets, and binding not only themselves to fulfil their contract, but imposing the same obligation on their successional generations, to the end of time; if they do not act accordingly, they consent to be brought by force to their work."

It is strange that the plaintiff did not through the magistrate compel these defendants to work in his service, but allow so many months to pass without taking any earlier steps to cause their return. But as their own witnesses declare that they work for themselves, whilst they are under an engagement to serve under the plaintiff, the court decrees that they shall return to the plaintiff's employ, and repay him the sum of 200 rupees with costs, for preventing him, in their absence, from procuring the usual profits for his livelihood.

The court does not intend that this decree shall extend to any of the issue of these three defendants, because no man has any right to dispose of the service of his heirs in anticipation, or to bind them to the performance of manual labour to a particular individual or his family, because he has himself disposed of his own services to him. The father may have this

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* *See* No. 21, *supra*.

Appendix IX. Returns.

this control over his sons whilst they are depending upon him for maintenance, and as in this case the agreement was passed by the first defendant as the father of the second and third, they must all keep to it.

Half the costs of suit to be paid by the three first defendants. The other portion as agreed by the seventh and eighth.

No. 29.

DECREE of the Judge of Chingleput, dated 17th July 1828.

Case No. 299 of 1826.

IN the plaint the plaintiffs state, that the defendants had one share of all the three shares of Puttoor village, and the grounds and gardens attached thereto, of which share, Auroomy Pillay, the father of the first and second defendants, enjoyed a moiety, and the third defendant the other moiety; that the said third defendant sold his one-half of his one-third share, consisting of 16 nunjah cawnies and 4 poonjah cawnies, ground, garden and male and female slaves attached thereto, to Auroomy Pillay, the father of the said first and second defendants, for 25 pagodas, on the 25th Audee of the year Doondoobhee, 1802, and delivered over the lands under the bill of sale executed by him, from which time the said Auroomy Pillay enjoyed the said lands, as well as his own share, being altogether one of the shares, and died about the year Verama, 1820; that the first and second defendants subsequently enjoyed the said lands, but having occasion for money they sold to the first plaintiff garden land consisting of $2\frac{1}{2}$ cawnies, poonjah cawnies $10\frac{1}{16}$, and nunjah cawnies $33\frac{1}{8}$, making altogether 44 cawnies, as well as the ground, garden and appurtenances thereunto belonging, together with the place of residence in the village, and the place where the Pariahs reside, and nine male and female slaves, for 630 rupees, on the 29th Auny of the year Chittrabhanoo, 1822, and executed a bill of sale in the name of the said first plaintiff, received the said money and gave an acknowledgment for the same; that the said first and second defendants likewise delivered the bill of sale executed to their father by the third defendant, and at the same time put the nunjah and poonjah lands, the garden lands and the male and female slaves, into the possession of the first plaintiff; that having taken possession of the same, the first plaintiff endeavoured to carry on the cultivation for the present year, when, at the request of the second plaintiff, he sold to him the said lands for 300 rupees, on the 20th Audee of the said year, and executed to him a deed of sale and received the said amount; that he also sold the nine male and ten female slaves for 330 rupees, on the same date, and received the said amount, and executed to him a bill of sale to that effect, and delivered to the second plaintiff the said lands, as well as the said male and female slaves; that having taken charge of the same, the second plaintiff ploughed 33 nunjah cawnies of the said lands, and was cultivating the same, when the first, second and third defendants, attending to the instigations of Mattoo Pannumbla Pillay, lodged a fraudulent complaint with the tahsildar of the said tookhdy, brought a peon, and took possession of 13 cawnies of the land, and the said male and female slaves; that the second plaintiff presented a complaint to the collector, who sent his takeed, dated 30 August 1822, to the tahsildar, to inquire and make his report, who made his report to the collector according to his pleasure, stating that the money had not been paid for the said bill of sale, on which the collector directed that the lands be cultivated by the persons who had cultivated them the last year, and referred the second plaintiff to the civil court; that the second plaintiff paid the teervak to the sircar on the 20 cawnies cultivated by him, and enjoyed the produce in that year; that in the month Audee of the year Swabhanoo, 1823, the said second plaintiff attempted to plough the said lands, when the defendants combined and took possession of them and cultivated the same; that in the year Tauranah, 1824, when they were about to institute their suit against the defendants for the recovery of the lands and the slaves, &c. the first and second defendants satisfied them, and promised to restore the lands and the slaves mentioned in the bill of sale on the 1st Audee of the year Partewah, 1825, and also agreed to pay them (plaintiffs) 200 rupees on the same date, in consequence of their having enjoyed the lands up to that period, to which effect they (first and second defendants) executed an agreement on the 36th Tye of the year Tauranah; that the defendants enjoyed the produce for the said Tauranah year, and instead of conforming to their agreement in the year Partewah, they enjoyed the lands and did not restore the male and female slaves, nor pay the rupees mentioned in the agreement; that the third and fourth defendants continue cultivating the said lands; that the suit is in consequence instituted against all of them. The plaintiffs therefore sue to recover from the defendants the restoration of the malgoozary, nunjah, poonjah and garden land, and two nevashanums, of which the particulars are stated in the plaint, and the 19 male and female slaves, and 200 rupees, agreeably to the above-mentioned agreement.

In their answer, the defendants deny the correctness of the plaintiff's claim, and the first defendant moreover states, that he was mad from Eswarah, 1817, to Tauranah, 1824, and his hands and feet were chained for one year; that he was also wandering about some days without fetters, according to his pleasure; that whilst it was thus, the second plaintiff, thinking to assume to himself the lands and male and female labourers, &c., attached to his and the other three defendants one share, in addition to the lands attached to his own two shares, and to enjoy the said village as his exclusive right, carried him (defendant), who was afflicted with insanity, to his house, about 12 o'clock at night of the 29th Auny of the year Chittrabhanoo, and wrote a deed of sale in the name of the first plaintiff, his elder sister's son,

son, as if this defendant had sold the lands and other property in dispute, and obtained the signature of this defendant, and also his signature for the second defendant to the said deed, and procured it also to be witnessed by persons on friendly terms with him; that he was not aware of what the said plaintiff wrote in the said deed of sale; that the first or the second plaintiff did not pay as cash to him on account of the said deed, nor did he give his receipt for the same; that the first plaintiff was not in the place where the said deed of sale was written, but was then at Munnargoody; that the second plaintiff having ploughed some of the lands in dispute, the third and the second defendants complained of it to Cooppoo Row, late a tahsildar of the above tookoody, who ordered the second plaintiff not to plough the said lands; yet the second plaintiff again collected together about 100 labourers and 64 plough-oxen, ploughed some of the lands in dispute, on which the second and third defendants again made their complaints to the said tahsildar, who sent two peons to bring the persons before him; that the second plaintiff then lodged his complaint before the collector of the said soobah, and the third defendant also made his complaint to the said gentleman, who directed the tahsildar to inquire and report upon the case, who accordingly inquired and reported, informing, that the deed of sale in dispute was fraudulently written, and signature obtained from this defendant, when he was of unsound mind, at 12 o'clock at night; that it was not proved that money had been paid on the said deed of sale, and some other circumstances; on which the collector directed the tahsildar to cause the defendant to pay to the second plaintiff the expenses of the cultivation of such land as had been illegally ploughed and cultivated by him, and to cause the defendants to enjoy the said land with the produce thereon, and to grant a pottah in the name of this defendant; that the tahsildar sent for the second plaintiff, who objected to receive the expenses of the cultivation from the defendant, and to restore the produce; that after the crops had suffered great damage, the said tahsildar appointed the sircar servants, thrashed and laid the produce in heaps, and then wrote to the collector that the produce would not equal the payment of the teerwah due on those lands, and that that produce should be given to the second plaintiff, and the sircar teerwah be collected from him; on this the collector sent his takeed, directing him to put the produce of the said land in the possession of the second plaintiff, and collect from him the sircar money, and to enter the sist collection, jummabundee and puttah, in the name of this first defendant for that year, and not to allow the said plaintiff to interfere with the land in dispute for the next year (the present one), from which time the orders for cultivation, jummabundee and puttah, &c. are entered in his (this defendant's) name, and he and the other defendants cultivate the said land.

This defendant observes, that while the deed of sale written in the name of the first plaintiff was in dispute between the second plaintiff and the defendants, and the lands and the slaves, &c. mentioned in the said deed of sale had not fallen into the possession of the first plaintiff, how could the first plaintiff sell the said lands, &c. to the second plaintiff? that the labours, &c. are also valued at 330 rupees, but it has not been explained by what means the value of 330 rupees was ascertained; that the statement that the defendant has agreed to pay 200 rupees in consequence of his enjoyment of the disputed lands, and that the first and second defendants executed an agreement in the name of the two plaintiffs on the 26th Tye of the year Tauranah, engaging to deliver over the disputed lands on the 1st Audee of the year Tauranah, is not true; that while it is asserted in the plaint that the deed of sale was executed in the name of the first plaintiff, there was no reason to obtain the agreement from this defendant in the name of the second plaintiff conjointly; that if the first plaintiff had the land sold to the second plaintiff, there was no necessity for him to obtain the agreement, in his name also, for lands to which his right was lost. In regard to the statement that the third defendant sold the lands attached to his half share to the father of the first defendant, and executed a deed to him, and that deed was also given to the first plaintiff by the first defendant, he states, that the third defendant, or the father of the first defendant, never enjoyed the lands, &c. separately; that the father of this defendant did not purchase the same; that the first defendant did not give it to the first plaintiff.

The second defendant, in his answer, denies having been present when the alleged deed of sale was given, or having signed it, and he accedes to the answer given by the first defendant, he being his elder brother.

The third defendant, in his answer, states, that of the land mentioned in the plaint, half belongs to him and the fourth defendant, and the other half to the first and second defendants; and he denies the truth of the statement that he executed a deed of sale, for the half share which belongs to himself and the fourth defendant, to the father of the first and second defendants, on the 25th Audee of the Doondoobhee; and that on the deed of sale in dispute being executed, the first defendant gave the first-mentioned deed of sale to the first plaintiff, and states, that while the fourth defendant, his younger brother, is alive, he has no right to execute alone a deed of sale to the father of the first defendant; and that in the plaint it is stated, that the joint share of these four defendants is 44 nunjah and poonjah cawnies, of which 22 cawnies will then be the share of this and the fourth defendant; but the plaintiffs have stated that this defendant executed a deed of sale for the 20 cawnies of his share to the father of the first defendant.

The fourth defendant, being the younger brother of the third defendant, acknowledges the answer of the latter on his part also, and states that it is not true that the third defendant sold the lands, &c. attached to the half share belonging to him and this defendant; and that if it be true, there must be his signature in that deed of sale.

In the reply, the plaintiff denies the truth of the statement contained in the answer; and in respect to the first defendant's statement that he was mad, and that the land in question was from the year Chittrabhanoo, 1822, to the present period, entered in his name in different vouchers, viz. the account called sungoovadee dittum, puttah and tundull, and that he paid money to the sircar; they asked, how could the sircar give pottah to a madman? and how can a madman pay money to the sircar? and how can they declare him to be a madman while he cultivates the land and pays money to the sircar? and will any person in the world receive a bill of sale from a madman? that these circumstances are not stated in arzees addressed by the tahsildar to the collector, nor in the takeed issued by him to the tahsildar; that merely, that the second plaintiff should sue in the civil court; and in respect to the observation contained in the answer, that while the third defendant is entitled to 22 cawnies of land out of the 44 cawnies of land alluded to in the plaint, how could he sell 20 cawnies? he replied, that at the time when the third defendant cultivated the same, he had 20 cawnies of land in his charge, and after he sold his share of land to the first defendant's father, he (first defendant's father) cultivated the same, and improved and cultivated certain waste land, by which the said four cawnies of land was increased in the pymash, or measurement, made by the sircar; and a puttah was granted for 44 cawnies to him (first defendant's father), and subsequently to himself. They further state, that when the land was sold by the third defendant, the fourth defendant was quite young, and was under his guardianship, and they from that time lived a joint family without dividing.

The rejoinder contains merely a denial of the statement set forth in the plaint, but no new argument is brought forward in it. It is, however, asserted, that at the time of the alleged sale of the land by the third defendant to the father of the first and second defendants, the fourth defendant was then 21 years of age.

The evidence adduced in this case is very contradictory; and the depositions of the witnesses examined in it are so much at variance with each other, that the court has no hesitation in declaring some of them have deposed falsely. It may perhaps be difficult to determine on which side the truth lies, but the court inclined to give credit to the testimony of those witnesses who have deposed to the sale of land to the first plaintiff by the first and second defendants. The court considers this fact to be established by the evidence of the witnesses Jyahvier, Mamemoottoo Pillay, Moodookistna Pillay, Rumalinga Pillay, and Paroomah Pillay, who, with exception of the latter person, have also deposed to the amount of the purchase of the land having been paid to them.

The story of the first defendant, that he was mad for four years, and that the bill of sale regarding the lands in question was extorted from him in the night, appears to the court altogether unworthy of credit; and the court cannot believe the testimony of the witnesses Soobroya Pillay (fourth witness), Mootta Pillay, and Soobroya Pillay (first witness), that they saw this deed drawn out in the hall of the second plaintiff's house at about midnight, from another apartment in the same house, by the light of the moon. These witnesses also do not agree in regard to the time when this document is said to have been executed. The witness, Soobroya Pillay (fourth witness), represents that it took place on the 29th Anny, in the year Eswarrah; whereas the witnesses Soobroya Pillay (first witness), and Mootta Pillay, state that it was in Anny of Chittrabhanoo.

But of the land purporting to have been sold by the first and second defendants to the first plaintiff, there is not evidence to the third defendant having sold the share of the land belonging to him and the fourth defendant to Aroomy Pillay, the father of those defendants. The court therefore cannot confirm the sale of this portion of the land to the first plaintiff.

In regard to the slaves said to have been sold at the same time, the bill of sale does not specify the number attached to each share of the land transferred; nor indeed have the defendants shown their right to make over this body of people to the plaintiff. The court cannot therefore admit this part of the claim. The court also disallows the plaintiff's claim to the sum of 200 rupees, claimed under the agreement, exhibit No. 22. As their right to the whole of the land referred to in that document has not been admitted, there can be no reason why the defendant should pay a penalty for preventing their enjoyment of the same.

On a consideration of the foregoing, the court decrees that the half-share of one-third of the village belonging to the first and second defendants be delivered to the first plaintiff, and dismissed the rest of the plaintiff's claim.

30.—Criminal Cases forwarded by Acting Judge of Chingleput, 26th December 1835.

No.	Names.	Abstract of the Crime or Charge.	Date of Apprehension.	Date of Leaving the Talook.	Date of Arrival.	Released, or if allowed a Fine.
24	Alley Mercoyen and Ebram Saeb Magapale.	- - The prisoners charged with having received, purchased and caused to be stolen, by so receiving 29 children, for the purpose of making them slaves.	- - 4 January 1825.	- - 7 January 1825.	- - 17 January 1825.	- - The prisoners do not deny having received the children, but account for it during the late famine; and by the statement of many of the children before the magistrate, it would appear, that, when destitute of food, some of them had spontaneously placed themselves under their protection, and others were sold by their parents or left with the prisoners by them. There is no evidence that they forcibly abduced them from their parents, or purchased them surreptitiously; they are therefore acquitted of the charge. But as it appears suspicious that men with such large families should add so considerably to their numbers without any assignable reasons, and as they are both residents of Cuddalore, where the practice prevails of transporting children, and the first prisoner being a shipowner, the assistant criminal judge has required of Alley Mercoyen and Ebram Saeb to give a penalty bond in the sum of 200 rupees each, that they shall not make traffic of the children they have or may have in their possession, or export any at any time. 23d March 1825. (True copy) (signed) *H. Bushby*, Actg. Criminal Judge.
171	Ammanee - -	- - Forcibly taking away one day (date unknown), Parnatty, *alias* Lutchemy, daughter of the prosecutor, Vennoomalery Moodelly, and having a false deed executed as if the girl had been sold to her.	- - 5 September 1826.	- - 13 November 1826.	- - 27 November 1826.	- - The assistant-criminal judge acquits the prisoner of the abduction of the child, or of having obtained her by any undue means. The proceedings held before him go to confirm her statement of having purchased the girl from the parents, who are the complaining party, during the dearth of 1824, when they are said to have executed the bill of sale produced by the accused, as she has consented to give up their daughter. The court directs that she be restored, and the prisoner released. 29th November 1826. (True copy) (signed) *H. Bushby*, Actg. Criminal Judge.

Southern Division.

Provincial Court. No. 31.

3. Although slavery is shown by the reports, which are now submitted, to prevail in several parts of the division, there is no doubt but that slaves are treated by their masters with much kindness, and that they are looked upon more as being members of their families than as their bond servants. Trichinopoly.

4. No instance has ever come to the knowledge of the judges in which a master was accused of treating his slave with undue harshness. On the whole, the court are led to believe that the state of slavery is, in this part of India, a condition of contentment and happiness to those living under it.* 29th June 1836.

G. S. Hooper, Judge, Madura. No. 32.

2. I am unable to afford any information on this subject, grounded on observation and experience in the performance of my duties as judge and criminal judge of this zillah. Not a single case either of a civil or criminal nature has hitherto come under my cognizance in any way involving the question of property in slaves. The little I have to offer on the subject has therefore been solely derived from occasional conversation with the natives, and inquiries instituted through the most intelligent of my court servants, and others, since my attention was more particularly directed to it by the papers before me. 30th April 1836.

3. The

* For copies of two decrees which accompanied this report, see Nos. 45 and 46 of this Appendix.

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3. The principal collector and magistrate of the district must be infinitely better qualified than myself to furnish information regarding the customs prevailing among the inhabitants, as his duties necessarily bring him more immediately in contact with them, and his report will, I dare say, have rendered all I have to submit, on that point of the subject, almost superfluous. The following, however, is the substance of the information I have collected relating to the various forms of slavery (so called) now prevailing in this part of the country:—

1st. An inhabitant proprietor of land purchases a slave (called Adema) of the Pariah or Puller castes, to assist in the cultivation of his land, and perform whatever work he may require of him. In this case the master is bound to maintain the slave, get him married at his own expense, and protect him and his family; exercising the authority of a master over him, and over his property too, if he should become possessed of any, which sometimes happens by thieving or other means. This, however, would appear to be rather with the consent of the slave than in virtue of any right vested in the master, as slaves of this description are not incapacitated from possessing property independent of their masters, and leaving it to their heirs; but should the slave die, the master generally, it is believed, takes possession of it himself. The master is said to have an absolute claim to the person and services of his slave, but this is merely nominal in effect, for should the latter, in consequence of ill-usage, or for any other reason, choose to desert his master, he is at liberty to go where he likes, and even to attach himself to a new master; in which case, the former master would lose the purchase-money he originally paid for the slave, unless (as is said to be sometimes the case) the new master chooses to pay it; but the other neither insists upon the restoration of the slave nor for the payment of the money; and should the master, from poverty or other cause, cease to afford maintenance to his slave, the latter seeks it elsewhere by transferring his services to some other master, or by labouring as a freeman for hire. The master may dispose of his slave to another person, but not without his (the slave's) consent. But, I believe, the connexion between a master and his slave is very seldom broken in any way, as their mutual interests so much depend upon its continuance. Should disputes arise, they are probably settled amongst themselves by punchayet, or by the native revenue and police authorities in the talooks, for they never come before the European authorities.

2d. Rich natives, principally in seasons of scarcity or famine, buy children of both sexes, and train them up as domestic servants in their families, or they purchase the services of grown-up persons, who voluntarily sell themselves as bondsmen in times of difficulty, sometimes for life, sometimes for a term of years. These slaves are fed and clothed, and sometimes married at their master's expense. Should they afterwards prove thieves and rogues, they are turned adrift; and, on the other hand, should they dislike their master's service, they leave it and seek shelter and service elsewhere; yet no appeal to the authorities is even made by the master, in such a case, for the recovery of the slave.

3d. Mussulmans also purchase Hindoo children from their parents and others. This also most frequently happens in times of scarcity, when their parents are starving themselves and unable to support them, but sometimes the children are stolen or kidnapped and sold to them; such slaves sometimes rise to so much consequence in the family in which they are brought up, that they are no longer regarded as slaves, but become as members of the family. They almost always become converts to or are brought up from infancy in the Mahomedan religion, and married to females of the same faith, but of a lower grade. After three generations, however, their descendants are considered true Mussulmans, and are admitted to all rights and privileges as such.

4th. Dancing women are in the habit of purchasing female children of the better castes, as slaves, whom they bring up in all the accomplishments peculiar to their own profession. But these girls, after they grow up, claim equal right to the property of their mistresses as if they were their own daughters, and, after their mistresses' death, perform their funeral rites, and become heir to their property, after which they become entirely free. They are, in fact, to all intents and purposes, on the same footing as adopted children.

4. The relations above described (except, perhaps, those of the 1st class) certainly cannot be said to constitute true slavery according to the general acceptation of the term; such, however, I am assured by my informants, is the real state of things in this part of the country at present. If so, it is a mere nominal slavery, divested of all its worst features, and assuming the mildest aspect and form imaginable, often proving a blessing rather than a curse.

5. On the Malabar coast it is far different; there slavery exists in its most degrading form; there, as I know from personal experience and observation, it is the cause of constant litigation in the courts. Slaves are bought and sold, and transferred from one owner to another, just like cattle or any other kind of property; and in almost every suit regarding land, they are included as its natural and inseparable appurtenances, and are sold like other property in satisfaction of decrees. The rights of masters and slaves are there, of course, accurately defined and fully recognized and adjudicated by the courts.

6. I am told, indeed, that in former times slaves in this province were flogged and tyrannized over by their owners, who then exercised much greater power over them than they do now, but that since the commencement of our rule, in consequence of the equal protection afforded to all ranks and classes of people, such practices have almost entirely ceased, and masters no longer exercise or pretend to possess such absolute right over the persons and actions of their slaves as they used formerly. It is not to be supposed, however, that slavery ever existed in this part of the country as it does now in Malabar: that it has, at any rate, undergone a great change, is manifest from the fact that it neither leads to the institution of civil suits, nor is apparently the cause of criminal prosecutions in the court.

7. But

7. But what tends more than any thing else to prove that slaves are not really regarded here in the light of property is, that no slave was ever yet sold in satisfaction of a decree of court, nor has it ever been attempted to make them available for that purpose. Nothing, I think, can be more conclusive than this.

8. After a most careful search of the records, I can only find one final decree, "whereby property in slaves has been recognized or rejected, or which determined any question respecting slavery;" and this is a decree passed in 1823,* by an acting register of this court, which has never been executed to this day; there is only one other suit to be found which at all refers to the subject under discussion, and that is O. S. No. 218 of 1824, in which the plaintiff sued for the recovery of a slave (third defendant) valued at 14 rupees, alleged to have been taken from him by the first defendant and his younger brother the second defendant, and for an award to secure to him (plaintiff) the services of the third defendant for ever. A razeenamah was filed in this case before the pundit sudder ameen, in which it was stipulated, that first and second defendants should give up the third defendant to plaintiff, receiving from him three cully poons; and so the matter ended.

9. I can discover nothing in the criminal records at all bearing upon this subject, except four cases noted below† in which the prisoners, chiefly females, were charged with having kidnapped children for the purpose of selling them as slaves; in one of which the prisoner was sentenced by the court of circuit to three years' imprisonment with hard labour.

10. As no precedent other than the salutary decision above mentioned (too insignificant in all respects to have much weight) is to be found on my records to show what the former practice of this court has been, and as I have had no opportunities myself, since I have presided in it, of deciding questions of a similar nature, I am of course unprepared to state "what are the legal rights of masters over their slaves," with regard both to their persons and property, which are practically recognized by this court, as required by the first question proposed by Mr. Millett.

11. But I presume that in civil cases the court must be guided by clause 1st, section 16, Regulation III. of 1802, and by what might appear in evidence to be the usage and custom of the country in such matters; what would be the course pursued in the particular cases, the conditions of which are specified by Mr. Millett, I cannot pretend to say, as nothing of the kind has ever come before me. But I have no hesitation in declaring, that no claim to property, possession or service of a slave would be admitted or enforced except in behalf of a Mussulman or Hindoo claimant, and against any other than a Mussulman or Hindoo defendant.

12. I am equally unable, for the same reasons, to give any definite answers to the second and third questions founded upon any course hitherto pursued in this court, further than to state, that I would make no distinction of persons in the administration of criminal justice in any case whatever; that I would not recognize the relation of master and slave as justifying acts otherwise deserving of punishment, nor even as constituting a ground for mitigation of it; that I would extend to slaves complaining against their masters the same protection as to any other description of persons; and that I would in no case afford less protection to a slave than to a free person.

T. Prendergast, Assistant Judge, Auxiliary Court, Tinnivelly. No. 33.

15 May 1836.

In reply to your letter of the 30th November last, I have the honour to forward translation of a decree passed by the sudder ameen of the auxiliary court, recognizing property in slaves. There do not appear in the records any decrees of this description passed by my predecessors; and those cases which have come before me are either still undecided, or the time for appeal against any decisions thereupon has not elapsed. Many others exist of a similar description to that now forwarded; but no different principle is involved in them, and no question as to the respective rights of masters and slaves is determined by them. The latter is claimed in similar form with goods and chattels, and with equal indifference awarded to the party whose right is proved. The document B.‡ shows, that so lately as January 1834, four slaves were sold openly before the auxiliary court, in satisfaction of a decree passed by a district moonsif. The following is a summary of the information which I have gathered regarding the state and condition of slaves. In this zillah, slaves are to be found among all the tribes of the Sudra caste. The Vellala, Vadakar, and other corresponding tribes are not required to perform the drudgery which is exacted from the Pariahs, &c. but are employed chiefly about the house and in the lighter duties of cultivation. They have also great advantage in point of recompense for their labour; for, while the Pariahs get only two and a half measures of paddy per day, and their women two measures, the former receive four, and their women two. It is remarkable that variations in the price of grain are declared not to affect this allowance; but the truth of this assertion may be fairly doubted. Among the higher classes of slaves, the daughters are always reserved, if of pure blood, for the harems of their masters or his relations; and from the offspring of these alliances are taken wives for the male slaves. From this system of connexion probably arises

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See No. 48, *infra*.

† Calendar case, No. 8, 1st sessions, 1835; criminal case, No. 76 of 1832; ditto, No. 63 of 1833; ditto, No. 66 of 1831.

