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The plaintiff having proved the slaves to be the property of the pagoda, of whose concerns he was the manager, possession was decreed to him.
30th April 1816.

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9. Original Suit, No. 503 of 1815 ;

No. 111.

For recovery of four slaves of the value of 40 rupees, being the issue of a female slave, the property of the plaintiff, married to a male slave belonging to the defendants, and taken forcibly by defendants from the person to whom they had been rented by plaintiff.

DEFENDANTS denied the truth of the plaint, and pleaded that the slaves were their ancestral property, and had been long in their possession.

The plaintiff having established his title, and that he had been in the enjoyment of the produce of their labour, possession of the slaves was decreed to him.

24th June 1816.

10. Appeal Cause, No. 144 of 1825 ;

No. 112.

For recovery of 25 rupees, being the amount sunk on the mortgage of a slave who had died while in the possession of the plaintiff (mortgagee), and of 26 rupees 6 annas, the equivalent of his labour lost since the time of his death.

DEFENDANT declared that he had repaid the mortgage-money.

The defendant not having made good his plea in opposition to the evidence for plaintiff, a decree was passed by the moonsif according to the plaint. This was reversed on appeal from discrepancies being apparent in the evidence for the prosecution.

29th August 1825.

11. Appeal Cause, No. 284 of 1825 ;

No. 113.

For recovery of two slaves valued at 45 rupees, rented to defendant, and for arrears of rent at rupees 1-3-2 per annum, amounting with interest to rupees 17-11-2.

DEFENDANT denied plaintiff's title, and pleaded purchase of the slaves from a third party.

The moonsif, considering the evidence advanced by plaintiff to have established his title, passed a decree in his favour, which was reversed on appeal, owing to contradictions apparent in the statements of the witnesses for the prosecution.

26th January 1826.

By the Commissioner of Bekal.

12. No. 15,012 on the Old File ;

No. 114.

For recovery of 10 rupees, with interest, rupees 5-3-2, advanced on the security of a slave.

THE defendant having admitted the debt, a decree was passed for the amount sued for.

27th March 1811.

By the Commissioner of Cavye.

13. No. 12,614 on the Old File ;

No. 115.

For recovery of rupees 20-2-7, due on the rent of two slaves for six years.

THE defendant denied the plaintiff's title, and pleaded that he had purchased the slaves from a third person. On proof of the plaintiff's right, the sum sued for was decreed to him.

28th October 1810.

14. No. 1,163 of 1813 ;

No. 116.

For recovery of rupees 38-6-5, advanced on the mortgage of a slave ; of rupees 12-9-7, expended for his food and clothing ; interest thereon, rupees 9-13-8 ; and of rupees 3-12, due on simple debt.

THE defendant did not appear.

A decree was passed in favour of plaintiff, on the proof adduced by him.

27th February 1814.

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By the Commissioner of Cherricul.

No. 117.

15. No. 774 of 1813 ;

For recovery of five slaves, and the deeds connected therewith, on repayment of 16 rupees, sunk by defendant on the mortgage thereof.

THE defendant pleaded that the amount advanced on the mortgage was 44 rupees.

A decree was passed, that the slaves and deeds should be made over to plaintiff, on his making oath that he had received no more than 16 rupees on the mortgage thereof, and paying that sum to defendant.

3d May 1813.

By the Commissioner of Catteryom.

No. 118.

16. No. 10,987, Old File ;

For recovery of two slaves of the value of 30 rupees, whom the defendant had forcibly detained, and of 21 rupees, being value of their labour for seven years.

DEFENDANT pleaded that he had received the slaves on mortgage from another person for 6 rupees.

Proof having been adduced of the slaves being the property of the plaintiff, a decree was passed in his favour.

19th March 1810.

By the Commissioner of Wynaad.

No. 119.

17. No. 9,756, Old File ;

For recovery of a slave who had absconded to the defendant, and on whom the plaintiff had a mortgage right of 20 rupees.

DEFENDANT pleaded that he had purchased the slave from a third person. The defendant's plea having been proved, the plaint was dismissed.

19th July 1809.

No. 120.

18. No. 11,461, Old File ;

For recovery of four slaves of the value of 80 rupees, whom the defendant had taken forcible possession of.

THE defendant pleaded that the slaves were his own property.

The plaintiff having established his right, a decree was passed in his favour.

27th February 1810.

By the Caye Moonsif.

No. 121.

19. No. 79 of 1823 ;

For recovery of rupees 1-3-2, and interest thereon, 14 annas 9 pie, due as the rent of a slave for one year.