‡ No. 50. A decree of the sudder ameen of this court, also transmitted, will be found *infra*, No. 49.

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arises the confidence which is reposed in the female slave by a master of her own caste. She is employed in washing, bringing water to the house, and attending his children, and is exempt from all laborious duties. Her employment, in short, is the same as that of a wife in a family where no slaves are kept. The expenses of their marriages and funerals are borne exclusively by their masters; each male, whether married or not, is provided with a house for himself, and he is permitted to amass whatever by his diligence he may acquire. Such acquisitions, however, are very rare, although in executing a prescribed task no want of zeal on the part of the slave is discernible. He works with alacrity, and his labour is more valuable than that of a hired day-labourer, while his wages are little more than half the hire of the latter. This alacrity, however, is confined to task-work; in the field they require to be constantly watched, and the cane in constant use. They generally labour from eight till four; but when occasion requires it, their whole time, day and night, must be spent in the field. When not required by their masters, they are permitted to work for hire, and by this means some have attained the means of purchasing their freedom, though they can seldom procure it for less than double their own value. The price of a well-bred, strong young man very seldom exceeds 20 rupees; yet there are few candidates for the honour of being free at the sacrifice of a comfortable and certain provision. Many attain to a very great age (a proof that they are not worked beyond their strength); and when they become infirm and useless, they are still fed by their masters. It is the prospect of this, above all things, that reconciles them to serve a hard master. With one who is mild and indulgent, their life is easier than that of a man who earns a precarious subsistence as a day-labourer. Many instances have occurred of men in adversity being supported by the gratuitous labour of their slaves; and one landholder in this zillah is at this time in the daily receipt of half a measure of grain from each of his 500 slaves.

When property in slaves is acquired by purchase, it is customary to take a bond from each male, whereby he engages himself and his posterity to serve his master and his heirs for ever. Such purchases are seldom made, except when the land also is bought, for slaves are for the most part attached to the land as part and parcel thereof. When an estate is divided, the slaves are indiscriminately awarded to each shareholder without reference to their castes. The Vellala is not valued at a higher rate than the Pariah, although their respective prices in the market may be 20 rupees for the former, and only four or five rupees for the latter. The females are always allowed to live with their husbands, whether the latter belong to their masters or to strangers. The stranger in such case has the benefit of the work she performs, but she still continues to be the property of her master, and her children, as soon as they are able, are obliged to work for him. The women appear to be of little value as respects the labour they perform, yet their price is generally higher than that of men of equal age and qualifications, owing, of course, to the arrangement I have just mentioned.

Among the Mussulmans in this zillah the system of slavery differs in no respect from that prevailing generally throughout India. There are very few Mussulman slaves in Tinnivelly and the inland talooks; but the Lubbays, on the coast, circumcise every slave whom they purchase, whether of high or low degrees, and they are thenceforth treated as Mussulmans. In Tinnivelly, Pettah, Mailapalliam and Palamcottah, where the Hindoos greatly preponderate over the Mussulmans, the better classes of slaves are alone subjected to the aforesaid operation. Pariahs and Pullers are held, out of complaisance to the Hindoos, too vile to be brought within the pale. As the circumcised cannot be sold to a Hindoo, the value of a well-born slave is very materially affected by his circumcision; for a Mussulman purchaser considers him to be of no greater worth than a circumcised Pariah, and a Hindoo would have a feeling of horror at the idea of taking him into his service.

The records of this court do not show that any legal right of masters over their slaves has been recognized hitherto, save that of transferring them by sale or gift to other persons. No cases have occurred wherein the relation of master and slave has been introduced as a plea either in justification of a criminal act, or in mitigation of punishment. No complaints of ill-usage have ever come before this court wherein a slave and his master were the parties concerned; neither have any Mussulman slaves ever been placed in a situation to require the indulgences granted to them by the Mahomedan law. There are no instances on record of slaves having sought for protection, whether against their masters or other wrong-doers.

The rule contained in clause 1, section 16, Regulation III. of 1802, appears to me to apply with propriety to cases involving questions regarding slavery. As it is decidedly contrary to the spirit both of the Hindoo and Mahomedan laws to permit slavery in such a form, I conceive that no claim can stand if opposed to any direct enactment in either code. But it will be found that immemorial custom has sanctioned the purchase and possession of Hindoo slaves by Mussulmans, and I have already remarked, that (with one local exception) slaves bought by Mussulmans are circumcised, and thus cease to be Hindoos; I am therefore of opinion, that many cases may arise wherein Mussulmans may be decreed to be legal owners of slaves of Hindoo origin. The converse, however, does not hold, for it would be difficult, or perhaps impossible, to find any Hindoos with Mussulman slaves in their possession, their law having produced a general repugnance in their feelings to the reception of slaves of that class, and proselytism being unknown to them. In conclusion, I would observe, that there is one form of slavery which should supersede all considerations of caste and religion between Hindoo and Mussulman, and that is, when a man offers himself as a slave, voluntarily resigning his liberty with a view to obtain the paltry sum which another may consider to be the value of his labour. Under all circumstances I should consider

sider an Englishman or any other alien debarred from the right of holding slaves by the hostility which the English law displays to that brutalizing practice.

F. M. Lewin, Judge, Combaconum (Tanjore). No. 34.

I HAVE the honour to forward copies of four decrees passed; one by the southern provincial court of appeal; two by the judge, and one by the moofty sudder ameen of the late zillah court of Trichinopoly, which are all that can be discovered after due search in the records of this court, although it is probable there are others, if there was any clue to find them by. 20 January 1836.

The plaintiff in this suit* was master, and the defendants his slaves, on whom the plaintiff advanced 18 rupees, and purchased them as his Pullers or menials from their uncle. The defendants having absconded from the plaintiff, this suit was brought. The moofty sudder ameen, who tried this suit, decreed to plaintiff his legal right over the slaves, the defendants, who were ordered by the decree to serve the plaintiff as his punnials.

The decree in this suit † recognizes the right of transferring Pullers together with lands.

Original suit, No. 90 on the file of the late zillah court of Trichinopoly, 16th April 1807:—In the plaint filed in this suit ‡ the plaintiff sued to recover from the defendant certain lands and also Pullers, on mortgage of which he advanced a certain sum of money on condition of redeeming it at a certain stipulated period, and on failure thereof the property to be considered as sold. The decree in this suit was passed awarding to the plaintiff the sum he advanced, together with interest.

In this suit § the plaintiff sued to recover certain land and Pullers attached thereto, which had been sold to him on a bill of sale. The suit was dismissed by the failure of the plaintiff to attend at the appointed time.

These claims show that the Pullers or menials have been sued for in decrees as transferable from one individual to another, together with the lands sued for, and this is customary in these provinces.

But legal rights of masters over slaves appear latterly to have been less and less recognized as such by the Company's courts; and as far as my experience goes, I am inclined to believe that the authorities have all along endeavoured to reconcile the disputes of these people upon the same principle as those between master and servant in other countries are settled.

The Pullers are not like slaves; there is no slavery in their treatment; their transfer with lands resembles the transfer of ryots on an estate alienated by government as yanam, shotriem, &c. &c.

In the criminal courts there does not appear reason to believe that any distinction whatever is ever made between a slave and any other menial servant, equal protection being afforded to all.

Generally speaking, it may be said that the authorities have managed as well as they could without any fixed rule, guided by the principle of justice and right, and adopting their decisions, as much as possible, to the manners and customs of the people.

J. Goldingham, Acting Judge and Criminal Judge, Salem. No. 35.

IN reply to the letter dated 30th ultimo, with accompaniments from the acting second judge for the register, relative to the system of slavery prevailing in the provinces, I have the honour to state, that it does not appear that the subject has ever been before this court, which precludes my offering any remarks thereon. 17 December 1835

J. D. Bourdillon, Acting Assistant Judge, Auxiliary Court, Coimbatore. No. 36.

IT has happened in one or two instances that a certain number of slaves have been included in a mortgage of land, but no question has been raised on that point, and no mention made of it in the decree. 19 February 1836.

J. Blackburne, Magistrate, Madura. No. 37.

2. THE records of my office do not afford the slightest information on the subject (slavery); after premising that only one instance, easily and unofficially adjusted by me, has come to my notice, in my two years' experience of this district, to show how little the subject calls for consideration, as applicable to this district alone, I proceed to lay before you its extent and particulars. 21 January 1836.

3. Slavery is tolerated amongst three classes of people, but to an exceeding trifling extent when compared to the whole population.

1st. The allodial slaves are confined entirely to the two castes of Pullers and Pariahs, the former having existed from length of years, the latter more recently introduced, and their value greater than that of the former. The master's right in them is positive, and they are disposed

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* No. 1747 of 1812; 15th January 1812; zillah court, Trichinopoly. *See* No. 52, *infra.*
† Southern provincial court; appeal No. 39, 13th June 1809. No. 51, *infra.*
‡ *See* No. 53, *infra.* § No. 223, 7th June 1808. *See* No. 54, *infra.*

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disposed of both with and also separately from the land. The master has right to the slave, to his wife, and to the male issue, the female issue being at liberty to marry and go where they please; but slaves are not incapacitated from holding property, which descends on their death, not to the master, but to the son or widow, or heir-at-law. The claims of individuals to the same slave are settled promptly on the spot by punchayet or by the tahsildar; but such cases never come before the European authority. The slave is entitled to protection and maintenance from his master; and it is understood that in seasons of calamity and scarcity this protection has been generally afforded, whilst free cultivators were perishing from want.

The second class consists of domestic slaves or bondsmen, become such by their own act, selling themselves in times of difficulty for present preservation and hope of future maintenance. These are chiefly from the same two castes, and perform menial offices in the houses of their Mussulman masters, becoming willing converts to their faith, or brought up in the Moslim religion from their infancy; and these slaves can hold no property.

The third class is confined to the public dancing-girls; their ranks are recruited by purchase of infants, who generally become dependent and attached to their profession. They are tended with care, taught the accomplishments indispensable to their profession, and after their early childhood, which is passed more as a state of pupilage than slavery, all the property they acquire belongs in fact to the female by whom they were originally purchased, and by whom they are originally considered as children, often becoming their heirs; and on her death they are to all intents and purposes free, following their own desires, and disposing by gift or will of any property they acquire.

4. If called upon to act as a magistrate, a slave would meet with precisely the same protection from me that I should afford to a free servant against his master; and such, I believe, is understood generally to be their right.

5. Since a proclamation of the late magistrate in 1829, prohibiting the purchase of slaves, they are supposed to have decreased amongst the two last classes; but in no way has it affected the degree of allodial slavery. As far as this district is concerned, no new law is particularly required. The power of bondage is more generally a blessing than a curse, and a simple discountenance of the practice by the public authorities in particular cases seems to be all at present required here.

No. 38.

J. Bishop, Joint Magistrate, Tinnevelly.

21 December 1835.

2. In reply to para. 1 of Mr. Secretary Millett's letter, the right of masters over their slaves, in this district, is not acknowledged. The castes of cultivators called "Pullers," are bought, sold and mortgaged with the lands of their masters, as has been the custom for very many years. Their employment is solely for cultivation, and during its continuance they receive a daily allowance. They are afterwards at liberty to hire themselves out to any one requiring their services, appropriating what they may thus gain to their own use. It would appear, that the Pullers submit to their being bought and sold in the present day, more from its having been the custom of the country than any thing else, and from their being equally well off, or perhaps better, from the certainty of subsistence during the greater part of the year than the common labourers of the village. A Puller, running away from his master, is not interfered with by the magistracy, should any complaint be given on the subject. Besides the slaves above mentioned, there are what are termed domestic slaves, possessed generally by Mussulmans, the wealthy Hindoos and Palligars. All the general duties of the house are performed by this class, who are considered as belonging to the family. They are purchased when young, and seldom afterwards sold.

3. In reply to the 2d and 3d paras. of the letter under reply, any complaints made by slaves, of cruelty on the part of their masters, are considered in the same light as those of any other person; and no difference with regard to the punishment of the offender is made, whether he be the master of the slave or any other person doing him wrong.

No. 39.

H. M. Blair, Magistrate, Trichinopoly.

5 January 1836.

2. In reply, I have the honour to state, for the information of the court of Sudder and Foujdary Adawlut, that there are in this district a class of slaves denominated "Pullers," who are the cultivators of the soil, and belong chiefly to the proprietors of the wet or paddy lands. They are commonly sold or mortgaged by their owners with or without the land, but are never removed from their usual place of residence without their own consent.

3. Proprietors can scarcely be said to have any legal right over the persons of their slaves in these provinces.

4. As magistrate, I have always declined interfering on a complaint being preferred to me of a slave having absconded from his master; and during nearly four years I have been in this district, I have never heard an instance of a civil action having been brought for the recovery of a slave.

5. It is very rarely, however, that the Pullers do quit their masters; which is a certain sign that they are generally well treated.

6. The right of a master to punish his slave is not recognized by the magistrate; and on a complaint being preferred by the slave against his master for ill-treatment, the latter would be punished according to the provisions of the general regulations, without reference to the relation existing between the parties.

7. Besides

7. Besides the slaves above mentioned, there are, in some of the Hindoo pagodas, dancing-girls, who have been purchased from indigent parents in time of scarcity. Their numbers, however, in this district are not great; and it may readily be supposed from their mode of life that their state of slavery is not a harsh one.

N. W. Kindersley, Magistrate, Tanjore. No. 40.

1st. No legal rights of masters over their slaves, with regard to their persons or property, are recognized by the magistracy in this province, although the slave population is very numerous. 11 December 1836.

2dly. The magistracy does not, in the smallest degree, recognize the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of punishment. The same protection is extended to slaves preferring complaints of cruelty or hard usage against their masters as if no such relation existed between them. There is no distinction between Mussulman and other slaves.

3dly. The 3d point is answered in the reply to the second.

2. Upon the whole, slavery in Tanjore may be said (though it be a paradox) to be strictly voluntary. So long as the slave chooses to remain with his master, he does so, and leaves him for a better, at pleasure. Nothing but a civil suit, which would cost more than ten years of his labour, can recover him; and, being recovered, there is nothing to prevent his walking about his own business, as soon as he has left the court which has pronounced him to be the property of another.

John Orr, Magistrate, Salem. No. 41.

In reply, I beg to acquaint you, that slavery does not exist in this zillah, and to submit, for the information of the court, copy of communications received on the subject from the joint and assistant magistrates. 2 March 1836.

W. C. Ogilvie, Joint Magistrate, Salem. No. 42.

I have the honour to state, that the system of slavery therein alluded to does not exist in any part of the four talooks under my charge. 18 January 1836.

W. Elliot, Assistant Magistrate, Salem. No. 43.

I beg to state that slavery is altogether unknown in the talooks of Darumpoory and Womalore. 22 February 1836.

There is a custom, however, existing amongst the natives, both male and female, to purchase little children. But this is very seldom or ever done, except during a famine, and then only in consideration of the indigent circumstances of their parents.

Men purchase little girls for wives, and women purchase them for servants. In the latter case, they are at liberty to abandon that protection whenever they may think proper. The parents in both cases cease to have any control over their children from the time of their changing homes; and in both instances the laws are, *cæteris paribus*, the same as those laid down for the observance of every member of the community.

G. D. Drury, Magistrate, Coimbatore. No. 44.

1. The customary right to the labour of a slave amounts, in the villages in which it is acknowledged, to little more than the usual rights of masters of families. The master is obliged to provide a slave with a residence, and to furnish him with food and raiment; when a slave refuses to perform the work which he consented to do, he may be compelled by forcible means, such as threats, accompanied with slight correction; but any compulsion attended with violence and cruelty is punishable as an heinous offence under the rule laid down by the court of Foujdary Adawlut, dated 27th November 1820. The general opinion, with respect to the property of a slave, is, that whatever belongs to a slave belongs to his master; but without the consent of a slave, the master would refrain from taking any of his effects, even the cattle he might possess for agricultural purposes. Nor could he take effects which the slave himself had purchased or received by free gift from the master. The property of a slave is derived from the master. The master pays the expenses of his slave's marriage, and makes donations of cloths and of money on the birth of his child. All the children of slaves become slaves. Female slaves become free only by marriage with a party who is not a slave. The slave receives either a share of the produce, or an allotment of land, which he cultivates for his support. A slave may be sold with or without the land, and he may refuse, with the consent of his master, to serve another landholder. 20 June 1836.

2. In the relation of masters, slaves or Pullers are entitled to the same protection from the magistrate as any other class of theinhabitants; and all personal injuries done to that particular class, to whose labour, by the custom of the country, there is an acknowledged right, are personal wrongs, punishable in the same manner, on conviction, as on the occurrence of offences committed upon any other party.

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3. Slaves in this district are agrestic only. No slaves are acknowledged as belonging to the Mussulman classes, who may be compelled by them to perform servile duties. A Mussulman may hold lands in which slaves perform agrestic services; and in all suits regarding property, possession or service of a slave, on behalf of a Mussulman or Hindoo claimant, there can be no distinction, because the usage of slavery, as appertaining to the land, continues the same whoever may be the owner of it.

4. I regret the delay, with reference to your letters dated 3d May and 10th June last, which has occurred in complying with your requisition, and which has arisen from the information on the subject not having been received from the acting joint magistrate within whose division only the system of agrestic slavery prevails; copy of his letter, dated 11th instant, is herewith forwarded. In all cases of personal wrongs done to a party being a slave, he will be referred to the orders of the Foujdary Adawlut for his guidance.

No. 45.

T. A. Anstruther, Joint Magistrate, Coimbatore.

11 June 1836.

SLAVERY prevails only in two villages, Neroo and Vamgul, in the talook of Caroor.

The rights of the masters and slaves are as follows: Sons of slaves inherit their parents' property, and remain slaves; daughters do not, and are free.

The master may, in moderation, correct his slaves; and the latter, by their own statement, have no right to complain. If the slaves run away, the right of the master to call on the police for aid in their re-apprehension was recognized, it is said, by Mr. Hurdis, in one instance, the circumstances of which I have no means of ascertaining. But in later instances, in fuslies 1228, 1232 and 1234, the masters peaceably persuaded their slaves to return.

There are no cases on record in this office or in this division of complaints by slaves against their masters, or *vice versâ*; but I think it right to state, that, in any case which might arise, I should recognize the relation as authorizing acts otherwise illegal.

Neither are there any cases on record, wherein slaves have met with less protection than free persons against wrong-doers not their masters. But I should, in certain cases, give to them less protection than I should to free persons. In cases, for instance, of abuse, so as the character of the slave is not injured in his master's eyes, he has not suffered as a freeman would, and in cases of assault, causing disability to work, the slave suffers the assault, while the master suffers the loss of work; also in cases where the wrong-doer is a fellow slave, punishing him by imprisonment would be directly punishing his master.

COPIES of Decrees* which accompanied the Report of the Provincial Court, dated 29th June 1836.

No. 46.

COPY of the Decree on the Appeal from the Decision of the Zillah Court at Ramnaud, No. 363.

Zemindar of Shevagungah, Appellant, versus *Meennumaul*, Respondent.

Southern Provincial Court of Appeal.
No. of Register 9.
Trichinopoly,
17 March 1806.

THE provincial court having attentively perused and considered the petition of appeal, the record of proceedings in the zillah court on this suit, the proclamation published by government under date the 6th July 1801, declaring the district of Shevagungah under martial law the proclamation published by government under date the 1st December 1801, extending a pardon to the inhabitants of the southern provinces, who had been seduced from their allegiance to the British Government, and the opinion of the Hindoo law officer on two questions put to him by the court, are of opinion that the two matters of complaint preferred by the plaintiff in the zillah court (namely, the recovery of jewels, valued at 1,542 star pagodas, and again for the recovery of jewels, valued at 1,100 star pagodas), are not cognizable by any civil court of judicature, and ought not to have been investigated by the zillah judge, as the property appears to have been taken by the zemindar during the operation of military law in the district where the cause of action originated, namely, in the months of Arpashy and Margaly, in the year Doormatty, corresponding with October and December 1801.

Respecting the 3d matter of plaint (viz., for the recovery of jewels, valued at 350 star pagodas), which appears to have originated subsequent to the promulgation of the general amnesty,—that is, in the month of Chittray, in the year Roodraucaury (April 1803),—the provincial court observing, that the plaintiff, Meennumaul, in her reply delivered to the zillah court, acknowledged to have placed these jewels under the care of her servant, Alago, in the month of Pretausy, in the year Doormatty (September 1801), at a moment when her husband, Sevagayanum, a son of Murdoo Sherogar, was conducting a flagrant and dangerous rebellion against the British Government; and the provincial court, referring to the

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* *See* No. 31, *supra*.

the 6th paragraph of the aforesaid proclamation, dated the 6th July 1801, which declares the family of Murdoo Sherogar the slaves of the house of Nalacooty, put two questions to the Hindoo law officer to the following purport: 1st, If the wife of the slave, originally free-born, became a slave on her marriage; and 2dly, if a slave had title to property acquired by an usurpation of the rights of his master?—and the answer of the Hindoo law officer to the first of these questions being, "The wife of a slave is also the slave of the master," which he corroborates by a verse from the Jaggonadyen, "The husband and wife are one and the same," and by a verse from the Smirteechindicky, in the chapter concerning slaves, "The husband is master to the wife, if that husband be a slave; although his wife be born of free parents, she is also a slave;" and the answer to the second of these questions being, "Any riches acquired by a slave, in consequence of the assumption of his master's property, belong not to the slave, but to the master,"—the provincial court are thence of opinion that Meennumaul, being a slave, can have no right to the above jewels, which she claims, and valued at 350 star pagodas.

The fourth matter of plaint respecting a claim to land in the village of Calengoody, and arrears of rent thereon, decided on by the zillah court, does not come under review of the provincial court, the zemindar not having appealed against this part of the decree.

Therefore the provincial court declare, that, excepting such part of the decision of the zillah court which relates to the said land in the village of Calengoody, with arrears of rent thereon for three years, the decree passed by the zillah judge on the 30th May 1805 on this suit be annulled; that the claim preferred by the plaintiff, Meennumaul, to the recovery of jewels said to be taken by the defendant, the zemindar of Shevagungah, in the months of Arpashy and Margaly, in the year Doormatty (October and December 1801), and in the month of Chittray, in the year Roodraucaury (April 1803), amounting in all to 2,992 star pagodas, be declared void; that the appellant do recover from the securities of the respondent the amount paid to him for costs of suit in the zillah court, viz., 185 star pagodas, 28 fs., 29 cash; that the securities of the respondent do further pay the costs of appeal, viz., 369 Arcot rupees and 5 fs., pleader's fees; and 3 fanams, 17 cash, the retainer,—in all 369 Arcot rupees, 8 fs., and 17 cash,—within one month from this date; and that the zillah judge be directed by precept to enforce the exigence of this decree within three calendar months from the date hereof.

COPY of the Decree* on the Appeal from the Decision of the Zillah Court of Ramnaud, No. 630. No. 47.

Zemindar of Shevagungah, Appellant, versus *Veeroyee Attal*, Respondent.

Southern Provincial Court of Appeal.
No. of Register 13.
Trichinopoly, 17 March 1806.

THE provincial court,—having attentively perused and considered the petition of appeal, the record of proceedings in the zillah court on this suit, the proclamation published by government under date the 6th July 1801, declaring the district of Shevagungah under martial law, the proclamation published by government under date 1st December 1801, extending a pardon to the inhabitants of the southern provinces, who had been seduced from their allegiance to the British Government, and the opinion of the Hindoo law officer on the following points put to him by the court, "Does the wife of a slave originally free-born become a slave on her marriage?" to which the pundit answered, "The wife of a slave is also the slave of the master," and corroborated this opinion by a verse from the Jaggonadyen, "The husband and wife are one and the same," and by a verse from the Smirteechindicky, in the chapter concerning slaves, "The husband is master of the wife, if that husband be a slave; although his wife be born of free parents, she is also a slave;" and again, "Has a slave title to property acquired by an usurpation of the rights of his master?" to which the pundit answered, "Any riches acquired by slaves, in consequence of the assumption of his master's property, belong not to the slave but to the master,"—are of opinion, that the claim of Veeroyee Attal to the recovery of jewels, valued at 4,125 star pagodas, from the zemindar of Shevagungah, is inadmissible, because the plaintiff, in his petition delivered to the zillah court, states, that she secreted the above jewels in the month of Pretausy in the year Doormatty (September 1801), at a moment when her husband Murdoo Sherogar was the principal conductor of flagrant and dangerous rebellion against the British Government; and although the above jewels were taken by the zemindar subsequent to the promulgation of the general amnesty, yet the answers of the Hindoo law officer to the two points of law put to him by the court, as above noticed, disallows her right to the possession of any property; for the 6th paragraph of the promulgation, dated 6th July 1801, declares Murdoo Sherogar the slave to the house of Nelcooty; and Veeroyee Attal, the plaintiff, although free-born, becomes, by her marriage with a slave, a slave also.

And further, the provincial court can only view Veeroyee Attal, the wife of Murdoo Sherogar, in the light of a pensioner on the bounty of the zemindar of Shevagungah, and not entitled to the possession of property, which becomes forfeited by the crimes of her husband against the state.

Therefore the provincial court decree, that the decision passed by the zillah judge on the 1st November 1805 on this suit, be annulled; that the claim of the plaintiff, Veeroyee Attal, for the recovery of the jewels, valued at 4,125 star pagodas, from the zemindar of Shevagungah, be declared void; that the appellant do recover from the securities of the respondent the

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* *See* No. 31, *supra*.

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the costs of suit paid by him in the zillah court, amounting to 222 star pagodas, 15 fs. and 36 cash; that the securities of the respondent do pay the cost of appeal, amounting to 448 Arcot rupees, 19 fs. 40 cash, the fees of pleader, and 3 fs. 17 cash, the retainer,—in all amounting to 448 Arcot rupees, 12 fs. 57 cash,—within one month from this date, and that the zillah judge be directed by precept to enforce the exigence of this decree within three calendar months from the date hereof.

COPY of a Decree which accompanied the Report of the Judge of Madura,* dated 30th April 1836.

No. 48.

DECREE passed by *A. T. Bruce*, Esq., Acting Register to the Zillah Court of Madura, in O. S., No. 3 of 1823.

Soobryen of Madura, Plaintiff, versus *Allamelloomangy, Muttooretnum* and *Allagamuttoo*, Dancing-women of Madura, Defendants.