DEFENDANT pleaded that no rent was due, as possession of the slave had been immediately resumed by plaintiff.

It being proved that defendant had the use of the slave for one year, the amount sued for was decreed to plaintiff.

24th March 1824.

No. 122.

20. No. 215 of 1823 ;

For recovery of rupees 160-3-2, advanced on the security of four slaves, and of 8 rupees, being interest thereon for one year.

THE defendant put in no answer, and a decree was passed for plaintiff on the proof of his claim.

29th May 1824.

No. 123.

21. No. 375 of 1831 ;

For possession of four slaves purchased from the seventh defendant, for 60 rupees.

THE defendants, from first to fifth, pleaded that they held possession of the slaves as ancestral property, and that seventh defendant had no title therein.

The

The sixth defendant pleaded that he had a mortgage upon one of the slaves of 581 dungalies of paddy (17 rupees and 8 annas), derived from first defendant.

The seventh defendant answered in support of the plaintiff.

The suit was dismissed, the plaintiff not having adduced sufficient evidence of the seventh defendant's title to sell him the slaves.

31st March 1832.

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By the Wynaad Moonsif.

22. No. 58 of 1831 ;

No. 124.

For recovery of three slaves purchased by plaintiff from third defendant for 50 rupees, who had absconded to the first and second defendants, and of 48 rupees, being the equivalent of their labour for two years.

THE first defendant denied the truth of plaintiff's claim, and pleaded that he had received the slaves from third defendant, on mortgage, for rupees 40-3-2, and had subsequently purchased them outright for rupees 9-12-10 additional.

The second defendant failed to appear.

The third defendant stated, that he had mortgaged the slaves to first defendant for rupees 40-3-2 ; that, to provide for the satisfaction of a decree, he had passed a deed of sale of the same slaves to the plaintiff, but that an acquittance for the decree not having been produced, the transaction had become null, and he had sold them outright to first defendant.

The sale made to plaintiff was declared to be void, as it had been effected by third defendant without the concurrence of his heirs, and as the mortgagee (first defendant) had not been apprized thereof. The plaintiff having proved that the purchase-money had been paid by him, the sum thereof, 50 rupees, and the further sum of 48 rupees, sued for, were decreed to be made good to him by third defendant.

21st October 1831.

No. 42 of 1834 ;

No. 125.

For recovery of 30 rupees, on account of the rent of two slaves for five years.

THE defendants pleaded that the slaves were their ancestral property. The plaint was dismissed, as the plaintiff had failed to produce a counterpart of the lease of the slaves, said to have been granted to first defendant.

(True abstracts.)

(signed) *T. L. Strange,*

Assistant Judge.

23d May 1834.

DOCUMENT concerning Slaves recognized in different Civil Causes.

NO. 1. DEED OF SALE,

No. 126.

EXECUTED on the 14th Meddam 992, by Namboory Narayanan Eshwaren, of Pallytarra Vayil, to Padamoolata Ponan Padoonal Killoo Kanen, certifying having sold to the latter his proprietary right in the Polayun slaves, Viroondan, Virootan, Pattyam, Paravatty Vellachy (a female), her daughter Vita Carichy (a female), and her daughter, also Vellachy, the mother of the above, being nine in number, for full value received.

Witnesses :—

Pootondil Poodia Veettil Collangara Eshwaran Cammaren.
Cherrootoor, Padamoolata Mawiddel, Ramen Coran.

Written by Cherrootoor Cariparambally Kewalat Cambycanan Namby Oocaren.

NO. 2. DEED OF MORTGAGE,

No. 127.

WRITTEN in the month of Dharoo 990 (January 1815), as follows :—Padamoolata Ponan Killoo Kanen, of the village of Cherrootoor, having paid the sum in full of Cannanore Vera Rayea, 535 new fanams (107 rupees), and Caddama Para Pallytara Vyalil Namboodry Madhawan Narayanan having received the said sum of 535 fanams, the latter has made over in mortgage the nine following Polayan slaves of the Orimoori tribe, out of those he holds in his proprietary right ; viz. Viroondan, Maratan, Vattyan, who has attained the age for having his ears bored, Vattacaty, a child, Vellachy, a female, a daughter born of her, Carichy, a female, her daughter, being in number eight slaves ; as also Vellachy, the mother of the aforesaid eight slaves, making in all nine persons mortgaged by Madhawan Narayanan. Kelloo Cannan has paid in full the said sum of 535 new Cannanore fanams (107 rupees), and has received in mortgage the aforesaid nine slaves, consisting of males, female-

Appendix IX. females and children. The witnesses hereto are, Cheerapally Eeswaren Keshawen, and
Returns. Cayoor Cheryenmadatha Vengail Cannen Ramen. Written by Abbily Tekullatta Kishawen
Shangaren.