20 September 1823. PLAINTIFF states, his father Nagapen, on the 5th of the month Viasy, in the year Sadarana, purchased the daughter of Naranamah, Palaneeyajee by name, *alias* Kanakabeshegum, for 4 Parengy pagodas, and 16 Chukra fanams, and her issue for ever, and then took a bond of servitude in acknowledgment from her mother: and on the 22d of the month Tye, in the year Sadarana, Nagapen purchased Allamelloomangy, and the issue of her body for ever, for 2¾ Parengy pagodas, and 16 Chuckra fanams, and took a bond of servitude in acknowledgment, as before. These two, with plaintiff's father, sisters, daughter Nagamal, having† instructed in singing and dancing, devoted them to the service of the idol in the pagoda, and by means of them he procured jewels, purchased ground and built thereon. Plaintiff's father bought for Palaneeyajee *alias* Kanakabeshegum, Allagamuttoo, and having taught her singing and dancing, placed her at the disposal of the pagoda; all these, besides others, subsequently purchased by plaintiff's father, were actually dependent upon him for subsistence.

The above-mentioned deeds of slavery were registered in conformity with the provisions of Regulation XVII. of 1802, on 13th April 1809; certificates to that effect were granted.

Plaintiff's sister, Nagamal, died in the course of the year Angrasha; plaintiff's brother, Menachynadum, and Palaneeyajee *alias* Kanakabeshegum died. In the year Dadoa plaintiff's father died also. Plaintiff's other brothers, Palamaudy and Ramasamy died respectively in the years Ishewarah and Chittrabanoo, when plaintiff was left sole heir of all the property, personal and real; defendants were, however, instigated wickedly to raise possession of the land and building thereon, with the jewels, &c. The plaintiff now claims the restoration of his right to a house situated at Madura, valued at 149 rupees, together with jewels, valued at 651 rupees, altogether 800 rupees.

Filed 2d January 1823.

Defendants state in answer a denial to the truth of plaintiff's plaint, that the ground mentioned in it does not belong to plaintiff, nor do the jewels, &c. All girls born belong to the mothers, not to the fathers, according to established custom.

Plaintiff's father's sister, Nagamal, a dancing-girl, in the Menauchee covil, purchased a piece of ground with her own earnings, and, being childless, adopted the sister of plaintiff, and placed her in the aforesaid pagoda; Nagamal the elder afterwards died, when Nagamal the younger, being also childless, purchased in Nagapen's name Palaneeyajee *alias* Kanakabeshegum and Allamelloomangy, and subsequently in her own name Maunickum and Kalimoottoo; these four, instructed in singing and dancing, were placed in the Menauchee covil. Kalimoottoo is gone into a foreign country.

On the west side of the disputed ground, Nagamal having built a house, died, then the funeral rites were performed by Allamelloomangy, Maunickum and Kanakabeshegum; and to this day the usual ceremonies are continued by Allamelloomangy. Kanakabeshegum, being barren, purchased third defendant, Allagamuttoo. Nagapen by his will particularizes and confirms the statement of the defendants. Joyamoganom, disappointed at a decision against her, had falsely set on foot this complaint.

Filed 18th February 1823.

Plaintiff in his reply affirms the truth of his plaint, and denies that of defendants, asserts the will to be a forgery, and offers to submit the question to the test of an oath.

Filed 22d February 1823.

Defendants in their rejoinder maintain the correctness of their answer, and claim to prove it by the testimony of witnesses and documents, not simply upon an oath.

Filed 29th February 1823.

Plaintiff's documents, two bonds of servitude or slave deeds; the one dated 5th Viasy of the year Sadarana, the other 22d Tye of the year Sardana.

Defendant's documents, first, an attaché from all the dancing-girls, dated 15th November 1822; second, a will said to be by Nagapen, dated 29th Pungoony in the year Joah.

Plaintiff's

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* *See* No. 32, para. 8, *supra*.

† This unintelligible sentence occurs thus in the copy received by the law commission.

Plaintiff's witnesses, Muttoocaroopen, Soobarayapillay, Catty and Marimoottoo; defendant's witnesses, Camauchy, Maurimoottoo, Amachellum and Vyraven.

The court having perused the plaint, answer, reply and rejoinder, plaintiff's motion, considered the documents and heard the evidence on both sides, is of opinion, that the two bonds of servitude or slave-deeds filed by plaintiff, prove plaintiff's claim upon the three defendants in right of his father, Nagapen, deceased, as sole surviving heir. The first deed is dated on the 5th of the month Viasy, in the year Sadarana; the second on the 22d of the month Tye, in the year Sadarana, setting forth respectively the purchase by plaintiff's father, Nagapen, of Palaneeyajee *alias* Kanakabeshegum and Allamelloomangy, with their issue for ever. The second defendant, Muttooretnum, as daughter to the first defendant, Allamelloomangy, and third defendant, Allagamuttoo, says she was purchased by Kanakabeshegum, deceased, which is a contradiction; her slavery, according to the terms of the first of the aforesaid bonds, makes her incapable of acquiring property for herself, and raises a presumption very strong in Allagamuttoo's being the property of plaintiffs. The court is also of opinion, that the documents filed by defendants, and said to be the will of plaintiff's father, Nagapen, is not credible for the following reasons:—first, because the testator therein is said to acknowledge himself devoid of all right and titles to any part of the property in litigation, and calls himself in effect a servant to the defendants; secondly, because it makes the testator say, that the three slaves called Allamelloomangy, Manickum and Anallagmottoo are co-heiresses to the property of Nagamal the younger (said by defendant to be the adopted daughter of Nagamal the elder, plaintiff's father's sister), without showing that Nagamal the younger had adopted or otherwise constituted these three slaves aforesaid to be her true and lawful heiresses to her property; thirdly, because of the improbability of the testators, four years subsequent to the death of Nagamal the younger, and while the above-mentioned slave deeds were in the testator's possession, against Palaneeyajee *alias* Kanakabeshegum and Allamelloomangy, having disannulled these said deeds to the prejudice and loss of his own sons, by affirming, in his last will and testament, that the two slaves already mentioned were purchased for the said Nagamal the younger, in his name.

The court is further of opinion, that the adoption of Nagamal the younger by Nagamal the elder is not proved, nor is it proved that the first-mentioned Nagamal purchased the two slaves in her own name called Manickum and Kalimoottoo; and if it had been proved, how would the assertion of defendants be proved as to this Nagamal having purchased in plaintiff's father's name, Palaneeyajee *alias* Kanakabeshegum and Allamelloomangy. This assertion rests only upon the documents termed Nagapen's will, which the court for the foregoing reasons disbelieves plaintiff's claim upon defendants; consequently in the judgment of the court plaintiff's claim is proved, with the exception of the jewels. Plaintiff's motion for submitting the question of the will's legality to the Hindoo law officer is, by the court's disbelief of that instrument's validity, obviated. The court considers plaintiff's claim to the persons and services of the three slaves, Allamelloomangy, Muttooretnum and Allagamuttoo established, together with his claim to the house situated in the fort of Madura, in the street of Kavelcoodom, bounded on the north by the house of Maradanaigapillay and Shevasangarampillay, on the south by the house of Gaparattoomeena, on the east by the house of Marimoottoo, and on the west by Terooyanasammanda Pandaroom's muddaun.

Plaintiff, having decreed to him the persons of defendants, is considered by court amenable to all court charges, both of prosecution and defence, and the court therefore adjudges plaintiff to pay the same.

No. 49.

DECREE translated by the Assistant Judge* of the Auxiliary Court of Zillah Tinnivelly, with his Report, dated 15th May 1836.

Tinnivelly, Auxiliary Court

NELLANYUMBALLAM, District Moonsif's, No. 334 of 1832, Auxiliary Court's Original Suit, No. 59, of ditto.

Mootturvilupillay, Aurumugumpillay alias *Nynapillay, Cootalalingumpillay, Lechumey* widow of *Chedambrampillay,* and her minor son *Sunmugavalayndom* of *Palamcottah* (the first plaintiff since being dead, the suit is conducted by the rest as his heirs), Plaintiffs, versus *Moottachee, Soboomoneyapillay, Caruppapillay, Chokalingumpillay,* and *Gunabady Karcumpermaulpillay* of *Randapurom,* Defendants.

IT is set forth in the plaint instituted by plaintiff's vakeel, in the moonsif's kutcherry, that on the 9th Vyasee 1000 Aundoo, Chedambranadapillay, husband of the 1st uncle of the 2d and 3d elder brother of the 4th, and grandfather of the 5th defendants, received 50 cully chuckrums from Chedambrampillay, and executed a bond on plain cadjaun, mortgaging $1\frac{3}{4}$ cottah seed of Nunjah, and 10 mercauls and $2\frac{43}{64}$ measures seed of Nunjamailpunja, and $27\frac{19}{160}$ chains of Poonja lands, and 101 Palmira trees, &c., situated at Paupanculom and Anendavalenthoolavady, as per ayakut account, and two men and three women slaves, and engaging

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* *See* No. 33, *supra.*

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engaging to pay the principal and interest at 12 per cent. on the 30th Mausy 1007 Aundoo, or in failure thereof, the plaintiffs might take possession of the above said lands, &c., as if they were sold to them for 93 chuckrums, which becomes due until the term limited in the mortgage bond; that the mortgagee, Chedambrampillay, and the mortgagor, Chedambranadapillay, died before the expiration of the term stated in the mortgage bond, and that plaintiffs and defendants, being heirs of the mortgagee and mortgagor, plaintiffs sue the defendants for obtaining possession of $1\frac{3}{4}$ cottah seed of Mulgoozarry Nunja, and $27\frac{19}{180}$ chains of Poonja lands, paying an annual kist of 75 rupees to sircar, and 101 Palmira trees, valued at 12 rupees 8 annas, and all samadayams, situated at Pappauculom, together with 10 mercauls, and $2\frac{43}{64}$ measures of Nunjamailpunja lands, and all samadayams appertaining thereto, at Anendavalenthoolavady, as well as a man slave, worth 10 rupees; a woman slave, worth 7 rupees; her son, worth 4 rupees; Para Poodeyavan, worth 19 rupees; Parachy Parbady, worth 7 rupees; and damages, rupees 67-7-1-9.

The 5th defendant filed an answer in the moonsif's kutcherry on the 13th November 1832, in behalf of himself, and as vakeel to 1st and 4th defendants, acknowledging fully the claim set forth in the plaint.

The 2d and 3d defendants filed an answer in the sudder ameen's court, on the 20th February 1833, stating that plaintiffs had promised to remit the sum sued for as damages, and confessing all other particulars set forth in the plaint.

Reply was filed on the 18th March 1832, but no rejoinder was given.

The defendants having acknowledged the truth of the plaint, the examination of witnesses was dispensed with as unnecessary, and the plaintiffs were ordered to produce only their documents.

The sudder ameen, having attentively perused the whole record held in this case, is of opinion, that defendants are answerable for plaintiffs' claim, because they (the defendants) confess the bond marked (B.) to have been executed by the mortgagor, Chedambranadapillay, to the mortgagee, Chedambrampillay. But plaintiffs' claim for damages on the property, which became as valid as a sale in failure of redeeming it at the fixed term, is overrated; and as it is declared by the regulations, that interest exceeding 12 per cent. on money transactions, &c. is illegal, and the general custom of the provinces gives sanction to the above regulation, a mortgage which becomes a sale on failure of compliance with its terms cannot be held to be a legal act.

Under these circumstances the sudder ameen decrees, that defendants should either pay the plaintiffs rupees 206-6-3-13, both principal and interest (as prescribed in the regulations) on the land, &c., claimed by plaintiffs, together with the costs of the suit, within 30 days from the date of the decree, as well as paying their own costs of the suit.

(signed) *Budder Allum*, Sudder Ameen.

No. 50. DOCUMENT (B.)* transmitted with the Report of the Assistant Judge of Zillah Tinnivelly, dated 15th May 1836.

To the Nazir of the Auxiliary Court.

As defendant has not paid the sum of rupees 18-15-7-82, being the remainder of the amount due under the decree passed in this suit, an order was issued to dispose of his property (already attached) by public auction. But no offer having been made for the above property, you are hereby directed to affix one of the two proclamations accompanying on the wall of the court-house, and the other in some conspicuous part of the village in which the Pariah slaves reside. You will also give notice of the same in the talook Cusbah, and other villages, and sell the property by auction before this court within the specified time, and collect the amount and deposit it in the court's treasury, in order that it may be paid to plaintiff, and make return to this precept on or before the 27th of this month.

RETURN.

According to the tenor of the foregoing precept, Palany, court peon, has collected 11 rupees 6 annas, being the amount of the within-described property disposed of by public auction before the court, and it has been deposited in the court treasury in due form.

One of the two proclamations was affixed on the wall of the court-house, and the other on the front wall of Pulliarcovil, at Seethapurpanullor, in the Sharunmadavy talook. On the 22d January, the garden, ground and man slaves were put up before the court, and sold to the highest bidder, namely, Nelacunda Moodliar, who purchased the slaves for 10 rupees 12 annas, and the ground and garden for 10 annas, and the total amount of 11 rupees 6 annas has been duly paid into the treasury of the court, and the shroff's signature in this precept taken in attestation.

(signed) *Ramasamy Naig*, Nazir's Gomashta.

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* *See* No. 33, *supra*.

TRANSLATED Extract of Proceedings of Auxiliary Court at Tinnivelly, dated 7th February 1834.

READ return made by nazir of the court, stating that 11 rupees 6 annas, being the amount of the property sold by public auction before the court, has been paid into the treasury of the court.

Ordered, that the said return and attachés be filed.

(signed) *G. Sparkes*, Acting Assistant Judge.

FOUR DECREES transmitted by Judge of Combaconum, dated 20th January 1836. Nos. 51 to 54.

COPY of the Decree* on the Appeal from the Decision of the Zillah Court of Trichinopoly, No. 23. No. 51. Southern Provincial Court of Appeal. No. of Register 39, or No. 3 in the New Register for 1809.

Arnachellum Pillay, Appellant, versus *Maroodanaigom*, Respondent.

THE provincial court having attentively perused and considered the record of the proceedings in this suit in the zillah court, as well as the petition of appeal, answer, reply and rejoinder, are of opinion, that the decree passed in favour of Maroodanaigom ought to be reversed.

The court, on referring to the petition of the plaintiff to the zillah judge, observe, that according to his own statement, the amount of his disbursements for the original advance on the 15¼ cawnies of land, and for his advance for the four Pullers, and for the expenses incurred by him for putting the land into a productive state of cultivation, did not exceed the sum of 563 rupees.

The court are at a loss to conceive under what plea of justice Maroodanaigom has a claim to other compensation than that of receiving back the full amount advanced by him on a temporary mortgage, together with such interest as may be due on the advances so made by him; and in this view of the case the court do therefore direct, that the decree passed by the zillah judge be annulled, and Aroonachellum Pillay be put in possession of the aforementioned land and Pullers; and that the appellant do recover from the respondent the costs of suit paid by him in the zillah court, amounting to 47 star pagodas 40 fanams and 35 cash, together with 94½ rupees, being the government fees paid by the appellant in the provincial court, under the Regulation XVII. of A. D. 1808; and half rupee, being the government fees paid by the appellant for a reply: in all, government fees 95 rupees; and that the respondent do pay the costs of appeal.

TRANSLATION of a Decree* passed in Suit No. 1,747 on the File of the Zillah Court of Trichinopoly, by the Moofty Sudder Amin attached to it. No. 52.

THE petition of plaint presented by Mokaideen Saib against Pulla Mootuveerun, on the 29th of August 1811, stating that the defendant and his wife, valued at 18½ rupees, and his son and daughter, valued at 6 rupees, in all 24½ rupees, should be mancipated to him, the plaintiff, as slaves, and perform his rural labour, was admitted in the adawlut court of the zillah of Trichinopoly, on the 13th of November of the same year. 16 April 1807.

The defendant having failed to attend pursuant to the requisition of the notice, the cause has been tried under section 13, Regulation III. of 1802.

Upon a consideration of the plaint, the bond executed by the defendant's father-in-law, named Venitetan, on the 26th of Audy, year Ratchasa, or 7th August 1795, mancipating to the plaintiff the defendant and his wife, for a sum of 18½ rupees, and the testimony of the plaintiff's witnesses, Jyempermalpillay, Moottoo Caroopen, and Pulla Pujarree Moopen, the sudder amin is of opinion, from the depositions, that, conformably to the usage of the country and of the caste of Pullers, the defendant's father-in-law had delivered to the plaintiff the defendant and his wife as slaves for 18½ rupees, and received the money; that ever since, both the defendant and his wife performed their duties under him as agrestical labourers, but that some time ago they deserted him, and thereby impeded his agricultural business.

Wherefore it is adjudged, that the defendant and his wife should be the plaintiff's slaves as well as their posterity, perform his agricultural labours, and receive the allowances due to them; and it is further adjudged, that the defendant should pay 7 fanams and 70 cash, a moiety of the fees due to the pleader, Vencata Row; 3 rupees 6 annas 34 gundas, the amount paid by the plaintiff into the zillah court; retaining fee, 3 fanams and 17 cash; batta on summons for the plaintiff's witnesses, fanams 6 and 60. The costs should be immediately paid under Regulation X. of 1802, and Regulations IV. and V. of 1808.

Given under my hand and the seal of the sudder amin's court, on the 15th January 1812.

(signed) *Noor Allee*, Sudder Amin.

(A true copy.)

(signed) *F. M. Lewin*, Judge.

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* *See* No. 34, *supra*.

No. 53. TRANSLATION of a Decree passed in Suit No. 90* on the Register of the Zillah Court of Trichinopoly by the Zillah Judge.

A PETITION of plaint was preferred to the court, on the 26th February 1807, by Mauruppa Moodely against Rungien, claiming star pagodas 52–27–66, due upon three bonds, including interest.

The court, having considered the plaint, answer, and the documents dated 3d Viasy year Krodana, or 14th May 1805, 29th of the same month, or 9th June 1805, and 23d Viasy year Ructachy, or 3d June 1804, as well as a motion presented by the defendant, deems it proper to refrain from enforcing the conditions of the first document, because the court think that the plaintiff's recovering the principal and interest due thereon will suffice.

It is therefore awarded that the plaintiff should recover from the defendant star pagodas 53–43–40, being the amount of the first two items, including interest at 12 per cent., from 3d and 9th Viasy year Krodana, or 14th May and 9th June 1805; that as the plaintiff failed to specify the date on which he paid Soobary Moodely Portnovo 30 pagodas, and that on which he received 47 chuckrums from the defendant, he the defendant should pay him 26 chuckrums without interest. It is likewise adjudged, that the defendant should pay the pleader, Ramasawmy Naick, his fee, star pagoda 1–25–40, under clause 2, section 8, Regulation X. of A.D. 1802; and under section 12 of the same regulation, retaining fee paid by the plaintiff, fanams 3–17; and batta for the process peon, 2 fanams and 36 cash: in all, star pagodas 64–14–53. This should be immediately paid.

Given under my hand and the seal of the court, in the court-house at Trichinopoly, on the 16th April 1807.

(signed) *R. H. Lathom*, Judge.

No. 54. DECREE passed by the late Zillah Court of Trichinopoly, in O. S., No. 223.*

7 June 1808. The plaintiff, Vydelingien, presented a petition to the court on the 23d May 1807, claiming 110 pagodas as damages from Soondraswara Deetchater, on account of the loss of 87⅛ in the village of Nungapoorem.

On the 6th of August last, the plaintiff expressed his desire of withdrawing the suit, for the reasons assigned in his motion. In consideration of this motion, and of the negligence unaccounted for on the part of the plaintiff to conduct the suit, notwithstanding his having been allowed a space of time on that account, on a motion presented by him on the 27th October last, the court deem it proper to strike off the suit from the file under the provisions of section 12, Regulation III. of A.D. 1802. The fees due to the plaintiff's pleader, Ramasawmy Jeyengar, namely, 2 pagodas 33 fanams and 40 cash, for the amount claimed, namely, 385 rupees, under the provisions of clauses 2d and 12th, section 8, Regulation X. of 1802, are payable by the plaintiff. He is also to pay the defendant's pleader's fees, 3 fanams and 17 cash.

Given under my hand and the seal of the court, at Trichinopoly, on the 7th June 1808.

(signed) *R. H. Lathom*, Judge.

WESTERN DIVISION.

No. 55. REPORT of the First and Third Judges of the Provincial Court, Western Division, dated 4th December 1826, in answer to a Letter of the Register to the Foujdary Adawlut, Fort St. George, dated 3d March 1826.

Provincial Court.

Tellicherry. WITH reference to the deputy register's letter of the 3d of March 1826, the judges have the honour to submit reports received from the criminal judges and magistrates in the zillahs of Canara and Malabar, but, previous to recording their sentiments, propose entering into a short detail on the customs prevailing having reference to slavery in those provinces.

2. In these provinces there exist at present 18 different castes of slaves, 13 of which, viz. 1, Kulladee Kunnakun; 2, Yarlan; 3, Punniar; 4, Parayen; 5, Numboo Vettoowan; 6, Konyalun Koorumar; 7, Nattalan; 8, Malayan; 9, Koorumbar; 10, Panni Malayen; 11, Adian; 12, Moopen; and 13, Naiken, observe the makatayam or inheritance by sons to the rights of their fathers, whereas the remaining five, 14, Poleyan; 15, Walooven; 16, Ooradee; 17, Karimballen; and 18, Mavilan, observe the maroomakatayam or inheritance by sons to the rights of their mothers; but in all castes, excepting the Poleyan, the female on her marriage accompanies her husband, with whom she continues to reside; neither can her master demand her return, unless she be repudiated from her husband; and as regards the Poleyan, the prevailing customs in the talooks of Chowghaut, Kootnaad, Ernaad and Betutnaad are, that the husband should reside in the house of his wife.

Temalporam. No compensation is demanded from the master of the male slave in this district; the castes are Kunnakun and Parayen, and with this exception females are purchased and given in wedlock by the masters of the male slave; but this custom does not appear to exist in other districts, where it is usual for the male slave to present to the owner of the female a few

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* These two decrees are mentioned by the judge of Combaconum in his report (*vide supra*, No. 34). This shows their relevancy to slavery not obvious from the decrees.

few fanams and some trifling articles, in value from two to three fanams, and obtain his permission, when the female after her marriage works for her husband's master, all issue going to the male master's slave. The male Poleyan, although he resides at the house of his wife, goes daily to work for his own master, neither can the owner of the wife in any way command his services.

In these talooks, however, the female slaves are allowed to go and live with their husbands, and work for their masters. Cavay, Choricub, Cotiote and Coartenaad.

In this talook, the male merely presents the owner of the female slave with two fanams, and obtains permission to marry. The first-born goes to the male's master; but should there be no more, a valuation is put upon the one and the amount divided. Koorumbranaud.

In this district, the male presents two fanams, as Bettapanam, and five as Tambooran, when the owner allows of her going and living with her husband. Calicut.

Here no sanction is requisite; the male merely makes the accustomed present to the female's master, when the female removes as his wife, and all the issue go to the owner of the male. Shernaud.

In this district there are three castes of slaves, the Kunnakun, Yarlan, and Poleyan; the custom observed by the two former is for the male, after marriage, to bring his wife to the estates of his master, who has a right to her services until she be divorced; no compensation being made to the owner of the female, and all the issue to go to the master of the male slaves; and it is the custom of the latter caste to form a connexion or marry the female of another master, and frequent her house, when the issue (if there be any) by such contract goes to the owner of the female. Ernaad.

Here slaves, with the exception of the Poleyan, present the owner of the female with a bundle of beetle leaves and four sooparee nuts, observing the rules of maroomakatayam, bringing their wives to their master's estates, and to which the owners of females have not the power to object; those of the Poleyan reside at the house of his wife. Betutnaad.

In this talook there are five different castes of slaves, the Kunnakan, Yarlan, Parayen, Numboo Vettowan and Poleyan; the four first marry females of different masters, giving him a present of two fanams, and bring away their wives to their masters' estates, the issue going to the master of the male slave; but not so with the latter, who is only allowed to frequent the house of the female slave, his wife. Chowghaut.

Here there are four castes, the Kunnakan, Yarlan, Parayen and Poleyan, where the same customs are observed as in Chowghaut. Kootnaud.

In these talooks it is not necessary to obtain previous sanction from the owner of the female. In the two first talooks the issue goes to the master of the male slave, but in the latter, a valuation is put upon the offspring, and the amount divided between the owners of the male and female slaves. Nuddooganaad. Palghaut and Wynaad.

It is not in this talook necessary to obtain permission; all children begotten after marriage go to the owner of the male; those born before as also after the husband's death go to the owner of the female. The Poleyan, who observes the rule of maroomakatayam, is not in the habit of marrying. Waloowanaad.

3. The offspring of a female slave, who observes the makatayam, begotten before marriage, becomes the property of her owner, but those born in wedlock belong to the husband's master, but the mother after the death of her husband becomes the property of her former owner, and there is nothing prohibiting her marrying a second time; but if any disputes arise, such are adjusted by the relatives of her first husband. Neither is it in the power of the relatives of a male or female to prevent a second marriage; and, again, the issue of a slave who observes the maroomakatayam becomes the property of the female's owner.

4. There can therefore scarcely exist a doubt but that a custom so generally acknowledged, understood and mutually sanctioned, is by usage considered, and has amongst themselves, from habit, become, in a great measure obligatory; custom and not right appear to regulate or define the treatment of slaves as tolerated within the provinces of Malabar and Canara. Hence, to legislate on the subject would perhaps prove neither beneficial to the master, the slave or the state. The judges would therefore beg leave to suggest, that the magistrates be directed to issue a proclamation in each talook, enjoining the owners of slaves invariably to conform to the established rules at present observable with respect to their slaves, and which is all that would appear to be necessary whilst slavery is any way tolerated, and with which, perhaps, it would be impolitic to interfere, pointing out the protection which the existing laws afford in the redress of all well-founded complaints for acts amounting to cruelty, at all times obtainable by application to the authorities intrusted with the due administration of impartial justice.

REPORTS of Judges and Magistrates of Western Division upon the same subject, transmitted by the Provincial Court, 4th December 1826.

J. Vaughan, Judge of Canara. No. 56.

AGREEABLY to the request made in the letter from your office under date the 8th ultimo, I have the honour to state the information which I have been able to collect on the subject of the usages regarding slaves therein referred to. 14 April 1826.

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The male and female married slaves are always allowed to live together by their respective masters. The custom of the females living at the houses of their respective husbands is general; that of the males living at the houses of their wives is not so frequent.