(Signature.)

No. 128.

No. 3. LEASE,

WRITTEN by Cananjairy Ryrapan, of Canote, to Narycoddan Chatoo, inhabitant of Canote. You have rented out to me in the year 1003, the slave named Cayama, whom you received under proprietary right from Perar Veettil Chindan. The rent of this slave is two podies of paddy annually, which I will pay and take a receipt for the same.

2d Coombhoom 1003.
12th February 1828.

(Signature.)

No. 129.

No. 4. ACCOUNT,

WRITTEN on the 24th Meenom 987 (4th April 1812.) Kandakye Kellote Coottyator Anandan has borrowed from and owes to Cattambally Moomanan Pookar 623 standard, sealed seer dangalies of paddy. The price of which, 623 seers of paddy, being 112½ fanams, rupees 22-7-34, is to be repaid in (the month of) Tulam 988, by 800 seers of paddy, being at the rate of 28 rupees (per 1,000 seers). It is agreed that these 800 seers of paddy are to be conveyed by Pookar's boat, and delivered, by measurement, at the Candakey ferry. In security for this, Ananden has pledged his Polayam slaves, Parotty, Vichadem (males), and Chingarri and Oorootty (females). In case the above-mentioned paddy be not delivered, the slaves aforesaid are to be sent for, and to be made to work on account of the interest of the paddy.

(Signature of *Ananden*.)

Witnessed by Arakee Pally Anandan, the writer hereof.

No. 130.

No. 5. DEED OF TRANSFER,

By Parrangol Illatta Narrayan, Numbiddy Atchen Poodyettalla Cowillambaran Ramen Nambayar.

The Nambayar owes me 75 silver fanams (15 rupees), on a deed executed on the 29th Meenom 1006 (10th April 1831), for which he mortgaged his Pannyan slave, Caroomaten, the amount of which deed, with interest, has not been paid to this day. Therefore the above sum being 75 fanams, bearing interest up to this day 9½ fanams, together 84½ fanams, deducting wherefrom 4 rupees (20 fanams), paid in the month of Meenom, on account of the Nambiar, by Koordypraven Kellapen, the balance due to me by the Nambiar, on account of principal and interest, is 64½ fanams, which, together with the deed, executed to me by the Nambiar and this writing, I have made over to Taliyil Padingara Veettil Krishnan of Koottiyady, in discharge of my debt to him, for payment of which he has been pressing me. If that deed and this writing are received from Krishnan, and the sum of 64½ fanams, is paid to him, I shall be satisfied.

29th Edavom 1007.
9th June 1832.

(Signature.)

No. 131.

No. 6. L. S. SUNNUD,

GRANTED by the district moonsif of Wynaad to Metile Madatil Soorgaun Putter of Vaingattery Gramom, in the Nallonaad Deeshom.

On the sale by auction of the property of the defendant, Colly Kooa Cooppatodda Chandoo, attached in execution of the decree in cause No. 117 of 1833, on the file of this court, passed against him in favour of the plaintiff, Devesha Nurrana Putter, three slaves, named Onnan, aged about 45 years, Coodhookan, aged 40 years, and Carroopan, aged 18 years, being in the proprietary right of the defendant, were purchased by you, on the 27th Tulam 1011 (11th November 1835). The deposit of 15 per cent. of the purchase money, rupees 11-11-2, having been delivered by you to the ameen, on the 13th November, and the balance, rupees 66-4-10, having been paid by you into this court, on the 23d December, making together 78 rupees, this sunnud is granted to you under the seal and signature of this court, in order that you may from henceforth have the same possession and use of the said slaves as has been enjoyed hitherto by the defendant.

12th Cumbhom 1011.
22d February 1836.

(signed)

Ramayen, Moonsif.

No. 132.

FROM the Secretary to the Indian Law Commission to the Acting Register Sudder Adawlut, Madras, dated the 10th August 1839.