The females living at the houses of their husbands are employed to work by the masters of the latter, and the usual allowance on that account is paid by them to the masters of the female slaves, and *vice versâ*, when the male slaves are employed by the masters of the female slaves. In some parts of the country, where the houses of the husband and wife happen to be in the same village, the wife and husband work at the houses of their respective masters, and after the work is over, the female goes to the house of her husband, or the husband to her house. The masters of the female or male slaves cannot object to their living together, and the former has no reason to do so, since the children which she produces are the property of her master. The people questioned on this subject have stated the above, not as being known right, but as the prevailing custom.

No. 57.

F. Holland, Judge, Malabar.

3 July 1826.

I HAVE the honour of acknowledging the receipt of your letter of the 26th ultimo, calling for an answer to that of the 18th March last, in which my sentiments were requested as to the existence or non-existence of an obligation on the part of owners of slaves to allow the married males and females to live together.

The situation of a zillah criminal judge affords inadequate means for the extended inquiry requisite for grounding a certain opinion to the above point. I, however, enclose copy of a paper of answers given to questions proposed to four persons bearing the highest character in the neighbourhood of Calicut for knowledge in the customs of the country and in matters of caste.

Their statement would lead to the conclusion that slave-owners are obliged to allow their married slaves to live together, if present established custom can be considered to have the face of obligation.

I have reason to believe, from what fell under my observation while employed in the revenue and police departments, that the customs appertaining to the state of slavery, as well as the condition and value of slaves, vary considerably in various parts of the province, and that probably no one person, European or native, is at present competent to give a full and accurate account of them.

I have heard it said, that the females of the Kanaka and Erala castes of Chermas were, previously to our acquisition of Malabar, considered as exempted from the bondage in which their male caste fellows were and are held. I doubt that this usage is allowed by slave-owners to exist at present any where in South Malabar; but as it bears materially on the point now under discussion, I allude to it as matter for inquiry, if any general interference at all by government be considered expedient, in view to the prevention of any aggravation of the evils of slavery in the province, while subject to the English dominion.

No. 58.

J. Babington, Magistrate, Canara.

1 June 1826.

2. I HAVE done every thing in my power to ascertain what has been and is the custom of Canara in respect to the treatment of slaves by their masters, and the respective rights of each, and shall now state the result of my inquiries into this subject, premising it by some general observations on the nature of slavery in the district, and the origin of some of this race of men in Canara.

3. Besides the Dhers or slaves by birth and caste, there are others in Canara who have become slaves from various causes, such as being sold as slaves by the former government, the gooroos or parents being born as slaves so sold, captives taken in war, persons selling themselves in payment of debts, or disposing of themselves to others as a stake at play, or for food to support life in a time of scarcity, for love for the female slave of another, and for various other reasons, being sold or selling themselves as slaves, either permanently or for a stipulated time. Of this description of bondmen there are about 4,500 in Canara. They seldom or never marry according to the strict meaning of the term. No ceremony takes place, either religious or civil. They live in a state of concubinage, and are generally faithful to each other.

4. When a male and female of this class agree to live together, they inform their masters of the agreement, and solicit their sanction to it. If the latter consent, the owner of the man agrees, in some cases, with the master of the woman for her purchase, or, *vice versâ*, the master of the female agrees to purchase the male; in others they are allowed to live together without a change of property in either. In the former case, both the slaves live together in the house of the purchaser, and their offspring becomes his slaves likewise. Where no purchase of either party is made, and the two slaves live together by the permission of their masters, if the man live at the house of the woman's master, it is usual for him to make his master some compensation for the loss of his services; when the woman lives in the

the house of the man's owner, she makes a similar compensation* as a token of her subjection to her master. This arrangement is not of frequent occurrence, and only takes place when their masters live at a distance from each other; when this is not the case, they visit each other at leisure hours, and are ready at their respective masters' house at the usual time to begin their daily labour.

5. In the first case I have noticed, that is, where both parties belong to the same owner, by his purchasing one or the other, the offspring of the connexion is the property of the owner; in the other, where the male and female belong to different masters, the children universally go to the owner of the woman. In both cases, the parents and children are the absolute property of the master, who can sell or dispose of them as he pleases.

6. The Dhers, or slaves by birth and caste, are labourers on the soil, and the custom of the country with respect to them differs a little from that of the class of slaves I have just noticed. There are 12 different denominations of Dhers, viz., 1, Bhak Kadroo; 2, Kurry Meyaroo; 3, Meyaroo; 4, Buttadroo; 5, Maury Holleeroo; 6, Holleeroo; 7, Hussulleroo; 8, Goddy Nuneeroo; 9, Corrageroo; 10, Byr Holleroo; 11, Ky Pudderoo; and 12, Myleroo.

The different classes of slaves do not intermarry; in other respects, their customs, rights and privileges are the same. Of these different denominations of slaves, there are about 60,000 in Canara, making with the former a total slave population of 64,500. About one-half of the Dhers are the property of individuals, and can be sold with or without the estate on which they are living. The remainder are not in actual bondage; they work as day-labourers on estates, and are at liberty to take service where they please. They are, however, in the habit of selling their children as slaves, and the latter become the absolute property of the purchaser from the day of sale.

7. The following are the rates at which slaves are generally sold in Canara, viz.: a strong young man at 12 rupees; a strong young woman at 16 rupees; a boy or girl at 4 rupees.

8. When a Dher is sold or mortgaged to another, a bill of sale or mortgage bond is passed by his original master to the purchaser or mortgagee as a proof of the payment of the money, and a short ceremony takes place, at which the slave acknowledges his new master by exclaiming aloud, "I am your slave for ever."

9. By the customs of the country, the master builds his slaves a hut, and supplies all their wants. He is not, however, liable for debts contracted by the slave without his knowledge.

10. The daily subsistence and annual clothing of the slaves vary in some talooks, but the following appears to be the average allowance granted to them by their owners throughout the zillah.

To a man 1½ seer coarse rice per day, and one piece of cloth or cumblee per annum, not exceeding the value of three quarter rupees. To a woman 1¼ seer of rice, 1 cloth per annum, of the same value. To a boy or girl of an age to rear cattle (generally above eight years, none being granted to those under this age) three quarter seer of rice and one cloth of four cubits, worth about ¼ rupee.

11. Besides the above subsistence and clothing, the master sometimes gives to his slave, on reaping the crops, the produce of a bett land, yielding from 1 to 1½ morah of paddy, and sometimes allows him at the same season to take home as much paddy as he can carry to his house at one time; and an indulgent master of a hard-working slave occasionally gives him from one-eighth to half a rupee as a free gift. On occasions of festivals, also, when the slaves go and prostrate themselves before their masters, it is customary for the latter to give them one cocoa-nut, half seer oil, one seer jagree, and one seer coarse rice. This indulgence, however, is entirely discretionary with the master.

12. When a master does not give his slave the regulated daily subsistence, it is usual for the latter to remonstrate with him; where this is not attended to, he gets the friends of his master or his fellow-bondmen to intercede for him; and where this proves ineffectual, he generally applies to the sircar servants, who in such case send for the master, remonstrate with him, and get him to satisfy the slave; others desert their master's service, and remain absent, until the master consents to their reasonable demands.

13. When slaves commit an offence against the customs of their own caste, the master has no right of interference; the case is decided amongst themselves. When a slave-girl connects herself improperly with a male slave, she is punished by an assembly of her own people and restored to her caste.

14. The slave never had any land that he could call his own; latterly, some have rented lands from individuals, but no wurgs appear in their names in the sircar accounts. Where the slave has planted any cocoa-nut, sooparee, or other trees of his own, in the master's compound, the master and slave possess equal right to their produce; in some cases where the slave wishes to have the whole, the master's share in the trees is rented to him. The slave cannot either mortgage or sell these trees to others, and when he dies, his heirs enjoy this right in the same way; where there are no heirs, the right of inheritance of the trees goes to the master.

15. By the existing custom of the country, when a slave is absent from work, or attends late at duty, becomes petulant and refractory, slanders his master, quarrels and fights, steals

* The extent of these compensations is not defined by custom. It is considered to be a voluntary offering, and consists either of money, fruit or vegetables, according to the ability or inclination of the donor.

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steals cocoa-nuts, paddy or vegetable,* casts a devil on another through animosity, feigns sickness to avoid work with his master, and hires himself elsewhere, absconds for a time, is drunk and riotous, permits his master's cattle to trespass on another's fields or garden, becomes lazy in his work, does not stand or walk at a respectful distance from Brahmins, or is guilty of other trifling faults; the master punishes him by threatening and abusing, tying his hands behind him, flogging him with switches of trees, pulling the arms backwards and knocking him with the knee in the middle of the back (called gand-goody), confining in a room, and hand-cuffing; but no severer punishment than these are permitted; in cases where they inflict any other more cruel punishment on any account whatever, the slave applies for redress to the sircar. Formerly the practice in this respect was different; masters treated their slaves as they thought proper, and punished them frequently with great cruelty. But in consequence of a precept from the provincial court, dated 11th December 1820, their authority was restricted, and they were declared liable to be called to account for any barbarous treatment of their slaves, and punished as if they had committed these acts of violence on a freeman.

Foujdary Adawlut Circular, 27 November 1820. (*See* No. 2, *supra.*)

16. When two Dhers belonging to different masters agree to marry, they carry offerings to their respective owners, consisting of pumpkins, cucumbers, calabashes and other vegetables, and thus intimate their intentions to them. When the marriage takes place, the owner of the male gives him two rupees and one morah of rice, and that of the female slave gives her one rupee and one morah of rice, and in some cases something more is granted; but no kind of grant whatever is made by the owners to each other. After the conclusion of the marriage, the wife lives at her husband's house, in whose owner's temporary service she is now considered to be, and is supported by him, but he has no right either to sell her, mortgage, or lend her out to others, although he may do these with the husband; she still belongs to her former master, and is obliged by the customs of the country to attend at his house twice in the year, at the time of transplanting and reaping the crops, for which, however, she is paid the usual daily allowance for the number of days she may work there; and in the event of non-attendance, she must indemnify him in the payment of from half to one rupee, or from a quarter to one morah of rice; if she is unable to pay this, it is given by the owner of her husband. In case of childbirth or sickness, her former master generally defrays the expense attending it; when he cannot afford it, it is done by her new master.

17. The children born of this marriage go to the proprietor of the woman, who can sell, mortgage, or otherwise dispose of them. The female slave continues to live at the house of her husband till she becomes old, or till his death, when she returns to spend the remainder of her life in her original owner's bondage. When one of the party is bought on the occasion of marriage, the rights of the respective owners on the parties themselves, and on the children, are determined by the specific conditions made at the time of purchase. The master is at liberty to sell the husband to one person, and the wife to another, but in most cases they are not thereby considered to be separated, because the masters to whom they are sold generally allow their living together, especially the owner of the female, who permits it more readily, because he has a right to the children she produces. The objection, when any is made, is on the part of the owner of the husband, because he is deprived of his services without any commensurate advantage. The master can also lend out his slaves and their children on hire, called "hallmunddy hunna," which he receives, but the daily allowance of 1½ seer of rice per man, 1¼ seer per woman, and three-quarters for each boy or girl, which is also given by the person hiring them, is taken by the slaves themselves.

18. Unlike the other inhabitants, the slaves have no priests or churches. They sacrifice to and worship the devil only. On the day of their marriage, the bridegroom gives to his bride a new cloth, which she puts on, and is formally delivered into the bridegroom's hands by the elders of the caste, in the presence of the rest of the assembly (which is the most essential part of the nuptial ceremony), after which they move out in procession, accompanied by the heads of their caste, and tomtoms, to visit their respective masters and their parents. They then partake of the marriage feast at their own houses.

19. When a male slave connects himself with a woman of another caste of slaves, he is taken by the heads of the caste to the sea-shore or river-side, where a cudjan shed, having seven doors, is built for the purpose; after setting fire to the shed, and when it is in a blaze, the delinquent is made to pass through all the doors in expiation of the sin, after which he is considered cleansed, and is restored to his caste.

20. The Bhak-kadroo and Buttadroo classes are prohibited by their customs from carrying quadrupeds of any description, or any article having four supporters as a burden on their heads (it being considered derogatory to the caste), under penalty of being instantly expelled, though they may carry viler loads, such as dung, turf, &c. When necessity, however, obliges a person of either of these two castes to break through this custom, and carry any thing having four legs, such as a cot, couch, table, chair, &c., one leg of it must be removed to enable him to take it up on his head with impunity.

21. With respect to the immediate point referred for my consideration, I am constrained to observe, that, by the custom and usages of this province, there is no positive obligation imposed

* This is a very common charge against a slave, and, strange as it may appear, the power of committing it is not only believed to be possessed by the slave by others, but he has himself a firm belief that he can exercise it. Nothing is more common than for a person accused of letting loose a shytaun upon another to admit the fact and promise to remove the devil from the person possessed. They even execute bonds upon stamp paper promising to do so, under a penalty of from 5 to 15 rupees.

imposed upon the owners of married slaves to allow them to live together when the male and female belong to different masters; it is very generally done; and the master who keeps them from either living together, or visiting each other at reasonable times, is considered to act harshly, but not illegally or unjustly, as he is admitted to have a right to make the most of his slaves' time.

22. The custom noticed by the second judge, late on circuit in Canara, of the payment of half a morah of rice by a female slave annually, as an indemnification to the master for the loss of her services, must be that alluded to in the 16th paragraph of this letter, where the female does not attend her first master at the sowing or reaping of the crops according to mamool. I have not been able to ascertain the existence of the other obligation, alluded to by Mr. Warden, of employing the husband also when a female resides in her master's house, and of the master of the latter indemnifying the owner of the former by the payment of one morah of rice annually. The practice exists, but it is not obligatory by the customs of the country. I do not, however, see any objections to its being made compulsory instead of optional, and I hardly think that the formality of enacting a regulation for that purpose can be necessary; any act of the legislature in this country recognizing slavery would be very unpalatable in quarters where the necessity for its toleration is not admitted, because the nature, origin and customs of slaves are but imperfectly known. It would also tend to induce the owners to stick up for supposed rights over the slave which are not clearly defined as matters now stand, and are exercised by sufferance as being founded on custom; the system appears to me to be dying a natural death (in Canara at least), and the enactment of a regulation on the subject would only, I think, tend to resuscitate and perpetuate it. If legislation be necessary now, it was equally requisite in December 1820, when the provincial court directed the master who treated his slave cruelly to be punished as if the latter were free; for that, although perfectly reasonable and just, was as great an infringement of the master's right, and as much unsanctioned by the custom of the country, as requiring the master to allow his married slave to live at the house of another, and the latter would be neither more opposed nor considered more oppressive than the former, which has now been silently acquiesced in for nearly six years by the whole of Canara. If the magistrate were simply instructed by an order from the provincial court to require the owner of a male slave to allow him to live with his wife's master, on the former receiving the usual indemnification, it would be sufficient, I think, to establish the custom permanently, which would be another and a material step towards placing this race of beings in that situation in society which every man of common humanity must be desirous of seeing them occupy; little more, in fact, would be necessary, as the local authority, by the exercise of a sound judgment and discretion, would soon remedy the few remaining evils of their situation, without any violent rupture of the existing bond between the master and slave; the former finds it for his own advantage to treat his slave well, since he has discovered that the latter will not be forced back into his service when he only leaves it on account of maltreatment. I have always refused interference as magistrate on such occasions, after ascertaining the fact of oppression or ill-usage by the master, and the latter has been forced in consequence by conciliation to induce his slave to return, the loss of his services in the meantime acting as a wholesome lesson to teach him the policy of kindness to his bondman; on the other hand, when a slave has quitted his master's service from any other motive than to escape violence and oppression, I have directed that he should be restored to his owner, and continue to give him the advantage of his services; there is no regulation that requires this mode of proceeding in either case; but it is consistent with the spirit of the orders of the provincial courts of 11th December 1820, and with humanity, and it is not, as far as I am aware, in opposition to any order of government or other authority.

23. The civil courts every day decree slaves to a suitor like cattle, grain or any other kind of property; but this must be the case wherever slavery is tolerated, and the slave is the absolute property of the master; and provided the husband and wife and children are sold to the same person, it matters little to whom they are transferred; few instances occur of the families of slaves being separated by a sale, and in these few the new masters almost always live near, and the slaves can visit each other at leisure hours. The impolicy of separating them to a great distance has evinced itself in the very few cases where a separation has taken place to any great distance, by the slaves absconding from their masters repeatedly, and depriving them of their services, for a time at least; and I do not think, therefore, that there is much probability of the practice becoming more frequent; on the contrary, I think it is much on the decline, and will soon be altogether abandoned without the interference of the legislature to put it down.

24. In concluding this subject, I have much pleasure in stating my opinion, that the present condition of the slaves in Canara is better than in any part of the world where slavery is tolerated. It is in fact as good, if not better, than that of many of the free labourers, for sick or well the slave is supported by his master, and has always a hut to cover his head in the inclement season; his food also is wholesome, and generally sufficiently abundant. The punishment to which he is liable is not severe, or, according to his ideas, disgraceful, and his work is not oppressive or beyond his strength. Instances of cruelty on the part of the master do occur, but they are only sufficiently numerous to form an exception to the general practice; and as they are now punished by the police, they are likely in future to be of still more rare occurrence.

25. The length of this address and the delay which has attended its transmission call for some apology; they have been caused by an anxious desire to put the government in possession

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session of the fullest information on a subject of considerable importance in itself, and not otherwise likely to come before it in an authentic form.

W. Sheffield, Acting Magistrate, Malabar.

No. 59.
21 April 1826.

2. In reply, I beg to state, that, after a particular inquiry, I have ascertained beyond a doubt that in every part of this province the usage of the country decidedly imposes upon the masters the obligation to allow their married slaves to live together.

3. There are 18 castes of slaves, of which 13* observe the muckataye, or inheritance by sons to the rights of their fathers; in the remaining 5,† the murroomuckataye, or inheritance by sons to the rights of their mothers, obtains.

4. In all the families of the 18 castes, with the exception of the Poolyars, the female slave, on her marriage, leaves her own estate, and accompanies her husband, with whom she resides; and her master cannot oblige her to return to his estate unless she should survive, or be divorced from her husband.

5. With regard to the Poolyars, who all observe the murroomuckataye, the prevailing custom in the Chowghut, Kootnaad, Ernaad and Betutnaad districts, is for the husband to reside in the house of his wife; in the remaining talooks, the wife invariably resides in her husband's house.

6. In Zemalapooram, with the exception of the Parrayen and Kunnakun castes, females are purchased and given in marriage to the male slaves by their masters; but this custom does not exist any where else.

7. It is usual for the male slave to present the owner of the female on the occasion of their marriage with a few fanams and some articles of trifling value, with which he is supplied for the purpose by his own master; but nothing more is given to the owner of the female slave.

8. The female slave, while living with her husband, works for the latter's master, from whom it is not customary for the owner of the former to demand compensation, nor is any thing paid to him by the master of the husband for the loss of her services; the latter is, however, obliged to maintain the wife as long as she resides with her husband; after his death she is sent back to her own master. The male Poleyan slave, who resides at the house of his wife, goes daily to work for his own master; the owner of his wife cannot in any manner command his services.‡

No. 60.

Answers of the Judges of the Provincial Court, and subordinate Judges and Magistrates, to the Letter from the Law Commission, dated 10th October 1835.

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22 July 1836.

Provincial Court.

Native Judge of Sirsee, dated 9 December 1835, (*see* No. 66.) Magistrate of Canara, 14th ditto, (*see* No. 61.) Magistrate of Malabar, 19th ditto, (*see* No. 62.) Acting Native Judge of Honore, 21st ditto, (*see* No. 67.) Judge of Canara, 27 February (*see* No. 63.) and 12 March 1836, (not printed, *see* marginal note of No. 63.) Judge of Malabar, 12 May 1836, (*see* No. 64.)

I am directed to forward copies of the answers received from the several officers noted in the margin on the subject of slavery, as required by your letter of the 26th November last, to which are added translations of answers given by the pundit and two of the principal ministerial servants (Hindoos) of the provincial court.

2. With reference to the first question in Mr. Millett's letter, the judges of the provincial court are not aware that the civil courts in this division have ever recognized in the masters of slaves any legal rights with regard to their (the slaves') property; though, as respects their persons, the competency of the master to transfer the slave by sale, mortgage or lease, according to the ancient laws and customs of the country, has, it is believed, never been disputed or doubted in these provinces.

3. To the second question there can be but one answer, viz., that in our criminal courts any distinction between freeman and slave is unknown; and, as respects the third, the judges know of no cases in which the courts and magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters.

4. With regard to the cases propounded in the last paragraph of Mr. Millett's letter, the judges of the provincial court find it difficult to give any other than the general answer, that whenever a case shall occur for which no specific rule may exist, and to which neither the Hindoo nor the Mahomedan law would be applicable, the court would, by the regulations, be bound to "act according to justice, equity and good conscience."

5. It does not appear that in the provincial court any final decree has ever been passed whereby property exclusively in slaves (that is, without reference to the land to which they belong) has been recognized or rejected, or which determined any question respecting slavery.

No. 61.

C. R. Cotton, Magistrate of Canara.

14 Dec. 1835.

3. In the absence of all regulations defining the privileges and rights of masters and slaves, the magistrates of this district appear to have acted according to their own judgment in upholding

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* 1, Kulladee Kunnakun; 2, Yerlin Allur; 3, Punniur; 4, Parrayen; 5, Numboo Vattooven; 6, Kongalun Koodummar; 7, Natalum; 8, Malayen; 9, Koorumbur; 10, Punnee Malayen; 11, Adian; 12, Moopun; 13, Naiken.

† 1, Poleyan; 2, Waloowan; 3, Ooratu; 4, Koorimpallen; 5, Mavillen.

‡ In this letter were forwarded the replies of the tehsildars to questions put to them by Mr. Sheffield. They have not been sent, but their substance seems to be embodied in the letter of the provincial court, No. 55. Mr. Sheffield likewise forwarded (extract paras. 40 and 41) from Mr. Græme's report, dated 14th January 1822 (*vide* Slavery in India, 1828, page 926), and extract (paras. 10, 11 and 12) from report of the principal collector of Malabar to the board of revenue, dated 20th July 1819. (*Vide ibid.*, page 845.)

upholding or depressing the system; and, though the general tendency of their proceedings has inclined somewhat more towards the latter than the former result, the state of slavery seems to be very little altered. It appears to be very much the same now that it was under the Hindoo and Mahomedan governments. Slaves are still sold and mortgaged, with or without the estate to which they may be attached; and the present relative rights, privileges and customs of owners and slaves remain in the state so fully detailed in one of my predecessor's letters to your court, dated 1st June 1826.*

4. With respect to the "protection extended to slaves against cruelty or hard usage by their masters," the magistracy of this district appears to have made very little exception, admitting the right of slave-owners to inflict punishment. The right has been allowed, but only to a very small extent. How far it may have constituted a ground for mitigation of punishment in cases brought before the higher criminal courts your own records and proceedings will show.

5. The other points alluded to in Mr. Millett's letter have reference to the civil law and the proceedings of the civil courts, on which, of course, I am not called upon to give any opinion.

F. Clementson, Magistrate, Malabar. No. 62.

19 Dec. 1835.

2. The information called for in the first question of Mr. Millett's letter being one entirely of a civil nature, the zillah and assistant judges will doubtless report thereon. I would, however, beg to state, that in the revenue branch of the service the right of the slave to possess and hold land and other property is recognized equally with that of the freeman. There are about 377 slaves who at present hold land on different tenures, paying revenue direct to government, the sum payable by each varying from 1 to 92 rupees per annum. Any complaint of the master taking forcible possession would receive the same attention, and meet with the same redress, as the complaint of a freeman.

3. In reply to the second question, I beg to state, that as far as the magistrate's jurisdiction goes, the relation of a master and slave has never been recognized as justifying acts which would otherwise be punishable, or as constituting a ground for mitigation of the punishment. Slaves, complaining against their masters for acts of violence, receive equal protection with all other castes; they now readily resort to the magistrate's kutcherry, when prompt attention is given to their complaint, and the parties offending against them immediately punished, without any reference to their relative situations in life. A case in point occurred no later than the 26th of October last, when I sentenced an individual to 15 days' imprisonment in the gaol on the complaint of a female slave for illegal detention and confinement.

4. During my residence in Malabar, now upwards of three years, I have never had occasion to interfere as regards the master against the slave. Complaints have occasionally been made of the slave having deserted to a neighbouring estate, when I have invariably pointed out that the only sure and safe way of proceeding and preventing a repetition was kind and considerate treatment, which has always satisfied the parties.

5. The foregoing replies answer the third question, and show that no distinction is made with reference to the wrong-doer being other than the master, both being alike subject to the same amount of punishment.

6. The points embraced in the fourth question being unconnected with the magistrate's department, no answer thereto is, I believe, expected from me; but with reference to the wish expressed by the Indian Law Commission of obtaining information "especially in regard to the slaves in Malabar," I think I cannot do better than submit herewith an extract from that part of Mr. Græme's † report which relates to the subject, as it contains the most faithful and full account of the slavery of this district ever written or published.

E. P. Thompson, Judge, Canara. No. 63.

27 Feb. 1836.

Note by the Provincial Court.—Mr. Harris's letter is not on the records of this court. Mr. Babington's letter was forwarded to the Foujdary Adawlut in a letter from the Provincial Court, dated 4 December 1826. (*See* No. 58, *supra*, for Mr. Babington's return.)

2. After having collected the necessary materials to answer in detail the several questions, I found so much had already been written on the subject, that it would hardly be possible to add to the information already available. I beg particularly to refer to the reports of the Honourable Mr. Harris, dated 31st May 1819, and Mr. Babington's of the 1st June 1826.

3. The first question proposed by Mr. Millett has been clearly explained in these letters.

4. With regard to the first part of the second question, namely, to what extent is it the practice of the courts and magistrates to recognize the relation of a master and slave, as justifying acts which otherwise would be punishable, or as constituting a ground for the mitigation of the punishment, I am not aware of any definite rule having been laid down for observance. It would be difficult to frame rules to meet all cases, and it must generally be left in a great measure to the discretion of the presiding officer, whose judgment in regulating the punishment would be advantageously exercised on such occasions. In some instances it may be clearly shown that a breach of the peace has been committed by slaves by their masters' orders, and in such cases the prisoners would be fairly entitled to some consideration; but to declare that all slaves were free from punishment when they obeyed their masters' orders,

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* *See* No. 58, Mr. Babington, *supra*.

† Omitted being printed in the volume of papers on Slavery in India, 1828.

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orders, would be to give the latter a band of licensed depredators. The remaining part of the second question is fully answered by Mr. Babington.

5. With respect to the third question, no case has ever come under my knowledge in which less protection has been afforded to slaves than to free persons against other wrong-doers than their masters. All classes are treated the same, whether bond or free.

6. I beg to enclose copies of four * decrees regarding the purchase and sale of slaves. There are others of the same kind, which, if necessary, I will also forward.

No. 64.

R. Nelson, Judge of Malabar.

12 May 1836.

1. In accordance with your letter of the 2d December 1835, I have the honour to transmit herewith copies or translations of 14 † final decrees relative to slaves passed by this court and its subordinate authorities. More will be submitted if required.

I have also the honour to submit the following information: —

2. The civil courts recognize a title in the master to transfer the person of the slave by sale, mortgage, pledge or lease. With respect to their property, I am unable to refer to any precedent, having never known the question agitated; but I am informed that slaves are capable of holding property, and that it descends to their heirs as with other castes.

3. In the criminal court, any distinction between freeman and slave is unknown, one law being applicable to all.

4. In cases not provided for by the regulations, and where section 17, Regulation II. of 1802, does not sufficiently indicate the course to be pursued, it is usual to refer points of Mussulman or Hindoo law for the opinion of the mufti or the pundit, according to section 17, Regulation III. of 1802. Should doubts still arise, reference is made to the higher court.

5. In regard to the cases propounded in the latter part of para. 4, it must be observed, that it is not customary to make any distinction as to the proprietary title, in consequence of the caste of the master or the slave. Were a claim to be brought for the service of a slave by any other than a Mussulman or Hindoo, the legality of such title would probably become the subject of reference to the Sudder Adawlut.

6. My opportunities for acquiring a knowledge of the slavery of Malabar are very confined, and my information is consequently small. I feel, moreover, much reluctance to incur the responsibility of asserting what is the law or usage on any particular point, lest the rights of either class should be compromised through my ignorance.

7. Civil suits are rarely decided solely upon principle, and any principle to be permanent or generally operative must come from the Sudder Adawlut. The features of all trials vary much; the amount of evidence is different in each; and thus it may happen that two suits, wherein the same principle was involved, might be decided contrary to one another.

8. Further, precedents are not binding on the courts. The decrees of one judge may be framed upon a different principle from those of his predecessor. An injunction of the provincial court may change the course of procedure; which again may be set aside virtually by a subsequent order on another case; and, again, the course is liable to alteration by the sudder court.

9. It is therefore inapplicable to call any thing a principle of law in the courts which is not laid down by the legislature or the higher judicial authority.

10. Beyond the passages quoted by the commissioners, I know of nothing contained in the regulations referring to the subject.

27 Nov. 1820.

11. There is a circular order of the foujdary court respecting the treatment of slaves, and this is, I believe, the only circular order on the subject.

12. On the civil side there is an order ‡ of the Sudder Adawlut, dated 12th July 1830, regarding the mode of suing for slaves.

No. 65.

T. L. Strange, Assistant Judge and Joint Criminal Judge, Auxiliary Court, Malabar.

6 Aug. 1836.

2. I have now the honour to transmit abstracts selected from 242 decrees § on record, whereby rights in slaves have been decided on, as also copies of several exhibits recognized in judgments of the courts, showing the description of documents in use for the conveyance of such rights, and to submit my answers on the different points of inquiry contained in the letter of the secretary to the law commissioners.

1st. The slaves of Malabar are such by birth and caste; they are altogether employed in agricultural pursuits; their owners possess the same right to dispose of them by sale, mortgage, pledge or lease as held in real property. Slaves may and do acquire property over which their title is as absolute as that of the free classes over their property; on failure of heirs, the property of slaves escheats to their masters. These rights are secured to the people by the law of the country, which is based upon the Hindoo law, and are practically recognized by the established courts.

2d. By

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* Mr. Thompson subsequently sent other decrees, which will be found in Nos. 70 to 88, *infra*.

† *See* No. 89, *et seq.*, *infra*.

‡ N.B.—This order appears to be that entered in page 405, Slavery in India, 1838.

§ *See* No. 103, *et seq.*, *infra*.

2d. By the Hindoo law, owners may inflict moderate corporal punishment upon their slaves for petty offences. Slaves submit to such chastisement without making complaint, the authority to decide on which, if made, would be the magistrate, and not the criminal court. In cases of serious ill-usage, masters have been punished in the criminal courts, on the prosecution of their slaves, in the same manner as if no such connexion had subsisted between them. Slaves have been punished for lawless acts committed by them in obedience to their owners; but of course in these, as in all other instances, the motives of the offender and the degree of free-will exercised by him have formed legitimate grounds for consideration towards mitigating the sentence. No instance within my knowledge has occurred of a Mussulman slave being brought to trial in Malabar, their number being very limited. The allowing to such slaves the advantages granted them by the Mahomedan law in criminal matters would, I conceive, be refused by the Company's courts under the general principles of equity which govern them in limiting their adoption of this law as their rule of guidance.

3d. There are no cases in which the courts afford less protection to slaves than to free persons.

4th. From what has been said above, it will be seen, that the criminal courts make no distinction between slaves and freemen founded on their individual or relative situations. In the civil courts, the law recognized in Malabar is that of the country, called "kana" (mortgage), "jenma" (proprietary right), "mariada" (custom or rule), before adverted to, which, although founded upon the Hindoo law, is appealed to both by Hindoos and Mahomedans, and regulates all questions of property, whether real, personal or in slaves. It is not possible that the cases supposed, wherein the Mahomedan and Hindoo laws may be brought into collision, should arise in malabar. Hindoos in this district possess no other description of slaves but such as have been born from parents who are slaves by caste, and these the Mahomedan law would recognize to be in a state of slavery; and the three conditions under which persons become slaves among Mahomedans, that of descent, of capture in war (of unbelievers), and of voluntary sale in times of famine, are common to the Hindoo code.

5th. The courts in Malabar, beyond a doubt, would be bound to admit and enforce claims to property in slaves (being such by the law of the country, and not imported from foreign parts) on behalf of others than Mussulman or Hindoo claimants, and against others than Mussulman or Hindoo defendants, upon the grounds, that such property has been acquired, not only with the tacit consent but through the direct means and assistance of the British Government in India; in proof whereof, I submit copies of official correspondence from the Bombay government, and the commissioners of Malabar, received from Mr. F. C. Brown,* of Tellicherry and Anjarakundy, who has succeeded to property in slaves purchased by his father from the government.

Suyud Zeea-oo-deen, Native Judge, Sirsee (Canara). No. 66.

YOUR letter of the 2d instant, requesting me to submit copies of any final decrees whereby property in slaves has been recognized or rejected, or which determine any question respecting slavery, was received to-day. Since the institution of this court, no suit of this nature has been filed, nor any decree passed; but in 1832 a complaint on this subject was preferred in the criminal court, No. 59, and a sentence passed, a copy of which is herewith forwarded. 9 Dec. 1835.

(No. 59 of 1832, on the Criminal File.)

Ecreeyapa, Prosecutor, versus *Purdud Timah* and *Doss Timah,* Prisoners.

THE charge is this: The prisoners, who are descendants of his (the prosecutor's) slaves, will not stay in his house, nor attend to what he says, but are very refractory. The prisoners have admitted that they are descendants of slaves, and state that they are willing to live with him (the prosecutor), and that they will not be refractory. They are therefore admonished, and being ordered to live with the prosecutor, are released.

(signed) *Meer Mahamud Ulee,* Native Criminal Judge.

Zillah Canara, 23d August 1832.

Shantea, Native Judge, Honore, Zillah Canara. No. 67.

THE native judge of the court at Honore, in Canara, appears to have transmitted to the provincial court six decrees respecting Dher slaves; two by the former assistant-judge, and four by the sudder ameen. 21 Dec. 1835

But

* Omitted being printed in volume of papers on Slavery in India, 1828.

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But the judges deemed it unnecessary to forward five of these decrees, one of them being a dismissal for want of proof, two founded (by agreement of the plaintiffs) on the oaths of the defendants, and in the remaining two cases, landed property to which slaves were attached having been adjudged without determining any question regarding the slaves exclusively.*

No. 68.

ANSWER of the Pundit *Soobramany Shastry*, of the Provincial Court, Western Division.

4 June 1836.

THE books, entitled Munnoo Smrith, Puransharoyom Smrith, and Vignhaneshwaryom Smrith, treat about slaves. Fifteen descriptions of slaves are mentioned in the last book, and they are as follows: 1st, the offspring of a female slave (Dhansee) living in the house; 2d, those who have been purchased; 3d, those who have been made over as a gift; 4th, those falling to one's share on a division of the family property; 5th, those who have applied in time of famine to be provided with food and raiment, and who are supported accordingly; 6th, those who mortgage their persons for money borrowed by them; 7th, those who have been purchased by a liquidation of considerable debts due by them; 8th, those who have been captured in war; 9th, those who have lost a wager; 10th, those who have consented to live as slaves; 11th, those who have been degraded from their tribe; 12th, those who have agreed to live as slaves for a given period; 13th, those who have consented to live as slaves on being provided with food; 14th, those who are enamoured with female slaves; and 15th, those who sell their persons: the slaves in Malabar are of the 1st, 2d, and 4th descriptions above alluded to. It is stated in the aforesaid books, that the owners have a claim on the property of their slaves; that should the slaves commit any fault, they can inflict a few stripes on their backs either with a rope or a thin branch, but they cannot strike them on the forepart of their bodies; and if they do, they should be visited with the same punishment as that inflicted on thieves.

2. In Malabar, the owners dispose of their Chermars or slaves by sale or mortgage, in the same manner as they do their landed property. These two descriptions of owners let out their slaves on rent. The renters not having any pecuniary claim on them, it is not usual for their rights to be transferred to others. Should the slaves misbehave themselves, the three descriptions of owners above referred to inflict trivial punishments on them, on which account the slaves would not prefer any complaint; but should they be subjected to a severe punishment, and should the sircar come to know of it, due notice of it would be taken. The aforesaid three descriptions of owners provide their slaves under their charge with food and raiment. Should any other person, besides the said owners, ill-treat any slaves, they or their masters are in the habit of representing it to the sircar. Previously to the acquisition of the country by the honourable Company, and during the government of the rajahs, the owners used to inflict lenient punishment on their slaves, but if they practised any cruelty towards them, and if the ruling authority came to know of it, they used to investigate into it, and afford redress to the injured party. In case any other person ill-treated the slaves, their masters used to represent the matter to the then authority, and obtain redress for the injury. Neither before nor after the acquisition of the country by the honourable Company, has any change taken place with respect to the rules observed in the disposal of slaves by sale or otherwise.

3. The Hindoo Shasters make no mention as to what persons may and what persons may not acquire slaves; but as the Shasters treat of slaves, it is to be inferred that Hindoos can possess them. As several Mahomedans in Malabar are in the habit of keeping slaves, it is to be concluded that their law does not prohibit the practice.

4. As the proprietors have a right on the persons of their slaves, and the mortgagees on money advanced by them, it is usual for their respective rights to be transferred to that extent. It is stated in the above-mentioned books, that masters should love their slaves as fathers do their children.

5. I possess, in Kanoomund Jenm, 37 slaves, inclusive of their families.

Dated 4th June 1836, or 24th Eddavom 1011.

(signed) *Soobramany Shustry*, Pundit.

No. 69.

ANSWER of the Sheristadar and Malabar Moonshee of the Provincial Court, Western Division.

20 May 1836.
Transmitted by Provincial Court, dated 22 July 1836.

1. THE proprietors in Malabar deal with their slaves in three different ways, as they do with their landed property, namely, by sale, mortgage, or lease. Those that are attached to lands are transferred with the lands, but not so those that are not. Slaves are attached to the land when the title-deed as well for the land as the slaves is one and the same; but where there is a distinct title-deed regarding a slave, then such slave is not attached to the land. Of the three descriptions of proprietors of slaves above noticed, the renter or lessee not having any pecuniary right in them, it is not usual for his right to be transferred. Mortgagees only transfer their slaves to their neighbours, not to strangers. Proprietors sell them in their own districts, and occasionally in other districts, to the distance of about a day's journey

* The remaining decree, which would appear to have been transmitted to the Sudder Adawlut, was not forwarded to the Indian Law Commission.

journey from their own. We have never known any instance of their having sold them in more distant places. This custom of not selling slaves in distant places has arisen from a consideration of the hardships to which they would be exposed by being parted from their relatives; but if such a sale were to be effected to meet a pressing exigency, there is nothing to invalidate it (*i. e.* it would not be illegal). The proprietors consider their slaves like any other property. It is doubtful whether among the total number of slaves in Malabar there are even eight or ten who possess any property. Should, however, a slave possess any property, his master can have no claim to it during the lifetime of himself and family if he has any; but such slaves cannot dissipate or dispose of their property without their master's consent. The master becomes entitled to the property of a slave only when the slave has no heir. We are not aware of any instance of a master having ever instituted a suit to recover the individual acquisition of a slave.

2. We have seen acts of masters towards their slaves, if criminally punishable, punished by the magistrates and criminal courts, in the same manner as those of other people, without any distinction being made as to their relative situations; and such slaves do subsequently return to and live with their masters. Further than punishing their slaves for refusing to remain under them, or neglecting to perform the duties expected of them, or for misconduct, masters do not maliciously ill-treat them, though instances have occurred of corporal punishment inflicted on slaves for such purposes as those above-mentioned, having occasioned injuries extending even to death. We have never seen any instance of a slave having prosecuted his master, where the punishment inflicted as above was trivial. Although by the Mahomedan law some indulgence is shown towards slaves, as regards punishment in criminal matters, still as the regulations make no distinction, they are dealt with according to those regulations, without any distinction being made; consequently they do not enjoy the privileges allowed by the Mahomedan law.

3. With the exception of the three descriptions of proprietors alluded to in the first paragraph, no other persons ill-treat slaves; but if they do, redress is afforded to them by the sircar in the manner noticed in the said paragraph.

4. In criminal matters regarding slaves, the magistrates and criminal courts follow the usual course indicated in the second paragraph. But in civil suits concerning them, the courts proceed according to the rules observed in suits regarding landed property. As in Malabar, slaves are disposed of by sale or otherwise, agreeably to the rules laid down for the transfer of landed property, &c. as stated in the first paragraph. And as decrees in suits regarding landed property are passed according to the Mahomedan or Hindoo law, as the case may be, as prescribed by clause 1st, sec. 16, Reg. III. of 1802, the same rule is observed as regarding suits respecting slaves. Further than the proprietor, mortgagee or renter suing each other regarding their rights in slaves, the latter are never parties in such suits. Although no mention is made of slaves in clause 1st, sec. 16 of the said regulation, wherein is specified the nature of suits, which should be determined agreeably to the Mahomedan or Hindoo law, still, as in Malabar, all suits regarding slaves are for the rights which the owners possess over them; and as their rights are or may be involved in one or other of the various grounds of action specified in the regulation above quoted, suits regarding slaves are disposed of in the same way. All slaves in Malabar are Hindoos, and they are always slaves; and we are not aware of any question having hitherto arisen in any suit as to the legality or otherwise of a slave, with reference to either the Mahomedan or the Hindoo law. There are but few Mahomedan slaves in Malabar, who live as servants in the houses of Mahomedans, and we have never known any instance of any of them having been publicly disposed of, by sale or otherwise, or of any suit having been instituted on that account.

DECREES* which accompanied Mr. *Thompson*'s Return to the Provincial Court of the Western Division.

(Appeal, No. 41 of 1829.)

DECREE of *Ghoolam Mahomed*, Acting Sudder Ameen of the Auxiliary Court of Canara. No. 70.

Ganaisha Bhutt, by Vakeel *Manjuya*, versus *Hallaipyke Sannana Soobba*.

APPELLANT, as plaintiff, sued respondent for the recovery of a Dher slave, named Maroo, valued at 16 rupees, whom the respondent took into his employ on the 5th Cartika, Shoodha of Partheva, after having agreed to pay him a rupee per mensem, exclusive of expenses; as also for the recovery of 36 rupees, being principal and interest of his hire.

Respondent in answer states, that previous to the plaintiff's purchasing Kumboo, the father of the slave in litigation, Hengadey Vencutiya, purchased the latter from his proprietor; that according to a letter written by him, he served at the respondent's, and that therefore nothing is due to the appellant on account of his wages.

Appellant cited 13 witnesses and filed five documents, viz., one decree passed in cause No. 264 of 1826, filed by the respondent against the appellant for the recovery of the wages of Kumboo and his wife, Soorabby, being two slaves purchased by him, and which were

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* *See* No. 63, *supra*.

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were let to the appellant for hire; second, another decree passed in cause No. 169 of 1827, filed by the appellant against the respondent; third, a kurraur executed by Maroo, the slave in litigation, in favour of the appellant, authorizing him to receive the 33 rupees of his wages, with interest; fourth, a kurraur executed by the respondent's son, Nagoo, in favour of Nawna Bhutt; fifth, a letter written by Vencutaisha Bhutt to the respondent's son, Nagoo. Respondent cited five witnesses and produced two documents, a letter written to the respondent by Vencuta, a witness in this case, authorizing him to employ his slave, Maroo, and a deed of sale executed by Naura Hegudey's son, Mahabula, to the respondent's witness, Vencuta, on the 3d Vyeshaka Bahoola of Pramoda, purporting that he had sold to him, Maroo, the eldest son of his slave, Kumboo. The district moonsif examined one witness for the appellant, two for the respondent, and four for both parties, and dismissed the plaintiff's claim. Plaintiff has appealed from his decision, and the respondent made his answer.

On consideration of all the proceedings held in this case, the following judgment is recorded: The respondent's suit against the appellant under No. 264, for the recovery of the wages of Kumboo, the father of the slave in litigation, as well as Soorabby, who (both) had been let to the appellant at five fanams per male, and two and a half per female, was dismissed, it having been proved in evidence that the said Kumboo had been sold to the appellant by a deed of sale under date the 10th Shravuna Bahoola of Sreemooka. Appellant represented in that cause, that as Maroo, the slave in litigation, belonged to him agreeably to the custom of hory minchoo (a pact regarding the marriage of a slave), he paid the expense of his breeding, and got possession of him; and it was deposed on oath in that suit by Soobbiya, son of Nariyna Hegadey, the owner of the slave, that his father executed a deed of sale in favour of the appellant for the slave, Kumboo, in the year Sreemooka. The statement of the second witness, Vencuta, that he obtained a deed of sale for the slave from the said Nariyna Hegadey's son, Soobba, three years prior to Sreemooka, is, it is to be extremely doubted, far from being a correct one; for if he had actually purchased the slave, he would have continued in possession of him ever since. There are therefore sufficient reasons to believe, that the second witness has given false evidence, with the expectation of acquiring a right to the slave while the parties are disputing between themselves. It has been clearly established by evidence, that the first-born of the above description of slaves goes to the proprietor of the male, and the children next born go to that of the female, agreeably to the custom of hory minchoo (a pact regarding the marriage of a slave). It may be inferred from the tenor of the deed of sale, viz., that the slave was to be enjoyed in perpetuity of the family, and that the sale in litigation comes within the scope of that clause, as the undermentioned circumstances will show. Both the appellant and respondent admit, that at the period when the deed of sale was executed to the appellant for Kumboo, his son, the slave in litigation, was a young lad. It appears from the evidence of Hareappa Hegadey, that children born of a female after her purchase belong to the purchaser, with the exception of one born before purchase. In support of this the first witness states, that subsequent to the execution of the deed of sale for the slave, the appellant paid the expense attending the breeding of the slave sued for, and obtained possession of him; and thus it appears that the respondent has no right whatever to him. There does not appear sufficient reason from the evidence of the second and third witnesses, who were called to prove the custom, to set aside the appellant's right. There is sufficient ground to conclude, that, at least from the appellants having paid the expense of breeding on the ground of the deed of sale, he has acquired a right to the slave. He should therefore enjoy him agreeably to his right and the consent of the slave; the respondent's claim to him does not appear to be just. Moreover, the respondent does not deny that the slave claimed was in his house. Under these circumstances it was proper to adjudge respondent to pay appellant two rupees per annum, exclusive of expenses, as claimed in suit No. 264. The moonsif's decision, therefore, in favour of the respondent does not appear to be correct. It is accordingly reversed, and it is decreed that the respondent do pay to the appellant hoon 1-3-7 for two years eight months and five days, for which the slave served him, exclusive of expenses, and also interest, 1 fanam; total hoon 1-4-7, or 5 rupees 12 annas; costs to be borne by the respondent, those on sum disallowed being borne by the appellant himself.

(True translation.)

W. Henderson,
Third Judge for Register.

No. 71.

Zillah Court of Canara.

(Original suit, No. 132 of 1827.)

Nandappa Shetty versus *Somaya Shetty.*

Abstract of Plaint and Decree.

PLAINTIFF sued to recover a land yielding rupees 345-1-80, rupees 43-1-80, net produce, slaves valued at 60 rupees, together with certain other property, agreeably to a deed of sale.

The defendant admitted the plaintiff's claim.

The register, on the 16th February 1830, decreed that the defendant do make over to the plaintiff the property claimed, on the ground of his having owned that the deed of sale was really and truly executed.

(signed) *George Sperkes,* Register.

Court

Court of Adawlut, Zillah Canara. No. 72.

(Original, No. 6,244 of 1812.—Appeal, No. 25 of 1815.)

Padma Cottary versus *Marriapah* and (since his decease) his brother, *Chenna Veeraiah.*

Abstract of Plaint and Decree.

THE plaintiff sued for the recovery of 45 pagodas advanced to defendant (since dead) on the mortgage of 19 slaves.

The supplemental defendant denied the plaintiff's claim.

The register nonsuited the plaint as it was proved that the deceased defendant and the supplemental one lived separately, and consequently the latter could not be answerable for agreement entered into by the former.

The plaintiff appealed.

The judge, on the 14th May 1817, confirmed the register's decree for the same reasons.

(signed) *William Sheffield,* Judge.

Court of Adawlut, Zillah Canara. No. 73.

(Original, No. 163 of 1814.—Appeal, No. 5 of 1816.)

Narraina versus *Nama Bundary.*

Abstract of Plaint and Decree.

THE plaintiff sued for the recovery of 62 rupees, amount of six slaves, and 100 rupees damages.

The defendant denied the plaintiff's claim.

The register decreed to plaintiff the six slaves and 50 rupees damages, on the ground of the plaintiff's claim being substantiated by oral and documentary proof.

The defendant appealed.

The judge, on the 22d May 1817, fully coinciding in the justice of the register's decree, confirmed the same.

(signed) *William Sheffield,* Judge.

Zillah Court of Canara. No. 74.

(Original suit, No. 292 of 1825.)

Kairla Warma Rajah versus *Mulavoor Rama* and *Kailoo.*

Abstract of Plaint and Decree.

THE plaintiff sued for the recovery of two houses, together with lands, gardens, and coomeries of b. ps. 28–5–0, and 50 slaves thereunto attaching, valued at 585 rupees, due on a mortgage-bond executed in his favour by the first defendant.

The first defendant admitted the plaintiff's claim in part.

The second defendant denied it.

The court, on the 15th May 1833, adjudged that all the property specified in the mortgage-bond be transferred to the plaintiff, on the ground of the same having been proved.

(signed) *P. Grant,* Judge.

Zillah Court of Canara. No. 75.

(Original suit, No. 326 of 1828.)

Vencuppa Shetty versus *Goondaul Moowasamunny.*

Abstract of Plaint and Decree.

PLAINTIFF claims from defendant a land of hoons 27–0–9 beriz, yielding annually rupees 191–2–0, and forming part of an estate, called Goondaul, of hoons 54–1–2 beriz, rupees 1,165–2–60, value of the net produce thereof, slaves and cattle valued at 68 rupees, and a house, cow-house and cottighay, valued at 100 rupees.

Defendant, in his answer, admits the justice of the plaintiff's claim.

The court, on the 4th July 1829, directed that the defendant do relinquish to the plaintiff the land, slaves, cattle, house, cow-house and cottighay sued for, and pay to him the value of the net produce, being rupees 1,165–2–60, and also all costs of suit.

(signed) *J. Vaughan,* Judge.

Zillah Court of Canara. No. 76.

(Original suit, No. 139 of 1827.)

Tommappa versus *Munjunna.*

Abstract of Plaint and Decree.

THE plaintiff claimed an estate, producing rupees 540–3–0; a garden, jungle, &c., valued at 70 rupees; a house and out-houses, valued at 380 rupees; eight male and eight female slaves,

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slaves, with their children, valued at 160 rupees; 30 paid to the sircar for kist; and sundry articles, valued at rupees 419–1–0.

The defendant denied the plaintiff's claim.

The assistant judge, on the 31st December 1830, dismissed the suit as groundless.

(signed) *J. Walker*, Assistant Judge.

No. 77.

Zillah Court of Canara.

(Original suit, No. 17 of 1831.)

Soobbunna versus *Munjoonatha Shanbhogue* and *Suntumma.*

Abstract of Plaint and Decree.

THE plaintiff sues for 468 rupees, being expenses incurred for three years and three months, a period during which she has been living separately from the defendants; a house worth 100 rupees; for slaves, &c., 175 rupees; and property yielding an annual income of 144 rupees, for her future subsistence.

The defendants denied the plaintiff's claim, but made no objection to the plaintiff's living with them.

The register, therefore, on the ground of the defendants admitting that they are responsible for the plaintiff's maintenance, decreed to the plaintiff, on the 30th November 1833, property yielding 60 rupees per annum, and a house valued at 50 rupees, or 50 rupees for building one, together with 100 rupees for utensils, &c., and disallowed the sums claimed on account of the expenses and the slaves.

(signed) *F. N. Maltby*, Register.

No. 78.

Zillah Court of Canara.

(No. 171 of 1824, on original file.)

Doogan Chouta versus *Shumkra Puddawaulla* and *Pommoo.*

Abstract of Plaint and Decree.

PLAINTIFF sued defendants for the recovery of land, producing rupees 370–3–30; 20 slaves, valued at 200 rupees; 25 cattle, valued at 140 rupees; and certain other property, to which the plaintiff succeeded on account of adoption.

Defendants answered that the plaintiff was not adopted.

The court, being of opinion that the right to the property on the ground of adoption was not established, dismissed the suit with all costs, on the 25th July 1828.