THE attention of the law commission has been drawn to a case which, it appears, was under the consideration of the court of Sudder Adawlut in their proceedings, under date 31st March 1837, in which, according to the note printed in Mr. G. L. Prendergast's compilation of

of the court's orders, "the Sudder Adawlut informed the zillah judge that he may properly refuse to do more than has been already done by the courts, viz., authorize a sale of slaves with the estate or land to which they belong;" and being desirous to obtain all the information they can bearing on the question, whether or not the agrestic slave is liable to be sold separately from the land to which he has been attached from birth, they request that, with the permission of the judges, you will furnish them with a copy of the court's proceedings in the case referred to, and a copy of the proceedings of the provincial court, and the reference from the zillah judge, which the court had under consideration, and that you will be so good as to transmit them to this office as soon as possible.

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FROM Mr. G. Bird, Judge, Zillah Court, Canara, to the Register to the Provincial Court of Appeal, Western Division, Tellicherry, dated 17th January 1837. (This was forwarded in the letter of the Register, Madras Sudder Adawlut, dated 26th August 1840, in consequence of the foregoing. It had been obtained through the Provincial Court of the Western Division.)

No. 133.

I HAVE the honour to request that the accompanying copy of an original and appeal decree, the application for special appeal, together with my reasons for admitting that special appeal, may be forwarded for the opinion of the judges of the court of Sudder Adawlut, inasmuch as I consider it doubtful whether I should be justified in allowing the award to be carried into execution.

DECREE passed by the Barcoor Moonsif, in Original Cause, No. 126 of 1835, on the 29th July 1835.

No. 134.

Hossamunay Manddawanna Shetty, residing in the Hondady Village, and *Brumawhar Mogany*, in the Barcoor Talook, versus *Seevy Shetty*, his younger brother, *Honniya*, both nephews of *Hossamunay Pomma Shetty*, and younger brothers of *Soobbiya Shetty*, residing in the said Hondady Village, and *Bennaycoodra Krooshna Shetty*.

THE plaintiff in his plaint states, that the first and second defendants' elder brother, *Soobbiya Shetty*, on the 8th Ashweeja Bahoola of the year Veya, mortgaged to him, for 2½ hoons, his two slaves, viz. a female Dher, named Honnoo, and a male Pardeshey, together with their offspring, and made them over to him; that while they were in his possession, *Soobba Shetty* died, and the first and the second defendants succeeding to his (*Soobba Shetty's*) property, they further executed a document to him for hoons 4-8-12, on account of a balance against themselves of rice, &c., making a total mortgage on the slaves of hoons 7-3-12; that the third defendant attached the aforesaid slaves, as also their children, which are his (plaintiff's) mortgage right, for an alleged amount of a decree obtained by him against the above-mentioned *Soobbiya Shetty*; that as the mortgage amount of 2½ hoons was alone admitted, and the hoons 4-8-12 received by the first and second defendants executing the above document were denied, he (plaintiff) was ordered to institute a suit; that he therefore brought this for the release from attachment of the following slaves, being his mortgage right, viz. a female Dher, named Honnoo, valued at ten rupees, a male Pardeshey, valued at six rupees, together with two little children born of the aforesaid Honnoo, and worth four rupees, viz. *Sanuyaroo* and the other *Panchoo*.

The first and second defendants, in their answer, admit that their elder brother, *Soobba Shetty*, mortgaged to the plaintiff the aforesaid slaves for 2½ hoons, but deny their having executed the documents to the plaintiff for a further sum of hoons 4-8-12 on the mortgage of the said slaves, or having received from him any thing, and assert that there was no reason to mortgage slaves of less value for a high amount; that the plaintiff, in the month Kartingul of the year Jaya, preferred a magisterial complaint against the second defendant regarding the slaves, in which complaint he (plaintiff) only mentioned the circumstance of *Soobba Shetty's* mortgage bond, but made no mention of the document said to have been executed by them; that if they had really executed such a document, the plaintiff would have, of course, mentioned it in the complaint, and that nothing is therefore due from them to the plaintiff.

The third defendant in his answer states, that as the slaves attached by him were really mortgaged to the plaintiff for 2½ hoons, he admitted it in the arzee presented by him for attaching the property; that the plaintiff has fabricated a document as being executed by the first and second defendants for a further sum of hoons 4-8-12, but that it is not a real one; that therefore the said slaves should be put up to sale in satisfaction of the amount of his decree, and the amount decreed paid to him from the remaining amount of proceeds, after paying to the plaintiff the sum of 10 rupees due on account of the first and second defendants' ancestor *Soobbiya Shetty's* mortgage.