(signed) *J. Vaughan*, Judge.

No. 79.

Zillah Court of Canara.

(Original suit, No. 22 of 1822.)

Coomara Hegaday versus *Appiya* and *Sunkoo Mully.*

(Appeal suit, No. 121 of 1824.)

The same (Appellant) *versus* the same (Respondents), and on demise of *Sunkoo Mully, Unta Shetty* and *Munjunna Shetty.*

Abstract of Plaint and Decree.

THE appellant sued, in the original suit, for 37 slaves forcibly taken from him in Eeashwarra by the defendants, and 520 rupees for damages consequent on that proceeding.

The register decreed that the defendants should pay him 230 rupees as the value of the slaves, and 12 mooras of rice as hire for three slaves for four years.

Against that decree this appeal was made, on the ground that the slaves should have been ordered to be delivered to him, and not their value, and that 100 rupees per annum should have been awarded for the loss sustained by him as proved by his witnesses.

The judge seeing no ground for altering the register's decree as it concerns the appellant, dismissed the appeal with costs on the 30th December 1826.

(signed) *J. Vaughan*, Judge.

No. 80.

Zillah Court of Canara.

(Original suit, No. 418 of 1829.)

Cherryumma versus *Toolloocherry Rama, Canan* and *Oommacha.*

Abstract of Plaint and Decree.

PLAINTIFF (female) sued defendants for a cumeri land producing 654 rupees, paddy land producing rupees 17–1–20, gardens valued at 30 rupees, pepper plantations valued at 250 rupees, and slaves valued at 500 rupees, being half the estate acquired by the ancestors of herself and the 2d and 3d defendants.

The

The 1st defendant admits the plaintiff's right in the ancestral estate, and contends for her liability to bear her share of the debt.

The 2d and 3d defendants did not answer the plaint.

The assistant judge, on the 3d February 1832, decreed the 1st defendant to give up to the plaintiff the property claimed, or the value of it, on the ground of his (1st defendant's) averment respecting the debt standing not proved.

(signed) *John Walker*, Assistant Judge.

Zillah Court of Canara. No. 81.

(Original suit, No. 1,045 of 1825.)

Puddooma Cottary versus *Timmappa Cottary.*

Abstract of Plaint and Decree.

THE plaintiff sued for the recovery of 1,188 rupees, principal and interest of an Illadarwar deed given to his uncle by the defendant, mortgaging his land of hoons 32–7–2 beriz, with slaves, cattle, &c. for 150 hoons, or 600 rupees.

Defendant denied the plaintiff's claim.

A razeenama was tendered by the defendant, and accepted by the plaintiff, in which it was stated, that the dispute has been amicably arranged between them, and the defendant has taken back the bond, and that in lieu of the amount sued for and costs, the defendant is to pay plaintiff 530 rupees by 11 instalments, to which effect a decree was prayed for.

The court, accordingly, on the 9th September 1828, directed the defendant to pay plaintiff 530 rupees, the instalments stipulated in the razeenama.

(signed) *J. Vaughan*, Judge.

Zillah Court of Canara. No. 82.

(Original suit, No. 117 of 1826.)

Devoo Cawa versus *Doogganna Deyee, Uchoo Shetty, Sunkamma, Timmappa Shetty* and *Chendya Nenda.*

Abstract of Plaint and Decree.

PLAINTIFF sued defendants for a land with jungle, producing 252 rupees, net produce rupees 484–0–80; 250 rupees, half the value of a house, cow-house, &c. sundry cattle valued at 132 rupees, 8 slaves valued at 50 rupees, and also certain other property, and certain privileges.

The 5th defendant alone answered that plaint, stating the plaintiff's right in the litigated property is equal to his.

The assistant judge, on the 3d March 1832, decreed that the defendants do surrender up to plaintiff the land and other property claimed, on the ground of the plaintiff's right not being denied.

(signed) *John Walker*, Assistant Judge.

Court of Adawlut, Zillah Canara. No. 83.

(No. 196 of 1820, on Canara file.)

Bomaya Hegade versus *Veeraynair Hegade.*

Abstract of Plaint and Decree.

THE plaintiff sued for the recovery of a land producing rupees 625–10, slaves va ued at 100 rupees, and certain other property.

The defendant allowed judgment to go by default.

The court, finding the suit not tenable against the defendant alone, dismissed it with costs, on the 22d June 1824, leaving plaintiff at liberty to prefer his claim *de novo* against defendant, conjointly with three others.

(signed) *Wm. Sheffield*, Judge.

Zillah Court of Canara. No. 84.

(No. 370 of 1825, on original file.)

Moottukky and *Ramarya* versus *Cauma Bhundary, Ooggu Bhundary, Bugga Chouta, Daivoo Shetty, Deya Udyautiya, Moondy* and *Timmappa.*

Abstract of Plaint and Decree.

THE plaintiffs sued defendants for the recovery of several lands in their possession, as well as for 12 slaves, and rupees 3,142–2–58, being produce of the lands.

It appeared to the court that this suit ought not to have been admitted, for it was in fact an accumulation of several distinct suits against distinct persons. The court, therefore, on the

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the 28th June 1829, dismissed it, and directed that the plaintiffs, if they think proper, do file separate suits accordingly.

(signed) *J. Vaughan*, Judge.

No. 85.

Zillah Court of Canara.

(Original suit, No. 269 of 1830.)

Putnada Boodna Saiba, inhabitant of Karkoll, in the Buntwall Talook, at present residing in the town of Mangalore, versus *Golaum Mahomed Saiba*, his son *Ally Saiba*, and his mother *Jainubby*, residing at Karkoll, in the Buntwall Talook.

(Appeal suit, No. 114 of 1831.)

Golaum Mahomed Saiba versus *Boodna Saiba.*

THIS was a suit brought for the recovery of two slaves, and 17½ rupees, the balance of the value of a ring pledged on account of 2½ rupees due in part for the said slaves.

The plaintiff, respondent, stated, that the proprietors of these slaves had mortgaged them to him for 10 rupees; that the second and third defendants afterwards purchased them, together with some others, from the proprietors, after which he applied to the defendants to pay him the mortgage money, when they agreed that if he would pay 2½ rupees, in addition to the amount of the mortgage money, they would sell him the slaves. He accordingly made over to them the mortgage bond which he held, and deposited on account of the money due a gold ring valued at 20 rupees. The first defendant wrote him a deed of sale for the slaves, and the usual ceremony of transfer was performed. They remained in his house for one year, after which the defendants took them away again, and he sued accordingly for the slaves and the balance due on the ring deposited, as well as the average amount of loss occasioned by his being deprived of their services.

The defendants denied that the slaves had been mortgaged before they purchased them, or that the plaintiff had deposited a ring with them, and they objected to the validity of a deed of sale executed by the first defendant alone.

The reply affirmed the truth of the plaint.

The rejoinder denied that the slaves had ever lived in the plaintiff's house.

The plaintiff filed, 1st, copy of a decree in original suit 72, instituted on the same subject as the present, which the sudder amin dismissed on the grounds that the plaintiff sued for the value of the slaves instead of the slaves themselves; 2d, a deed of sale executed by the first defendant to the plaintiff, selling two slaves for 12½ rupees, dated 1st Maugha Bahoola of Vishoo.

The defendant's vakeel filed a stamp wallah, purporting to be a deed of sale for 10 slaves for 15 hoons, by the former proprietors, dated 7th Shruwunna Bahoola of Vishoo.

The sudder amin, considering that the defendants were responsible under the deed of sale, which the first defendant admits that he executed, and that the plaintiff had proved his statement that he had deposited the ring, passed a decree awarding the slaves, and 17½ rupees, but disallowing the compensation sued for.

The first defendant appealed from the decision, repeating his statement that he had no authority to dispose of the slaves purchased by the second defendant, and objecting to the award of the decree.

The plaintiff filed an answer.

On a perusal of the papers in the case, the court fully coincides in the opinion of the sudder amin, that the defendants ought to be bound by the deed of sale executed by the first defendant. The vakeel employed by all of the defendants has admitted that they lived together in the same house, and the very fact of their filing a joint answer and intrusting their case to one vakeel is sufficient to render their objection null and void. The subsequent objection made by the vakeel, that he only answered in behalf of one defendant, is inadmissible; had the interests of his clients been different, he should not have taken a joint vakalut, nor is it credible that the defendants under such circumstances would have executed such a vakalutnamah. The court, therefore, laying aside this portion of the appeal, proceeds to the next objection, namely, that although the deed of sale was executed by the appellant, the money was not paid by the respondent. The amount of the deed of sale the respondent alleges was paid in two ways, 1st, by making over to the 1st defendant the mortgage bond for 10 rupees; and, 2d, by pledging a jewel valued at 20 rupees.

With reference to the first of these payments, the execution of the deed of sale by the first defendant affords reason to believe that some equivalent was given for the slaves; but, on the other hand, the existence of such a mortgage is not alluded to, either in the bond produced by the defendants as having been executed to them by the Moolgars, nor, what is important, in that produced by the plaintiff as having been given to him by the 1st defendant. The plaintiff has not shown why the defendants should be answerable for a mortgage due by the Moolgars; and the only witness who deposes to having been present at the execution of the bond contradicts the plaintiff's own statement, both as to the mortgage bond and the deposit.

With reference to the second, namely, the deposits of the ring on account of 2½ rupees, the probabilities are all against the truth of the plaintiff's statement. No allusion to it is made

made in the bond, and the circumstance in itself is incredible, that while a document was written between the parties for slaves valued at 12½ rupees, none should be written for a ring valued at 20 rupees. The evidence, too, to this point is unsatisfactory, resting only on alleged admissions and conversations, not on any positive knowledge of the transaction; and the plaintiff's statement, as above shown, is contradicted by his own witness.

On mature consideration of the whole case, the court is of opinion, that the evidence to the plaintiff's statement is too insufficient to warrant an award in favour of the plaintiff, and the decree of the pundit is reversed; but the plaintiff holding a deed of sale, which the 1st defendant admits, the court does not see proper to award the defendants their costs, and decrees that they be borne by the parties respectively.

Given under my hand and the seal of the court, at Mangalore, this 11th day of March, A.D. 1834.

(signed) *F. N. Maltby.*

Zillah Court of Canara. No. 86.

(Original suit, No. 248 of 1830.)

Golla Munjea, residing at Serrataudy, *Konnada Mogany*, in the Buntwal Talook, by Vakeel *Sheik Uhmud*, versus *Rama Bullipa*, residing at Sandaly, *Poottigay Mogany*, in the said Talook, and *Munjoo Puddivala*, residing at Moondookur, in the Mangalore Talook, by Vakeel *Lingapa*.

(Appeal Suit, No. 89 of 1832.)

Munjea versus *Rama Bullipa* and *Munjoo Puddivala*, and, on the demise of the first Respondent, his younger brother *Daijoo Bullipa*, and nephews *Antuppa* and *Devoo*, and on the demise of the second Respondent, his younger brother *Tyempa Puddivala*. The first Respondent by Vakeel *Anuntea*.

THE plaintiff stated, that in the year Vibhava, his grandfather purchased four slaves, of whose offspring two females, Kalay and Kuckay, were married to two slaves belonging to the first defendant's uncle, Pudmabaleepa, the said Pudmabaleepa paying to his uncle one moora of rice annually as their hire. The first defendant, as manager of the house, paid the hire up to Tharana, but having since ceased to pay it, the plaintiff made a complaint before the magistrate, and some of his slaves were delivered up to him. He sued for the remainder, namely, Eyetay and her two children, valued at 20 rupees, together with 12 rupees, value of nine mooras of rice, their hire since the year Parthwa.

The first and second defendants filed a joint answer, in which they denied that the tahsildar had given the order alleged, but stated that on the contrary the plaintiff had taken forcible possession, and had evaded giving them up, though ordered by the magisterial authorities so to do. They added, that Eyetay was descended from a slave belonging to the first defendant's ancestor, and that the second defendant paid wages for her services to the first defendant.

A reply was filed by the plaintiff denying the truth of the answer.

No rejoinder was filed.

The plaintiff summoned ten, the first defendant six witnesses; of whom for the plaintiff five, for the defendant three, were examined. The plaintiff's vakeel filed a document purporting to be a deed of sale for two male and two female Dhers, under date 9th Vyeshak Bahoola of Vibhawa (1808).

The sudder amin moofty dismissed the plaintiff's claim, considering that the plaintiff had failed to prove that Kalay and Kuckay had been lent to the first defendant on hire, or that such hire had ever been paid, and that the Dher's evidence was of no avail to the plaintiff, as they had admitted that it was given at the plaintiff's suggestion.

The plaintiff appealed, that his witnesses had proved the points which the sudder amin considered they had not proved, and alleged that the Dhers had been induced by the questions put to them to state that they had been induced to depose in favour of the plaintiff. He objected to the sudder amin moofty having dispensed with the evidence of certain witnesses whom he considered necessary, and proposed a decision on oath.

He further stated that the sudder amin asserted that he had dispensed with the evidence of two witnesses, contrary to the fact.

An answer was filed by the first defendant.

Before proceeding to pass a decision in the suit, the register has to observe, that there appears to be no foundation for one of the statements made in the appeal, namely, that the plaintiff had not dispensed with the evidence of certain witnesses as stated in the decree; the plaintiff's statement to that effect bears both his own and his vakeel's signature.

On perusal of the proceedings in the case and on questioning the plaintiff, it appears that the right to the Dhers now in litigation depends upon the title to the Dher Kalay, the mother of Eyetay; that the said Kalay is in the possession of the plaintiff, while Eyetay and her children are in the possession of the first defendant. The plaintiff states that Kalay was made over to him by the magistrate, while the defendant declares that he obtained forcible possession. But neither party has proved his statement; nor has the defendant shown that he

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he has brought any complaint against the plaintiff for forcibly possessing himself of the said Kalay. Under these circumstances, the register considers that it is indispensable that the Dhers should be placed in the possession of one and the same party, and that the plaintiff, being in possession of the mother of Kalay, is *primâ facie* entitled to possession of her progeny; that it was incumbent upon the defendant to disprove the plaintiff's title to Kalay, not upon the plaintiff to prove his title to her children when their mother was in his possession; and were the register to confirm the sudder amin moofty's decree, dismissing the plaintiff's suit, the defendant would still have to bring an action for recovery of the slaves now in the plaintiff's possession.

Upon due consideration of this point, the register considers it necessary to amend the decree of the sudder amin, which, while it dismisses the plaintiff's claim to the Dhers in the possession of the defendant, does not prove the defendant's title to recover those detained, whether legally or otherwise, by the plaintiff, and to decree that the defendants do make over to the plaintiff the Dhers sued for; but that the present decree do not prevent the defendants from proving their title to those at issue, and those formerly detained by the plaintiff. The decree of the sudder amin is therefore cancelled; the parties are assessed with their respective costs.

No. 87.

Zillah Court of Canara.

(Original suit, No. 231 of 1826.)

Marlmanay Annappa Shetty, residing at Shereare, village Kalanand Mogany, in Barcoor Talook, versus *Anuggoppa Shetty's* nephew, *Somaya Shetty*, residing at the said place.

THIS suit was brought by the plaintiff, Annappa Shetty, against the defendant, Somaya Shetty, for the recovery of a land, rupees 305–0–70; rupees, 58 2–70, net produce; garden, 50 rupees; houses, 50 rupees; and slaves, 100 rupees; total rupees, 563–3–40.

The plaintiff stated, that the defendant had sold him the above property, and executed to him a deed for the same; that he refuses to give him possession.

The defendant owned the execution of the bond, but said that he had committed a fraud upon his uncle by writing it; that although his uncle had formerly made over to him the whole of the property, yet that before the execution of the bond he delivered it all back to his uncle.

The court, having perused the pleadings, recorded that the defendant must prove that he ever delivered the land back to his uncle.

The defendant called no witnesses and adduced no evidence to that effect.

The court do therefore decree, that the defendant do forthwith give up the land and other property claimed to the plaintiff, and do pay all costs.

Given under my hand and the seal of the court at Mangalore, this 4th day of February, A.D. 1830.

(signed) *George Sparkes*, Register.

No. 88.

Court of Adawlut, Zillah Canara.

(No. 365 of 1820, on Canara file.)

Paukee Tumbaratee and *Akoo Tumbaratee*, of Nelashawar, in the Talook of Bekul, Plaintiffs, versus *Nonankal Kristna Wurma Arsoo*, of the same place, Defendant.

THIS suit was instituted for the recovery of lands and gardens yielding rupees 803–0–61 annually, and rupees 1,334–0–36, being the value of the produce thereof; as also rupees 10–1–64, on account of Achoo Pulsay; rupees 34–1–60, being value of paddy due for the hire of slaves; rupees 26–2–93, being the emoluments of Mellame Calapene; and cattle and slaves valued at rupees 141–0–66.

The answer, reply and rejoinder were filed.

The following exhibits were filed by defendant.—(Details omitted.)

The under-mentioned witnesses were examined.—(List of names omitted.)

In this stage of the business the vakeels of the parties filed the razinama marked (X.), stating that their clients have fully concurred in the whole of the terms therein specified, and prayed that a decision might be passed accordingly. The razinama is to this effect: that plaintiffs, Paukee Tumbaratee, of taliakool Pudkekoot, and Akoo Tumbaratee, having instituted a suit, in No. 365 of 1820, against Monankal Kristna Wurma Rajah, claiming rupees 1,334–0–36, being the amount due for their maintenance, also one-third share of certain lands, Achoo Palsy, Dhers and cattle, altogether to the value of rupees 1,015–3–44, have (after the examination of the whole of the witnesses was gone through) adjusted together the matter at issue amicably, as follows: out of the maintenance claimed, deducting what defendant supplied to plaintiffs up to this period, the balance due to plaintiffs was 9,500 hanes of paddy, which quantity the defendant has also delivered to the plaintiffs. And defendant has made over to plaintiffs a share of three-tenths of the under-mentioned lands, gardens, coombrees and slaves, the produce whereof they are entitled to realize for the present and every succeeding year in perpetuity, viz.—(The account of particulars omitted.)

The court, conformably with the joint solicitation of the parties, do hereby confirm the decision and allotment of the property in question, agreeably to the terms agreed to by them and expressed in the above razinama, and decree, that the lands, gardens, coombrees,

Achoo

Achoo Palsy, Mellame Calapene and slaves, which have been allotted to plaintiffs, shall accordingly be possessed, enjoyed and made over to them in perpetuity. The parties are assessed with their own respective costs.—(Statement of costs and list of exhibits omitted.)

Given under my hand and the seal of the court, at Mangalore, this 28th day of February A. D. 1824.

(signed) *W. Sheffield*, Judge.

DECREE of the Court of Adawlut, in Zillah Malabar.

No. 89.

No. on the File of the District Moonsif of Polghaut.	No. in Appeal before the Sudder Amin Pundit.	No. in Special Appeal.
No. 838 of 1825.	No. 231 of 1826.	No. 2 of 1828.
Teroovamarata Shoolapany Variar *versus* 1. Valiakootate Valia Nair. 2. Vadakekootata Koonjoo Nair. 3. Koonata Vataparambil Potty Teyen. 4. Kochen. 5. Pawkatatodngakavil Mallen. 6. Kooravetty Teya Vellen. 7. Chataukandata Ramy. 8. Konete Nagoo. 9. Choongata Itten.	1. Edatarekootate Kaunel, styled the Valia Nair. 2. Vadakekootole Koonjoo Nair. 3. Koonata Valaparambil Patty Teyen. 4. Kochen. 5. Panekatody, Malen's son, Chamy. 6. Kooravetty Teyen Vellen. 7. Chataukandata Ramy. 8. Koneta Nagoo. 9. Choongata Itten, by Vakeel Chatoo Panikar, *versus* Teroovamarata Shoolapany Variar.	1. Edatarekootate Kaunel Valia Nair. 2. Vadakekootate Koonjoo Nair. 3. Koonata Valaparambil Patty Teyen. 4. Kochen. 5. Panekatody, Malem's son, Chamy. 6. Kooravetty TeyenVellen. 7. Chataukandata Ramy. 8. Koneta Nagoo. 9. Choongata Itten, by Vakeel Meer Josnoodeen, *versus* Teroovamarata Shoolapany Variar.

THIS suit was instituted on the 27th Tulam 1001 (17th November 1825), for the recovery of three male and three female slaves of the Canara caste, held by plaintiff, from the Shoogapoorata Detehinammoorty pagoda, on a kanom of 300 fans., and patam of one year (1000) 36 fans., from the defendants, who have taken possession of and detained in their employ the Chermers in question.

The 1st defendant in his answer denies having seized the slaves sued for, or that they belong to the Detehinammoorty pagoda, and states, that the slaves being sent for and examined, it will be known whether defendants seized them, or they went to them (defendants) of their own accord, on plaintiff annoying them; and further, that they are the jeum of Chingatoor Agappew pagoda; that 1st defendant, Karanavew, delivered them to certain Terans, adeans of the pagoda, to work for them, who were to pay one fanam for each family a year; and that they ultimately left them, and entered plaintiff's service as they do for others.

The 3d, 4th, 5th, 6th, 7th, and 9th defendants answered, that the slaves aforesaid are the jemom of the Chengatoor Agappew devasom; that they are entitled to any profit derivable from their labour by permission of the devasom; and also assert that they served plaintiff as they did other Kodians, and that it was on account of plaintiffs oppressing them that they came and lived with defendants.

The 2d defendant filed no answer.

Plaintiff filed four documents and cited five witnesses, viz. Oolat Govinda Menon, Kondeaporata Ponasha Menon, Mooleddata Kristna Menon, Madamparata Pongau Nair, and Patamaly Kristna Namby, all of whom were examined.

DOCUMENTS.

1. A Cherma Patteno deed, dated Tulem 980.

2. The Detechinamoorty pagoda manager's receipt for Cherma Patom, dated in Koombam 998.

3. The Detechinamoorty pagoda manager's receipt for Cherma Patom, dated in Meenom 999.

4. Ditto, in Magoram 1000.

First defendant cited eight, and 3d, 4th, 6th, 7th, 8th and 9th defendants nine witnesses, of whom, Velutatil Keloo Nair, Mootedata Illerachen Nair, Madashery Paugoo Nair, and Vatone Koonjoony Menon were examined.

The moonsif received three ancient documents, having reference to the litigated slaves, from one Kristna Namby, plaintiff's 5th witness, and filed them of record.

The

Appendix IX.

Returns.

The moonsif then decided, that it was proved the Chengatoor Agappew devasom had no claim to the Chermers held by plaintiff on kanom from the Detechinamoorty devasom, and that, on the contrary, it appeared, that the defendants do forthwith restore to plaintiff the six slaves sued for, and that the 1st and 2d defendants do pay him 10 rupees 1 qr. 14 reas, as patom, with costs of suit 6 rupees; total 16 rupees 1 qr. 14 reas.

Defendants appealed from this decree, urging, that the jenmkar should have preferred the suit in consequence of the jemom right of the slaves in dispute, and not the plaintiff, who is a mere kanomkar; and that on Mondredata Nambodrepaad being sent for and examined, it will be proved that the three documents produced by plaintiff's 5th witness were never in the hands of the said Nambodrepaad, the former kariesten of the pagoda.

Respondent (plaintiff) denied that there was any truth in the appeal petition, or that the Agappew devasom, or appellants, have any right to the Chermers; and that having for a long time held possession of them without any dispute about their proprietary right, he (plaintiff) preferred the suit grounded on his kanom right.

The sudder ameen, seeing no grounds for reversing the moonsif's decision, accordingly confirmed it, dismissing the appeal, with all costs payable by appellants.

From the latter decision the appellants preferred a special appeal, and state that it is prescribed in clause 5, section 11, Regulation VI. of 1816, that when a suit is preferred in the moonsif's kutcherry for personal property, the value thereof should be specified, the omission of which must be fatal to this suit; and that the passing of favourable decisions in the original and appeal suits are contrary to the regulation quoted above.

Special respondent filed an answer, recapitulating what is already recorded.

Having maturely considered the merits of this suit, the judge finds that the only point for consideration is, whether or not females of the description of slaves here contended for, viz. the Canaka caste, are, like the males, liable to be sold or mortgaged.

The late judge, Mr. Holland, who was particularly well acquainted with the local usages of South Malabar, recorded a written opinion on the occasion of admitting the special appeal, that it is notorious Canaka Cherma females were not, before the assumption of the country by the English, subject to slavery like their male relations; and in this opinion the Hindoo law officer of this court, who is a native of Palghaut, concurs in his reply to certain questions put to him on the 28th October last.

Several other respectable witnesses were also examined on the 25th ultimo on the same point, and although their answers to the questions put to them go to prove that female as well as male Canaka Chermas are liable to slavery, still the judge does not attach much importance to their evidence, because, being large landed proprietors, they have an interest in condemning the females of the Canaka caste to slavery, and because parts of it (their evidence) are inconsistent with each other, and in other respects not decisive of the question in the affirmative.

It is admitted, on all hands, that the Canaka caste do not follow the usual Malayalom practice of maremakatayom, which of itself is obviously a reason why the jenmi of the male slaves should not have a separate and alienable right of sale or transfer over their wives or females.

Under these circumstances the judge nonsuits the special respondent with all costs of suit payable to the special appellants (defendants); with leave to institute a new suit if he pleases for the recovery of the male slaves alone.

Costs.

				Rupees.		
Stamp duty on institution under section 13, Regulation XIII. of 1816 -				9	–	–
Fees of special appellants' pleader under section 14, Regulation XXV. of 1816 - - - - - - - - - -				4	12	10
Value of stamped paper filed by special appellants - - - -				–	8	–
Value of stamped paper filed by special respondent - - - -				1	–	–
Expenses for serving processes on the part of special appellants - -				2	4	–
				17	8	10
Appellants' costs in the appeal - - - - -	17	8	10			
Respondents' ditto - - - - - - - - -	–	8	–			
				18	–	10
Plaintiff's cost in the original suit - - - - - - -				6	–	–
Total - - Rs.				41	9	8

Given under my hand and the seal of the court this 3d November 1831.

(L. S.) (signed) *A. Maclean*, Judge.

(Nos. 231 and 232 of 1826.—Special Appeals.)

Admitted, because the decrees specially appealed from adjudge the possession in slavery of Kunaka Cherma females, who it is notorious were not before the time of the English Government in Malabar subject to the slavery which their male relations suffer, and no subsequent law authorizes the aggravation of slavery in any way.

Decree

DECREE of the Court of Adawlut in Zillah Malabar. No. 90.

Original Suit, No. 312 of 1827.	Appeal Suit, No. 35 of 1827.	Special Appeal, No. 4 of 1832.
1. Kowookil Edatil, Amboo Nambiar. 2. His Anantawaren Chatapen ditto, by Vakeel Kondy Menom, *versus* 1. Erootan Kannan, by Vakeel Amboo Podwal. 2. Ramen, younger brother of Peringaila Manyany.	1. Erootan Kannan. 2. Ramen, by Vakeel Ramen Nair, *versus* 1. Kowookil Amboo Nambiar. 2. Chatapen Nambiar, by Vakeel Putalata Ramen Nair.	1. Erootan Kannan, by Vakeel Amboo Podwal. 2. Ramen, *versus* 1. Unnamen Nambiar. 2. Chatapen Nambiar.

THIS suit was filed for the recovery of three Vettoovar slaves of the value of 60 rupees.

The plaint sets forth, that three Kerry class Peringaila Vettoovars, by name Pacha Neelan, Naryan Palan and Tonden Palen, the jenmom of the plaintiffs, as also another, called Koonganen, mortgaged by the 2d defendant's karnaven to the 1st defendant, but that plaintiff's late karnaven, Ramen Nambiar, having taken forcible possession of them in 989, a suit was instituted by 1st defendant (No. 482 of 1814) against 1st plaintiff, his karnaven, Ramen Nambiar, and the 2d defendant's ditto, for the recovery of 91½ rupees, the sum for which they were mortgaged, on which a decree was passed in his favour; and Ramen Nambiar, and 2d defendant's karnaven, directed to litigate their claim; that 1st defendant, having moved for execution of the decree, this suit was therefore brought with a view of establishing the plaintiff's proprietary right to the slaves Tonden, Pacha Neelan and Naryan.

The 1st defendant in his answer stated, that all Peringaila Vettoovars were the jenmom of Peringaila Manjany, who of late years had either mortgaged or sold them to others; that two of those mentioned in the plaint, viz. Naryan Palan and Koonganen, with some others, were mortgaged by the 2d defendant's karnaven to one Teanjerry Ramen, from whom they were redeemed through his means, and afterwards made over to him with the former deeds and a fresh kanom bond, and Pacha Neelan mortgaged to his younger brother, and that Tonden Palen and some more were at first mortgaged and afterwards sold to him; that a decree was passed in his favour, as stated in the plaint, on accouut of the four therein mentioned, when, had the plaintiffs any proprietary right to them, they should immediately have litigated the same, and not waited till so protracted a period. That Tonden Palen's elder brother, by name Kooty Naryan, and four other Peringaila Vettoovars, who were at first mortgaged to the plaintiff's family, were afterwards transferred by their karnaven to one Coonjoor Chinden, with a yennuck to Manayany, as jenmokar, and who was still in possession of them, and through whom it could be proved that they were the jenmom of the 2d defendant's tarward.

The 2d defendant neither signed the notice nor appeared to defend the suit, though the required proclamation was issued.

The plaintiffs put in no reply.

The 2d plaintiff filed two exhibits and cited seven witnesses, of whom three were examined, viz. Moorikolly Kilapen, Ittoley Vishnoo Embrandery, and Teanjerry Ramen.

(A.) Avari Ollah, in a mutilated state, dated 11th Dhanoo 977, bearing no signature, but purporting to be a memorandum passed by Peringela Komaren to Ramen Nambiar, and in which were the names of Pacha Neelan and Nariyun Pelanare as the jenmom of Koyeekiladatil.

(B.) A chit, dated 13th Toolam 987, written by Peringaila Manjany to Teanjerry Ramen, stating that he had written him, Edatil Ramen was disputing about the Vettoovar Naryan Palen, and requesting that he should either be exchanged or the mortgage amount returned; that he would meet the nambiar, and, after referring to the memorandum he had given him, see whether or not he had made any mistake, upon which he had some doubt.

The 1st defendant filed one exhibit and cited four witnesses, none of whom were examined.

(C.) Copy of the sudder ameen's decree in case No. 482 of 1814, dated 30th December 1815.

The pundit sudder ameen decided that the plaintiffs had clearly proved, both by oral and documentary evidence, that the slaves sued for were jenmom, which, as neither the 2d defendant nor his karnaven had ever disputed, the 1st defendant, who was merely the mortgagee, had no business to do. We therefore adjudged, that the three Vettoovars should continue in their possession, and that the 1st defendant should either receive from the 2d the amount for which they were mortgaged, with interest, or take other slaves in exchange.

Against this decision both defendants appealed, recapitulating the first former assertions, declaring that the Vettoovars were born whilst their mothers were held in mortgage by the 1st appellant, and that sickness had prevented his moving execution of the former decree at an early period; that the 2d appellant's house and property were situated in the Canara district, through the judge of which zillah a notice ought to have been served on him in the original suit, which was not done, and accounted for his non-appearance'; denied the validity of exhibit (B.), which was not written by 2d appellant's karnaven, and prayed that their witnesses and documents might be received to establish the second jenmom right to the Vettoovars.

The 1st respondent having died, the 2d alone replied in support of the plaint; admitted that the Vettoovars in dispute were born whilst their parents were in the 1st appellant's service, but asserted that the mothers belonged to him, and had been married to the Vettoovars held in mortgage by the 1st appellant, and their offspring were therefore, agreeably to the maramakatyum rules, his property; that Pacha Neelan had been mortgaged in 975 to one Pacha Suban Putter, who, if summoned, would prove it; and that if the 2d appellant had no lands or property in this zillah, he could not lay claim to these Vettoovars; and concluded by affirming, that he was ignorant of the existence of exhibit (B.) when the former suit was investigated, or he would have produced it.

The assistant judge confirmed the pundit sudder ameen's decree, considering the Vettoovars to have been proved the ancient property of the respondents' family, in whose possession they had remained undisputed until the institution of this suit, either by the 2d appellant or his karnaven.

That any document they might wish to file ought to have been so in the former suit, but their not having done so, or appealed from that decree, left it to be inferred that they were satisfied. He further considered the first appellant entitled to receive back the mortgage amount given on three Vettoovars to second appellant's karnaven, and dismissed the appeal, with costs, to be borne by appellants.

The appellants preferred a further appeal, asserting the Vettoovars were never in the special respondents' possession before they took such forcibly from them, and that they have merely remained so, because the former decree has not been executed; that in 976, Pacha Neelan was given on verumpattom to one Yeddaparry Chenden, which chit they were able to produce.

They further declared, that it was Teanjerry Ramen who instigated the special respondents to prefer this suit, and fabricated the document (B.), the Vettoovars having been made over to him.

Notices were issued to both special respondents: the first signed it, but did not appear to file an answer, and a proclamation was issued for the attendance of the second; but he also failed to attend.

On a review of these proceedings, the court considers that the special respondents have entirely failed to make good their claim to the Vettoovars, as the whole of their proof rests on the authenticity of the exhibit (B.), of which there is great room for entertaining doubt; as, had such been really executed in 987 as asserted, no good cause is shown why it was not produced on the former trial; whilst the omission to do so affords strong presumptive proof of its having been since fabricated to give validity to the voucher (A.), which is otherwise null and void. Allowing their validity, however, for the sake of argument, such alone could not be regarded as sufficient for the establishment of a jenmom right, more especially as no evidence has been adduced to prove that the Vettoovars were ever in the special respondents' possession until they took such forcibly from them; whilst it is admitted by the second, in his appeal answer, that they were born when their mothers were in the first special appellant's service. But he advances no proof of his right to these females, or why and by whom they were alienated to the first special appellant. In fact, the whole claim totally hinges on the right to the women, and for which there is only the bare assertion of the second respondent.

The great delay on the part of the first special appellant, in moving for execution of the former award, which he so unsatisfactorily explains, has laid his cause open to great suspicion; but the special respondents having failed to establish their claim to the Vettoovars, and it being admitted on all hands that they were in their possession on mortgage until violently removed, the court considers them fully entitled to a verdict in their favour, and reverses the decrees of the lower courts, adjudging their immediate restoration, with all costs of suit, to be borne by the special respondents, leaving the proprietary right of the second appellant, which has been by no means clearly proved, to be settled between him and the first.

Given under my hand and the seal of the court, this 29th June 1833.

(signed) *Henry Morris*, Acting Judge.

DECREE of the Court of Adawlut in Zillah Malabar. No. 91.

(Original suit, 557 of 1833, Calicut District Moonsif.)

Cheravata Koya versus *Arippaporata Oonnee Coomaran Nair, Manasherry Chatoo Cooroopoo,* and *Amyun Mannacherry Cheru Nair*;

For 20½ fanams, being hire of a Cheroomun, and to recover possession of him, or to obtain his value, 65 fanams.

(Appeal suit, No. 59 of 1834, Judge's Court.)

Arippaporata Oonnee Coomaran Nair versus *Cheravata Koya*;

For the reversal of the district moonsif's decree, awarding rupees 5–8–10 as hire, and the Cheroomun, with costs.

PLAINTIFF stated, "That in Vrichiga 1001, three defendants granted on ottee of 45 fanams, the Cheroomun Areeyan, the son of Tanneyaye, and he continued to live with plaintiff and work for him until Vrichiga 1003. In Dhanoo, first defendant took him away, and while the Cheroomun was working for him, plaintiff remonstrated, and was told by first defendant, that he had taken him from second defendant, the anantiraven of third defendant; wherefore he sues for rent at 3½ fanams a year, from 1003 to 1009, and further as above."

First defendant answered, "That in Magara 999, he took on ottee of 120 fanams, second defendant, the Cheroomun Areeyan, and his brother, Veroogun, in the name of Curnagara Coorpoo; at which time also he obtained a quittance from Curnagara Coorpoo. The Cheroomun has continued to work for him till the present time."

Second and third defendants answered: "The Cheroomun Areeyan is third defendant's jenmum, and was granted in Vrichiga 1001 to plaintiff, on ottee of 45 fanams; and that second defendant has no concern therewith, nor has he granted to any one a title thereon."

Plaintiff filed No. 10, ottee deed, from third defendant to plaintiff, and cited four witnesses. Three were examined; one he declined.

Defendants adduced no evidence.

First defendant presented M. P. 17.

Plaintiff, second and third defendants were interrogated.

The district moonsif considered, that third defendant having admitted the grant to plaintiff, any transfer by his anantiravun of second defendant to first defendant, would not be valid; and second defendant denies that he ever granted any title. By first defendant's answer it may be seen he is in fault; wherefore, he is to deliver up the Cheroomun to plaintiff. Plaintiff declares that first defendant took away the Cheroomun, and first defendant admits him to be in his possession; wherefore he is to pay rent and further interest to date of decree, total rupees 5–8–10 and costs.

The appellant states, that he did not take away the Cheroomun from plaintiff's premises, but from second defendant, who has other Chermers belonging to his mother; urges the inconsistency of making him deliver up only one of the two Cheroomuns he has taken in mortgage, and that if the plaint were just, there would have been a police complaint.

An answer is filed.

Appellant presented M.P. 1770 of 1834.

Appellant, respondent, second and third defendants, were interrogated; and the court took the evidence of Odiot Onnee Kottee Nair, and Vaddakun Paramba Ittee Comarun Nair, the respondent having cited these and two others, whom he afterwards declined, in support of the point; proof whereof was required by the court—the jenmum title of the third defendant's family to the Cheroomun Areeyan.

The court, observing that in the original trial no evidence was forthcoming of the proprietary right of either of the parties in the Cheroomun Areeyan, about the disposal of whose person they were contending, and deeming that though a horse or an ox may in a civilized and settled country be properly looked upon as the property of some person or other, and of the person in whose possession they are found, unless the contrary appear, yet that the same rule cannot extend to a human being, considered it requisite to obtain proof on this head as indispensable to the issue. The original second and third defendants, through whom the appellant and respondent deduce their mortgage titles, differ from one another in their statements of the family title to Areeyan, his mother Tanneeaye and family; the second defendant stating that he himself purchased the mother from Chellaporatha Oonnee Comarum Nair; and third defendant, that the said Nair, who was his own father, gave Tanneeaye to his (second defendant's) mother. The third defendant, on being questioned, declared that he has the deed of sale from the said Nair, and that he would produce it on the 2d instant, but has failed to do so to the present time. The two witnesses examined for the respondent prove nothing respecting the proprietary right, and this point remains entirely unsubstantiated. The court, reflecting that a confirmation of the district moonsif's decree would have the effect of condemning Areeyan to a state of perpetual slavery, whereas, for all that appears in evidence to the contrary, he may be entirely a freeman, considers that the decree cannot stand, reverses it accordingly, and directs that under the circumstances each party do pay their own costs in all stages.

(signed) *Robert Nelson,* Judge.

Calicut, 14th February 1835.

Appendix IX.

Returns.

Register's Court, Zillah Malabar.

(Original suit, 207 of 1833.)

No. 92. *Kathigamandragata Verran Cooty* versus *Vadakuddevell Agata Ayestra Ooma*, her brother *Kamao Caoty*, ditto *Mamoo*, *Koonji Mordeen*, *Mordeen Caoty*, and *Koojaly*.

Plaintiff stated that in Magarom 1008, the first defendant sold to him seven Chermars for 140 rupees, but did not make over possession; that plaintiff subsequently sold them to another person for 145 rupees; but the defendants having refused to give up the Chermars, the bargain was broken off, whereby plaintiff has been endamaged 5 rupees, which he claims with the original purchase-money; total, 145 rupees.

Defendants gave no answer.

Plaintiff filed the deed of sale, and substantiated its execution by five witnesses, Orekarr Kondu Menon, Mopila Bava, Valiagata Sawken Adjer, Kalarekel Mordeen, and Allingal Issopu. He also showed that the defendants had refused to make over the Chermars, and that he had been obliged to repay the 145 rupees, for which the Chermars had been resold.

Upon a perusal of the proceedings, the court see two objections to passing a decree according to the plaint. In the first place, the deed, though clearly conveying the proprietary right in the slaves to the plaintiff, does not state the sum for which this right is sold. No sum of hard cash was ever paid by plaintiff, for these Chermars were made over to be rated at such price as might appear just to a punchayet, in order to satisfy part of another claim, which plaintiff had against first defendant. Had the price been ever formally settled, another document should have been executed. When a money claim is founded on a deed, that deed should be expressive of the sum so claimed. But the plaintiff might, if he liked, have filed a suit upon the present one for a lac of rupees; and if the correctness of the claim be admitted in one instance, it must be in the other also. It is further to be observed, that receiving the Chermars can be no loss to the plaintiff, if, as he pretends, they are saleable for 5 rupees more than the sum at which he bought them.

The second objection is to the 5 rupees profit. Plaintiff should not have sold that which he was not in possession of, and passing a decree for loss accruing thereby would open a door to fraud and abuse. In the present case, indeed, 5 rupees is no exorbitant sum; but if this was allowed, any sum might be claimed, by simply writing a deed of sale to another person, and taking it back. The case of passing a decree for damages for grain, &c., not delivered, is very different, because then the damages are not laid upon what any individual would have given for the article, but upon the current price of the day.

Wherefore the court do decree, that the defendants do forthwith make over to the plaintiff the seven Chermars mentioned in the plaint, and pay all costs of suit. But if any one of the Chermars shall not be forthcoming at the time of the execution of this decree, then no Chermars shall be made over, but 140 rupees paid in lieu of the same.

Given under my hand and the seal of the court, this 8th July 1833.

(signed) *George Sparkes*, Acting Register.

No. 93. Court of Adawlut, Zillah Malabar.

(Original suit, No. 64 of 1832, on the file.)

Mooragan, son of *Eeyooven Chokolathaporakel Naragaparambil Coopa Velen*, versus *Tayathepadiarveetil Caroppen Nair*; *Comoo Nair*, his heir; and *Manarakat Valia Nair*, vakeel *Vikirisha Menon*.

Decree of the Pundit Sudder Ameen.

This suit was instituted for the recovery of four Chermers, named Ekkama, daughter of Roonjiaken; Malayen, his son; Kaka, Velaken's daughter; and Vella Kadia; of Erala caste, valued at 400 fanams, or their value. The Chermers, after having been sold to plaintiff in Koombom 1006, by the first and second defendants' karnaven, Shangara Nair, who died in Vrischigom 1007, left him and went and entered into the service of the third defendant, who has detained them.

First defendant, after signing the notice, did not attend and represent any thing.

Second defendant in his answer states, that the Chermers, his jenmon property, were sold to plaintiff for 320 fanams, transferring the former deeds relating to them; that if there is any contention about them, the plaintiff should settle it; instead of which plaintiff and third defendant colluded together, brought the present action, overvaluing the Chermers; that he is ready to make oath or abide by it.

Third defendant, by vakeel, states, that the Chermers sued for were his ancient jenmon property; that his karnaven, Shangara, carried and sold them to the plaintiff; that he in consequence preferred a suit against them (in what number not specified), before the Paulghaut district moonsif; that before a decision was passed thereon, the present suit could not have been preferred, nor is it customary to sell the jenmon right of the Chermers of the Erala caste.

Plaintiff replied to second defendant's answer, and second defendant rejoined. But plaintiff filed no reply to the third defendant's answer. Plaintiff presented a list of four witnesses,

witnesses, and a document upon stamped olla, being a title-deed executed in Koombom 1006 to prove his claim.

Second defendant presented a list of two witnesses, and the third defendant's vakeel filed a list of four witnesses, and a kanom deed on plain cadjan, executed in favour of Ambat Kristnen by Coonathatil Madambil Chatoo Oonamen, dated in Kany 989, Chinga Veayam. The plaintiff's document having been marked (A.), and the third defendant's (B.), they were filed of record.

The plaintiff and third defendant's vakeel were examined, as were the plaintiff's witnesses, Rekappen, Payanee Andy, Andy, Payanee. Second defendant's witnesses, Camben Nair and Ittiraracha Panikar; and third defendant's witnesses, Shangara Panikar, Coonjoo Nair, Ramen Nair, and Chermee Ekkee, were also examined; and the proceedings closed.

On consideration of the above proceedings and documents, it appears proved by the evidence adduced by the plaintiff, that the first and second defendants' karnaven, the aforesaid Shangara Nair, had sold the Chermers to him; that they afterwards went and remained with the third defendant, and that Shangara Nair agreed to return their value. Independent of this, the third defendant admitted in his answer the fact of the sale, which has been further corroborated by witnesses. The second defendant alleges, that the Chermers were his jenmon slaves, and sold to the plaintiff, transferring the former deed, from whom the sum of 320 fanams were only received; while his witnesses state, that, when the Chermers were sold, the former deed was not transferred, it not being customary to do so; but that they afterwards heard from Shangara Nair, that the deed was subsequently given up. Their evidence is therefore not entitled to credit.

The third defendant's witnesses depose to the Chermers being the jenmon of the third defendant, as pleaded by him, yet in the deed produced by the third defendant's vakeel, as the one granted in 989, mortgaging these Chermers to Ambat Koonjen Nair by the third defendant, for 200 fanams, and redeemed by paying off the mortgage, the signature of it is not cut off, nor is the leaf so old as to make it believe that it was written in 989. The Chermers cannot therefore be considered the third defendant's jenmon right, grounded on the evidence of his witnesses and document. For the above reasons, and adverting to the second defendant's admission, there is no proof or means in this suit to pass a decision as regards the disputed jenmon right, unless the third defendant, with the first and second defendants, bring an action after paying plaintiff's money. It is therefore decreed, that the first and second defendants do pay to the plaintiff the amount sued for, with interest up to the date of this decree, and costs as hereunder specified, defendants bearing their own costs.

26th June 1832. (Signature of Pundit Sudder Ameen.)

No. 94.

Court of Adawlut, Zillah Malabar.

(Original suit, 161 of 1831, on the file.)

Shangally Teyoony Nair, and ditto *Rarappen Nair*, versus *Palacoonatha Makanachery Nambi Porambatha Ooneree Nair*, ditto *Ookanden Nair*, *Tirootil Ramen Nair*, ditto *Comen Nair*, and *Cheroocomen Nair*. First defendant by Vakeel *Vekeresha Menon*.

DECREE of the Pundit Sudder Ameen.

PLAINTIFF states, that in Magaram 1005, Chermer Nularay, with her brother Cherappen, children of Chermer Kandothy, were bought in the name of the second plaintiff; and at the Onom festival in Chingom, as the said Chermers were being brought to be put in his possession, the third, fourth and fifth defendants seized the Chermers and carried them off; that the second plaintiff preferred a suit in No. 181, before the Calicut moonsif, but it was dismissed on the grounds that the second plaintiff was not of age to conduct the suit, and that he should litigate it jointly with his karnaven (elder). The suit is therefore to recover possession of the said Chermers, valued at 20 rupees.

First defendant in his answer states, that he with second defendant having sold the jemom right of the Chermers adverted to in the plaint, they were being carried to be delivered up, when the third, fourth and fifth defendants would not allow it. In such case it is clear the suit should have been preferred against those defendants and not against them (first and second defendants); that when his property was attached on account of a debt, the third defendant presented a petition, declaring that he had claim upon Chermer Kundothy; but it was dismissed.

Second defendant failed to appear and file answer, pursuant to notice and proclamation issued.

Third, fourth and fifth defendants in their joint answer state, that previous to the year 950, their karnaven, Chenen Nair, deceased, had purchased the jemom right of Kundothy, the grandmother of the plaint Chermers, and of her father Choolen, and they worked for them; the second and third defendants consequently have no claim upon them; that when the suit 181, instituted before the Calicut moonsif, has been dismissed, the present action is contrary to regulation.

Plaintiffs filed no reply.

Plaintiffs filed a list of two witnesses and copy on stamp paper of the Yadast, recorded by the Calicut moonsif, in No. 344 of 1829, and an attipar deed on stamped olla, to the purport,

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port, that the plaintiffs had purchased the two Chermers mentioned in the plaint, in Magaram 1005. First defendant's vakeel presented a list for two witnesses, and second defendant a list of four witnesses, and filed a deed in a mutilated state, purporting that Terootit Chenen Nair had taken Cheroomen Choolen and Cheroony Kundothy on otto tenure from Perody Chatoo Nair, dated in Chingom 947, Meenom Veyaom. The copy of the Yadast filed by plaintiff has been marked (A.), and the deed (B.); third defendant's documents have been marked (C.), (D.), and filed of record.

The plaintiffs and the third defendant were examined, and the plaintiff's witnesses, Oonny Coomaren Nair, and Charoodala Ramen Nair, and the first defendant's witnesses, Palaeaonatha Coonangary Oony Caoty Nair, Tataracondil Conaren Nair, and the third, fourth and fifth defendants' witnesses, Kalaparatha Ittoony Rama Coorpa, Vekira Adeody were examined. The examination of the two remaining witnesses not being deemed necessary, the proceedings have been closed, and it has been resolved to decide the suit. On a careful consideration of the above proceedings and documents, it appears that the third, fourth and fifth defendants plead that Chermer Kundothy was their jemom slave, and that she begat the Chermers alluded to in the plaint; and they produced a title-deed in support of their plea. But when a proclamation was stuck up to sell by auction Chermer Kundothy, grandmother of the Chermers sued for, to the extent of first defendant's jemom right, the third defendant preferred a claim, alleging that she was his, and the fourth and fifth defendants' jemom slave; which claim was dismissed, as is proved by copy of the Yadast produced by the plaintiffs.

If she was the third, fourth and fifth defendants' jemom slave, they should have, during the investigation of the claim advanced by the third defendant, produced the jemom deed filed in this suit, and established his jemom right to her. This they have not done. The court cannot, therefore, grounded upon the title-deed now filed, conclude that the above Chermers are the third, fourth and fifth defendants' jemom slaves. It has been proved by plaintiff's and first defendant's documents and evidence, that the Chermers sued for were brought forth by Kundothy's daughter, while in the first defendant's possession; under whom they have continued from that time up to 1005, when the first defendant sold them to the second plaintiff; and while being carried to be delivered up to the plaintiffs, the third, fourth and fifth defendants seized and carried them off; and by the Yadast filed by plaintiffs, it is established, that the third defendant has no right to the Chermers specified in the plaint. It is therefore decreed, that the third, fourth and fifth defendants do give up the Chermers sued for, and pay costs as follows.

23d August 1832. (Signature of the Pundit Sudder Ameen.)

No. 95.

DECREE of the District Moonsif of Calicut in the Zillah South Malabar, dated the 7th Edavom 992, or 18th May 1817.

(No. 221 of 1817.)

Karooparrapatte Namboodree, by vakeel *Meparambil Chakruvania Variar* and *Kallatel Ramen Menon*, versus *Pallikoonata Chappoo Nair* and *Alangaden Hydroop*.

THIS action is brought for the recovery of certain Chermers valued at 105 old gold fanams, on payment of the mortgage 32 fanams.

The plaint sets forth, that plaintiff's two jenmom Cherma boys, named Revey and Maren, having, by the second marriage of their mother, grown up in the first defendant's service, on the 20th Meenom 983, plaintiff assigned over to him the younger of the said two Cherma boys for 32 fanams, being the amount of expenses incurred by him (first defendant) for bringing them up, and obtained a mooree (note) acknowledging the receipt of the amount in the name of plaintiff's accountant, Rama Variar, while he (plaintiff) took the elder boy into his service; but the boy not being of sufficient age to live separate from his mother, plaintiff left him again under the care of the first defendant, contributing the usual allowances during the Onon and Vishu festivals, and taking occasionally notice of him; that in the meantime, having seen him in the service of the second defendant, he inquired of, and was told by him, that the first defendant had mortgaged the Cherma to him. This suit is therefore instituted against the first and second defendants for the recovery of the aforesaid two Chermers, valued at 705 fanams, on payment of the mortgage fanams 32.