The plaintiff filed the following document, viz. one, a document on plain paper, purporting to have been executed to the plaintiff by the first and second defendants, under their signatures, on the 2d Shrawuna Bahoola of the year Veya, in the handwriting of *Anna Shetty*, and under the attestation of *Chickiya Shetty*, *Antaya Shetty* and *Seevoy Bhundry*, stating that "accounts having been adjusted this day, of the rice and cash formerly received by us from you, four hoons are due; this amount, as also hoon 0-7-8, the value of two mooras of rice received by us this day, together with ready cash hoon 0-1-4, total hoons

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4-8-12, we engage to pay you by the 30th Mauga Bhol of this year, together with interest thereon, and if we should fail to make good the amount by that period, we again bind ourselves to pay the said sum of hoons 4-8-12, with interest thereon, by the 8th Aswuja Bahoola of the year Veya, when we would redeem the mortgage bond executed to you by my elder brother, Soobba Shetty, for the slaves, and to get back this document and redeem the slaves."

The plaintiff cited the aforesaid four witnesses to prove that the said document was executed by the first and second defendants.

The defendants represented that they had no evidence to adduce to disprove the document.

Subsequently, the first and second defendants presented an arzee, stating, that if the plaintiff should take the oath called "aghera prumuna" before the Mudkarry Somanatha Idol of Barcoor, to the effect that the document in question was really executed by them and not fabricated, they were ready to pay the whole amount, or that they would take their own oath at the place appointed by the plaintiff, to the effect that the document was not executed by them, or that if the plaintiff should refuse to the decision of the suit on the oath of either party, his (plaintiff's) witnesses might be examined on the oath "aghera prumuna" before the said idol, with their examinations before them.

Regarding this proposal, the plaintiff and the third defendant being questioned, the latter stated, that he was unwilling to abide by the plaintiff's oath, and the plaintiff said that as he had documental and oral proof, it was unnecessary for him to take such an oath as the one proposed by the first and second defendants, and that he was unwilling to get the suit decided by their (first and second defendants') oath. The plaintiff's witnesses in attendance, viz. Anna Shetty, Suvoy Bhundry *alias* Seevoy Shetty, Antoy Shetty, and Chickiya Shetty, being informed of the proposal of oath made by the first and second defendants, they declared that they would depose to the circumstances within their knowledge, taking their oath in the kutcherry itself, but that it was unnecessary for them to go and take their oath at the dewusthan. For this reason, an oath was administered to the said four persons in the kutcherry, as usual, and they were examined.

On consideration of the proceedings of the case, the moonsif proceeds to give the following decision:—

The first witness, the writer of the document in question, and the second, third and fourth, the attesting witnesses thereof, depose on oath, that on the date of the document, the first and second defendants made a verbal adjustment of accounts at the house of Chinniya Shetty, before them, with the plaintiff, and with their own free will executed to him (plaintiff) the document in question, on the pledge of the aforesaid slaves for four hoons, that appeared against them, as also for three rupees, the value of two mooras of rice, which they said they would receive that day, together with half a rupee, total hoons 4-8-12; that the first and second defendants said they intended to receive the two mooras of rice and the half rupee mentioned in the document, and the plaintiff that he would give the same on going home; and that the plaintiff accordingly went to the house along with the first and second defendants. Therefore the execution of the document in question by the first and second defendants to the plaintiff appeared to have been satisfactorily proved by their evidence. The fourth witness alone deposes to his having seen the plaintiff give to the first and second defendants, from his house, the two mooras of rice, and ready cash hoon 0-1-4, mentioned in the document; but as the remaining three witnesses did not see the same, the evidence of the fourth witness alone is not to be admitted. Yet the said four witnesses having deposed consistently to the defendants' having admitted the four hoons mentioned in the document in question as being due on former dealings, and executed the document, there appeared no reason why the item of the said four hoons should be disbelieved, merely in consequence of there being no satisfactory proof to the payment of the two mooras of rice and half rupee. As the third defendant who attached the slaves, the subject of this plaint, refused to the proposal of oath, and failed to make any representation as to the plaintiff's witnesses being caused to take their oath in the pagoda, and as all the three defendants stated that they had neither documental or oral proof to disprove the document in question, the plaintiff's claim appeared valid. With regard to the statement made by the defendants in their answer, that it was not usual to obtain on mortgage slaves of less value for a high sum of money, the plaintiff and the said defendants being examined, the former stated, that as the first and second defendants have no property, and as all the children which would be born of them would remain as a pledge for his mortgage amount, he obtained on mortgage the slaves, though of low value, for a high sum. The defendants admit that all the children the slaves under mortgage may bear remain as a pledge for the mortgage amount, and that the first and second defendants have no property; therefore, the fact of the plaintiff's having obtained on mortgage the slaves of low value for a higher amount does not appear improper. With regard to the statement made by the defendants, that the plaintiff did not mention the document in question in the magisterial complaint, the plaintiff being questioned, he represented that the said complaint was on account of an assault; that the aforesaid first and second defendants having admitted the mortgage before the magistrate, the slaves were ordered to be returned to him by the magistrate, and that he did not think it necessary to make any particular mention of the document in question in that complaint, which was preferred for his being forcibly dispossessed then of the slaves. With regard to this statement, the first and second defendants themselves admit that the said complaint was preferred for an assault; therefore, the assertion made by them, that the document in question was not mentioned in the magisterial complaint can be of no advantage to the defendants in this suit.