The defendants signed the notice issued on the 14th April 1817, but having failed to attend, either personally or by vakeel, the witnesses cited by the plaintiff's vakeel, viz. Chatangat Krishna Menon and Pootanveetil Ramen Nair, were sworn and examined, in order to pass a decision, pursuant to clause 1, section 26, Regulation VI. of 1816. When the first witness stated in his deposition that the plaintiff's jenmom, the two Cherma boys alluded to in the plaint, having been, by the second marriage of their mother, brought up by the first defandant, in Meenom 982, plaintiff assigned over the younger of them to the first defendant on Kanom (mortgage), for 32 fanams, being the amount of expenses incurred by him for bringing them up, and obtained from him a note acknowledging the receipt of that sum, while he took the eldest boy into his employment, but the boy being too young to live separate from his mother, he went and remained in the first defendant's service; that in the meantime the plaintiff, having come to know that the first defendant had mortgaged both the Cherma boys to the second defendant for one hundred and odd fanams,

fanams, he called on the first defendant, when he promised to give up the Chermers on payment of the 32 fanams which he owed him; that subsequently thereto, on the 15th Meenom 992, by desire of the plaintiff, witness and Pootenveetil Ramen sent for the first and second defendants, and demanded restoration of the Chermers, when the former said, that he was prevented from restoring them, owing to his not having been able to discharge the amount he owes the second defendant; that he would, however, try to discharge the amount and give up the Chermers on the 20th; and that the mooree produced in court was the identical one which was granted by the first defendant. The second witness's deposition is to the same effect as that of the first.

On a careful consideration of the above-mentioned circumstances, and inspection of the documents produced by the plaintiff's vakeel, it appears, that it has been satisfactorily proved by the plaintiff's witnesses, that the Chermers alluded to in the plaint are the plaintiff's jenmom property; that they having been, by the second marriage of their mother with a Cheroomen belonging to the first defendant, brought up by the first defendant, the younger of them was mortgaged to the first defendant for 32 fanams, being the amount of expenses incurred by him for bringing them up; that subsequently the first defendant mortgaged both the Chermers to the second defendant, and promised to restore them on payment of the 32 fanams, for which the younger of them was mortgaged to him; and the plaintiff's vakeel having produced the mooree granted by the first defendant, acknowledging the receipt of 32 fanams, being the amount of expenses incurred by him for bringing them up, and owing to the defendant's default to attend and defend the suit agreeably to order, the court being unable to ascertain whether their mortgage claim exceeds the amount adverted to, or whether they have any other title to the Chermers in question, it is, as prescribed in the aforesaid section, decreed, that the first defendant do restore to the plaintiff his aforesaid jenmom Chermers, named Revey and Maren, on the receipt of the 32 fanams alluded to in the plaint, and pay costs, rupees 1-2-52.

DECREE of the District Moonsif of Calicut in Zillah South Malabar, dated 15th Edavom 992, or 26th May 1817. No. 96.

(No. 212 of 1817.)

Kupadichrudragatha Oomachakootty, by vakeel *Abaderan Kootty*, versus *Kayatesherry Pametoo Kelloo Pamker* and *Chenoo Pamker*, by vakeel *Kelloo Pamker*;

For the recovery of five Chermers of the jenmom, value of 120 fanams.

IT was stated in the plaint, that plaintiff's father Srangumdragatha Koonjalen had, in the year 948, purchased Poola Chermen Poollaly Vempeon, Chermers Olpooram, Cherookanakee, Cheekee and Kandatee, as well as Chermen Kannen, from Tekoompostoo Kootoossa, native of Chermanoor, and possessed them up to the year 978, when the said Koonjalen having died, she possessed the said Chermers until 991, at which time the said Cheekee having had three daughters, named Chermer Chekee, Cheroo Kanaky and Ayah, and the latter had two children, four of them were, in 987, assigned over to Cherekandy Achamoo, on kanom tenure; that afterwards, in Chingom 991, as the defendants took possession of those four Chermers, as well as the remaining one, the said Achamoo preferred a suit in No. 223 of 1816, in Koondoovatty Moonsif's court against the defendants; that it appearing during the trial that there was a dispute respecting the jenmom right, a decree was proposed, adjudging that the jemomkar should prefer another suit, and prove his right; plaintiff therefore prays, that the defendants may be sent for and caused to give up the said five Chermers.

A notice was issued to the defendants, and which having been received back without the defendants signing it, a proclamation was stuck up on their house and kutcherry, allowing them a period of 15 days. The defendants made their appearance and filed an answer, stating, that their (defendants') karnaven, Rarecha Panikar, had, in the year 948, purchased Paola Chermer Chaker from the aforesaid Srangumdragatha Koonjalen, and which Chermer he married to his (defendant's) Cherman, named Kanen, and while in their employ, the said Chermer had three and the latter had two children, who till now work for him, and for the owner of the Chermans who married them; that when the aforesaid Achamoo preferred a suit in No. 223, regarding the said Chermers, it having been proved that they were the defendants' jenmom, a decree was passed accordingly, that the jenmom deed of the aforesaid Chermer, as well as several other deeds and property, were consumed by fire, when their (defendants') house was burnt down, and which fact they will prove by witnesses.

The plaintiff's vakeel was interrogated. He states, that previous to the Chermers being taken in jenmom, they were held on ottee for 101 fanams; the deed thereof, and an attipar deed of the Chermers are in the plaintiff's possession; that, with the exception of Chermer Paollaly Veerapeen, who died, the remaining five Chermers, with two Parambas, were assigned over by plaintiff's father to defendant's karnaven, Ooney Kooty Panikar, on quit rent, in the year 956; valee (hire in paddy) was given to Chermer Chaker with the defendants' own Chermer, that until 962, she worked for the defendant, and during that time she had three children, and from the said year up to 973, the aforesaid Chermers worked for the defendants, and Pattatel Choyer; and from 973 to 978, the aforesaid Srangumdragatha Achamoo detained the above-mentioned Chermers in his possession; that in 978, after the death of plaintiff's father, the plaintiff assigned the said Chermers on kanom tenure to Srangumdragatha Shayeree for 50 fanams; that of the Chermers which were purchased, five

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five died; that from the year 978 to 983, the Chermers in question were in the said Shayeree's service, and in the latter year, the plaintiff paid off the said Shayeree's claim in the said Chermers, and assigned four of them over to the aforesaid Achooma for 101 fanams; and that whilst they were in his service, until 991, they having gone to Chermen Kanen, who worked for the defendant, he would not let them return.

It appears by the examination taken from the defendants, that they have witnesses to prove the statements made in their answer.

The plaintiff's vakeel cited eight witnesses, of whom, Cherekandy Achamoo, Srangumdragatha Achamoo, and Tekoomportoo Moodeen Kootty, having been sworn, the first deposed, that the said Chermers were assigned over to the plaintiff in 978, on patom tenure, and continued in her service until 981, when she assigned them over to the aforesaid Shayeree on kanom for 51 fanams; that afterwards she held them in 987, on kanom for 101 fanams; and that while they were in her service, up to 991, they went to the defendant's house to see their father. The second witness deposed, that on his maternal uncle, the aforesaid Koonjalen, being informed, that one Oony Kadavata Oony Kaya had brought the aforesaid Chermer Chaker and her daughters, Chaker and Nyah Kooty, from Ramanatkaree to Cheroomanoor, he (Koonjalen) desired him (witness) to bring and keep them; that he brought and kept them with him, at which time, the defendants' karnaven, Ramootty Paniker, said that the said Chermers belonged to him; that he (witness) kept them for two years, and afterwards assigned the aforesaid four Chermers over to Cherekandy Koory; and that in 977 until 987, they were in his service, and that the aforesaid Koonjalen bought the jemnom right of the above-mentioned Chermers in 948. Third witness deposed, that his uncle told him that he had in 948 sold six Chermers to the aforesaid Koonjalen, and that he (witness) knows nothing relative to the transaction between the plaintiff and defendant.

The defendant cited four witnesses, of whom, Neykoonatoo Cherookootty Nair, Palakant Koren, and Panachekel Ramen, having been sworn, the first witness deposed, that he was present when the defendants' karnaven, Raroo Pamkar, purchased a Poola Chermer, named Chaker, from Srangumdragatha Koonjalen, in 948, and which Chermer died in 980, while in the defendants' possession, and that she had three children, named Chakey, Ayah and Cheroo Kanakey, of whom Ayah had a daughter, named Chaker Kootty, and Chaker a son, named Koonjee Kanmen; that the said Chermer Chaker went to her husband in the service of Palakut Kanda Nair, as did Cheroo Kanakey, in the service of Chatretoo Achamootty Markar, and Chermer Ayah, in Panikat Ramen Menon's service; that as their children could not live separately, they remain where their mothers are; that the said Chermers were taken in jenmom in Pollikaut Karoo Menon's house; that an ottee and attipar deeds were executed; that Panikat Tachen Menon had drawn them out; that a value of 65 old fanams was fixed for the aforesaid Chermer, and that he (witness) saw the said sum being paid to Koonjalen, and he affixed his signature to the deed, and gave neer (water given to the purchaser to drink); that when the defendants' house was in 980 burnt down, the box containing deeds was also burnt, and that he does not know whether the Chermers' deeds were also then burnt or not. The second and fourth witnesses deposed to the same effect as the first witness.

On a full consideration of the circumstances, the documents produced by the plaintiff's vakeel, and copy of the decree in No. 223, finds that the defendants have failed to produce the deed by which his karnaven had purchased the aforesaid Chermers from the plaintiff's father, nor has he proved that they were destroyed by fire; and as the plaintiff produced the ottee and attipar deed of the Chermers, which her father had purchased in 948, and, it appearing by the above-mentioned decree that the plaintiff should institute a suit respecting the Chermers, it is decreed that the defendants do give up the Chermers alluded to in the plaint to plaintiff, and pay institution fees, 1 rupee 3 qr. 50 reas.

(Signature of the District Moonsif.)

No. 97.

DECREE of the District Moonsif of Calicut, in Zillah South Malabar, dated the 10th Dhanoo 994, or 23d December 1818.

(No. 167 of 1818.)

Kapudechundragatha Moodeen Kootty versus *Vattikant Emoo Nair*;

For the recovery of two Chermers of the value of 20 rupees and 2 patom rupees.

IT is stated in the plaint that Achamparambata Koonjee Patoomah, Viatoomah Kooty and Oomaya Oomah having, in the month of Midom 992, sold the Chermers named Janien and Vellen to the plaintiff, according to custom he sent people to bring the said Chermers, when the defendant objected and detained them. Plaintiff therefore sues for the recovery of 2 rupees, being patom (rent) for 10 months, together with the two Chermers, of the value of 20 rupees.

The defendant filed an answer, stating that he purchased the Chermers alluded to in the plaint from Achamparambata Avran Kootty, and that he has no reason to give them up or pay patom.

It appears by the evidence, taken on oath, of the plaintiff's witnesses, Valiapedegail Amootty, Poodia Cherrekel, Kaya Keyaportoo, Koonyer Rayen and Kalady Chatoo, that the

the aforesaid women had, in the month of Medom 992, sold the Chermers alluded to in the plaint to the plaintiff for 20 rupees, having come into their possession as shares of their father's property; that no one else has any claim on them, and that they heard that the defendant detained them.

The defendant's witness, Vadakepadasherry Ittikoomaren Chekoo, having been sworn, deposed, that he heard that one Chervavatoo Avooderan Kootty sold the aforesaid Chermers to the defendant; that of the aforesaid Cherners, the one named Tanien was the jenmom of the said women, who sold him to the plaintiff; and that the other, named Vellen, belonged to Avooderan Kootty.

On a full consideration of the above circumstances and the evidence of witnesses, it seems clear that the aforesaid females had sold the two Chermers alluded to in the plaint to the plaintiff; that they were his exclusive property; and that Avooderan Kootty, who sold them to the defendant, has no right to them.

The defendant's witness deposes, that he heard that Chermer Tanien was the jenmom of the aforesaid females, and Vellen that of Avooderan Kootty; beyond which it not having been proved that the latter, who sold the Chermers to the defendant, had any right to them, the defendant could not have bought them from him; and therefore the assertion, that the Chermers were purchased from the said Avooderan Kootty, not being of any avail, it is decreed that the defendant do give up possession of the two Chermers alluded to in the plaint, of the value of 20 rupees to plaintiff, and pay patom 2 rupees, together with the institution fee, rupees 1-1-50.

(Signature of District Moonsif.)

DECREE of the Calicut District Moonsif, in Zillah Malabar, No. 19 on the file of 1825. No. 98.

Paodeacherrakel Oossen Cooty versus *Kanaken Kerran*, residing in Edamana Tayata.

PLAINT sets forth, that in Edavom 997, plaintiff delivered to the defendant a white-coloured bullock to be broken in for the plough, which defendant not having returned, the suit is for the recovery of the bullock or its value, rupees 8-3 qr.

Defendant in his answer states, that in 997 the plaintiff's elder brother, Kaya, delivered to him (defendant) a red young bullock, which was vicious, to be broken in for the plough; that another young bullock belonging to himself having been stolen from him (defendant), he told Kaya to take away his bullock, lest it should also be stolen; that he replied that no one would steal it, adding, that it might be tied every evening in his stall; that notwithstanding this precaution the bullock was stolen; and that Kaya said, that if it could not be discovered who had stolen the bullock he did not mind for the loss.

Neither the plaintiff nor defendant filed any document in this case.

Chernata Amod and Culpaye Chundoo Cooty were examined as witnesses for the plaintiff; the examination of another, the remaining witness, was not considered necessary.

The defendant cited no witness; the proceedings were therefore closed.

On a consideration of this suit, the court finds the defendant has fully admitted having received the bullock adverted to in the plaint, for the purpose of having it inured to the plough; his allegation that it was stolen is not proved; even if the bullock were stolen, it must have been through the defendant's carelessness, and he must consequently be answerable for it, and pay its value; but the price demanded for the bullock appears to be high, nor has the plaintiff proved its actual value; and as it cannot exceed three rupees, it is adjudged that the defendant do either restore to the plaintiff the plaint bullock or pay him three rupees, its value.

Given under my hand and the seal of the court, this 17th Medom 1000, or 28th April 1825.

(Signature of the Moonsif.)

DECREE passed by the Calicut Moonsif, in Zillah Malabar, on the 4th Wreschigom 1001, or 17th November 1825. No. 99.

(No. 404 of 1825.)

Koloor Rarechen, by Vakeel his son *Kelloo*, versus *Pelakatmoolampully Kelen*, alias *Koonjen*.

THE plaint sets forth, that in Medom 999, defendant executed a bond in plaintiff's favour for 14 rupees, pledging his four jenmom Chermers to him, viz., Cheroomen Ikkachen, Chermer Kanaye, Chermer girl, Teraree, and Chermer girl, Payaokaye. He therefore claims the principal, with interest up to the date of the institution of the suit, in Chingam 1000, rupees 2-1-52; total, rupees 16-1-52; or to cause defendant to make over to him the aforesaid Chermers, valued at 25 rupees, as set down in the bond, by receiving from him rupees 8-1-48, being the balance due to him after deducting his debt.

The defendant signed the notice issued on the 23d August 1825, but, not appearing, the cause was tried *ex-parte*, according to section 20, Regulation VI. of 1816.

The bond produced by plaintiff was filed and marked (A.); and the witnesses, Kandil Peragan, Kandil Chundoo Cooty, Illumbarambie Vappoo and Sepoy Karoo, were examined for the plaintiff.

On a consideration of this case, the court finds that it has been proved, both by oral and documentary evidence, that the defendant had, as set forth in the plaint, executed the bond in plaintiff's favour, pledging the Chermers to him; and the defendant not having attended and

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and stated any thing in opposition thereto, and it appearing that further than his having still retained possession of the pledged Chermers he has not in the least fulfilled his engagement, the court considers the defendant liable to pay the amount sued for. For these reasons, the defendant is adjudged to pay plaintiff the amount sued for, rupees 16-1-52, and costs, rupees 2-9-4.

(signed) *Kamaren Nair*, Moonsif.

No. 100. DECREE passed in the Calicut District Moonsif's Court, in Zillah Malabar, on the 17th Dhanoo 1002, or 30th December 1826.

(No. 387 of 1826.)

Poolikellayata Caya Moodeen versus *Tailatatil Coonjolen* and *Oony Athen*;

For the recovery of Chermer Parecher, valued at 31 fanams.

THE plaint sets forth, that the defendants having fixed 35 fanams as the price of a Chermer girl, named Parecher, their jenmom (slave), on the 29th Chingam 999, they received 25 fanams, and executed a deed binding themselves to pay the amount in 1001 kanee, and, on failure, to receive the remaining 10 fanams, and give up the Chermer in jenmom to plaintiff; that as defendants have not fulfilled their engagement, plaintiff begs that they be caused to receive the balance, and transfer the Chermer in jenmom.

The defendants signed the notice issued to them, on the 25th August 1826; but they did not attend nor file answer. The deed produced by the plaintiff, as executed by the defendants, having been marked (A.), is filed of record, and the plaintiff's witnesses, Chenas Nair, Coonjy Camod, and Coonjaly Cooty, were examined.

On a consideration of this case, the receipt of 25 fanams by the defendants, after fixing the value of the Chermer, and the execution of the deed in plaintiff's favour, are found to be fully proved by witnesses; and, as defendants have not attended to point out any difference in their evidence, the case must be considered a true one. It does not, however, appear that the Chermer was actually given in jenmom, but only a promise made in writing to do so; the Chermer cannot, therefore, be caused to be given up as claimed. On the above grounds it is decreed that the defendants do pay to plaintiff 25 fanams mentioned in the deed, with 7 fanams interest thereon to the date of this decree, and also pay institution fees 11 annas and 3 pice.

(signed) *Kamaren Nair*, Moonsif.

No. 101. DECREE passed in the Calicut District Moonsif's Court, in Zillah Malabar, on the 9th Magarem 1002, or 30th January 1827.

(No. 360 of 1826.)

Manatoor Imbechoony Nair, by Vakeel *Ooni Chaten*, his heir, versus *Moolamangalata Keloo*, and *Tatacooyel Camoo*;

For the recovery of a Cheroomen, valued at 40 fanams.

IT is set forth in the plaint, that in Medom 997, plaintiff purchased from second defendant the jemom right of the Poola Cheroomen Tamen, of Poolayi Coodiar caste; but the first defendant refuses to give him up by receiving the 21 fanams otte claim he has upon the Cheroomen; he therefore sues for the said Cheroomen, valued at 40 fanams, on the payment of 21 fanams.

First defendant in his answer states, that there is no reason for giving up the Cherman to plaintiff; that after he had received the Cheroomen on otte tenure for 21 fanams from the second defendant, Permgot Imbichy Nair, a distant relation of second defendant, opposed the Cheroomen being taken possession of; that he mentioned the circumstance to the second defendant, and by his permission paid 15 fanams to Imbichy Nair, and obtained a deed of otikoomporom; that the second defendant offering to give the Cheroomen in jemom, he purchased the jemom right of that Cheroomen and two others, in the name of plaintiff, his karnaven retaining the former in his own service, while the two others were employed on the works of his and plaintiff's family; and that the suit has been preferred with the fraudulent intention of breaking off his connexion with regard to the family property.

Second defendant signed the notice, but did not appear and file answer; but as he attended at the time of the trial, he was interrogated, it being desirable to have his answer in this case. He admits that he had sold the jemom right of the Cheroomen to the plaintiff, and of his having given him on otte to the first defendant; adding, that he and Imbichy Nair are not relations by blood, but only related in that degree as to observe mourning for a short time; that Imbichy Nair has therefore no right to transfer the Cheroomen for debt, and that he was not aware of such a transfer.

Plaintiff filed an enuck (transfer writing). First defendant filed a deed of otte, and a debt bond; and they were marked (A.), (B.) and (C.); and Rama Putter, Ramen Nair, Comoo Nair and Itterarappen Fair, were examined as witnesses for plaintiff; and Chatoo Nair and Caroo Nair were examined as witnesses for first defendant.

Second defendant adduced no evidence.

On a consideration of this case, it appears clear from the plaintiff's and defendants' own statements, that the plaintiff bought the jemom right of the Cheroomen sued for, and that the

the first defendant has an otte claim on him. But his declaration, that he had taken the Cheroomen on jemom, in plaintiff's name, is not at all proved; and his allegation that he had paid 15 fanams to Imbichy, an ananteraven (heir) of first defendant, as a separate debt on the Cheroomen, is denied by the second defendant, who was the jemer owner of the Cheroomen. Nor is it proved that the said Imbichy has any right to receive money or make transfer. If he has any claim on the family property, he must bring an action for it. The first defendant's assertion cannot therefore be accredited. For these reasons it is decreed, that on the plaintiff paying to first defendant 21 fanams otte claim, he is to give up the plaint Cheroomen to plaintiff, and pay institution fees, 11 annas and 3 pice. The second defendant is not to pay any thing.

(signed) *Camaren Nair*, Moonsif.

No. 102.

DECREE of the Calicut District Moonsif, in the Zillah of Malabar, passed in the 6th Koombhom 1002, M. S., or 16th February 1827.

(No. 419 of 1826.)

Paddelodayil Nainama versus *Chemalacherry Oomchen Koorpoo, Cherookomen Koorpoo, Kanara Koorpoo* and *Chopah Koorpoo*;

For the recovery of Cheroomers, of the Jenmom, value of 125 fanams.

THE plaint states, that of the plaintiff's jenmom Cheroomars, a Poalah Cheroomer, named Rayi, was given in marriage to a Poalah Cheroomer, named Ikul, the jenmom of the defendants, and after the usual sum was paid to the plaintiff's father, the Cherooman took away his wife, and the Cheroomer bore five children; that, by the right plaintiff has to the mother, he is entitled to three of her children, viz. a Cheroomer, named Parrachy, and two Cheroomars, named Chatoo and Arathan, valued at 125 fanams, which he begs may be recovered.

All the defendants jointly answered, but admitted nothing stated in the plaint. They contend that, as the Cheroomer was not taken away, the plaintiff can claim no right to the Chermers sued for; that the Chermer, named Rayi, stated in the plaint, was married by one of the Chermers, Kelly, and according to custom a certain sum was paid to Avelery Karen, and the Chermer was brought away, and she bore the Chermers sued for; the plaintiff has no right on them; that he made a representation in the Calicut talook kutcherry respecting them.

The parties in this suit filed no documents. The plaintiff's witnesses, Kaonoomel Echoo Nair, Nanagan Konnokur, Taykandy Chandoo Nair, Cherooman Mootoran Chaten and Kandil Chandoo Caotty, have been examined. The defendants adduced no evidence, nor attended at the trial of this suit.

Having considered the proceedings held in this suit, it appears in the examination held, that the plaintiff has right on the Cheroomars and their mother; but on the other hand it appears, in the defendant's answer, that Kanden, who is therein alluded to, has right to the said Chermers, and that it also appears that there is a dispute with him regarding them; to decide which, unless he is admitted as a defendant, a final decision cannot be passed; this suit is therefore dismissed, and the plaintiff is to pay the institution fee, 1 rupee 15 annas and 3 pice.

(signed) *Camaren Nair*, Moonsif.

No. 103.

ABSTRACTS of Decrees transmitted by the Assistant Judge and Joint Criminal Judge of Malabar, with his Report dated 6th August 1836, selected from 242 decrees* on record, whereby rights in Slaves have been decided on.

DECISIONS by the Judge, Zillah North Malabar.

1. Original Suit, No. 452 on the Old File;

For recovery of 230 rupees 4 annas and 2 pie, being balance, principal and interest due on 147 rupees and 8 annas advanced on the security of four slaves.

THE defendant admitted the transaction, but pleaded that he had paid more than had been allowed in the plaint.

A decree was passed, adjudging the plaintiff 171 rupees 3 annas and 2 pie, being the balance shown to be due after giving defendant credit for the sums which he proved he had paid.

12th January 1807.

2. Original Suit, No. 653 of 1815;

No. 104.

For recovery of cattle, copper-pots and fields, valued at 570 rupees; and of 6 slaves, at 90 rupees.

THE defendants pleaded that the property sued for was personally acquired by them. The plaint was dismissed for want of proof.

12th December 1816.

3. Appeal

* *See* No. 65, *infra*.

Appendix IX.

Reports.

3. Appeal Cause, No. 15 of 1818;

For recovery of rupees 5-3-2, being rent due on two slaves, and for possession of the said slaves.

No. 105.

THE defendant pleaded that the slaves were his ancestral property.

The moonsif on examination decreed for the plaintiffs, which judgment was reversed on appeal, on the appellant (defendant) taking his oath to the truth of the plea.

25th July 1820.

BY the Assistant Judge, Auxiliary Court, Malabar.

No. 106.

4. Appeal Cause, No. 56 of 1827;

For possession of six slaves, received first in mortgage, and afterwards purchased outright by plaintiff from the head of the family of the first and second defendants, which, together with two children, the offspring thereof, had been stealthily appropriated by third defendant; the value of the above eight slaves being stated at 150 rupees.

THE first defendant failed to appear to defend the suit. The second defendant answered in support of the plaint. The third defendant contested it by declaring the slaves to be his ancestral property.

The sudder ameen pundit, after hearing evidence on both sides, decided in favour of the plaintiff, and this decree was confirmed on appeal.

30th December 1829.

BY the Register of the Zillah North Malabar.

No. 107.

5. Original Suit, No. 3,803 on the Old File;

For recovery of eight slaves, of the value of 120 rupees, forcibly taken possession of by the defendant, and of that of their labour for two years, being 10 rupees 4 annas and 10 pie.

THE defendant pleaded that the slaves were his own property.

The plaintiff having failed to afford sufficient proof of his proprietary right to the slaves, the suit was dismissed.

7th September 1808.

No. 108.

6. Original Suit, No. 285 of 1817;

For possession of fields and slaves attached thereto, on payment of 602 rupees advanced on mortgage thereof by first defendant, and of 600 similarly advanced by second defendant.

FIRST defendant pleaded, that, beyond the amount of his mortgage, he had paid afurther sum, and thus became vested with the proprietary right of certain fields and slaves by purchase outright.

Second defendant failed to appear.

The first defendant's plea having been disproved, possession of the lands and slaves was decreed to be made over to plaintiff, on his making good the sum sunk thereon by the defendants in mortgage.

17th January 1818.

No. 109.

7. Original Suit, No. 35 of 1814;

For recovery of four slaves of the value of 80 rupees, and rent thereof, for three years, 21 rupees 9 annas 7 pie, the said slaves having been retained by the late senior in defendant's family, after the sum of 50 rupees, raised on them by mortgage, had been repaid.

THE defendant denied that the amount of the mortgage had been received back, and claimed that the slaves should remain in his possession.

On proof that the amount of the mortgage had been repaid, possession of the slaves was decreed to plaintiff.

15th May 1818.

BY the Sudder Ameen.

No 110.

8. Original Suit, No. 70 of 1814;

For recovery of eight slaves of the value of 64 rupees, the property of a pagoda, seized and sold by first defendant to second defendant.

THE first defendant did not appear.

The second defendant pleaded that the slave had been lodged in his possession by an individual, to whom he had been sold by first defendant.

The