suit. Under all the above-mentioned circumstances, it having been fully proved that the plaintiff has enjoyed the slaves in question as mortgage for two and a half hoons, for which the aforesaid Soobbiya Shetty executed a mortgage bond, as also for four hoons out of the amount of the document in question, total hoons six and a half, and the fact of the said slaves being attached before the said amount was repaid to the plaintiff appearing improper, it is decreed, that the third defendant, Kooshnuppa Shetty, do relinquish, from attachment, the four slaves valued at 20 rupees, as prayed in the plaint, and pay to the plaintiff, Manddawanna Shetty, the costs of suit.

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GROUNDS of the Appeal Decree passed by the Moofty Sudder Amin in Cause No. 148 of 1835, on the 26th June 1836. No. 135.

The third Defendant of the original suit, *Krooshna Shetty*, residing in the Hondady Village, Brumawhar Magany, in the Barcoor Talook, Appellant, *versus* the Plaintiff of the original suit, *Manddawanna Shetty*, residing in the said village, Respondent.

THE appeal petition as well as the original proceedings were perused, and the appellant and the respondent's vakeel examined.

On consideration of the circumstances of the case, the sudder amin moofty is of opinion, that, as the witnesses examined in the original suit regarding the disputed document on behalf of the respondent differ so materially in their evidence, and as Antoy Shetty and Seeroy Bhundry, the attesting witnesses of the said document, are both related to the respondent, their evidence could not be held credible; consequently, thinking the moonsif's decree, making the slaves in question responsible for the amount of both documents, to be unjust, the moofty sudder amin reverses it accordingly, and decrees that the four slaves in question under attachment shall be put up for sale, and the 10 rupees due on the first document deducted from the proceeds of sale, according to the appellant's admission, and the remaining amount of proceeds paid to him (appellant) on account of the amount of the decree obtained by him against the first and second defendants' ancestor, Soobbiya.

Costs to be paid by the parties respectively.

(signed) *Syed Abool Kassim*,
Sudder Amin Moofty of the Zillah of Canara.

SPECIAL Appeal Petition preferred by *Manddawann Shetty*, residing at Hondady Village, in the Barcoor Talook, dated the 15th July 1836. No. 136.

THE document in question executed by the first and second defendants for 19½ rupees, on the pledge of the slaves in dispute, is satisfactorily proved by the witnesses examined in the original suit in my behalf, as appears from the original decree itself. Of the said witnesses, Seevoy Bhundry alone is a distant relation of mine, but the remaining three witnesses are not related; such being the case, and notwithstanding the said witnesses deposed consistently to the material points in the suit, the moofty sudder amin has considered that the witness, Antoy Shetty, is related to me, that they fell into discrepancies in giving evidence; such is not the case, and his decree is inconsistent with justice and equity. I therefore pray that the aforesaid circumstances, as well as the original and appeal proceedings, may be perused, the appeal decree reversed, and the original confirmed.

(signed) *Manddawanna Shetty*.

SPECIAL Appeal Petition, No. 641.

No. 137.

THE special appeal is admitted, not to question the degree of credit that should or should not be attached to the evidence adduced, but to ascertain from the superior courts whether the existing regulations authorize a transaction of the kind awarded by the sudder amin moofty.

22d September 1836.

(signed) *G. Bird*, Judge.

(True copies.)

(signed) *George Bird*, Judge.

FROM Mr. *W. Douglas*, Register, Sudder Adawlut, to the Provincial Court in the Western Division, dated 6th February 1837. No. 138.

I AM directed by the judges of the court of Sudder Adawlut to acknowledge the receipt of your letter, dated the 20th ultimo, forwarding for their orders copy of a letter from the judge in the zillah of Canara, dated the 17th of the same month, and the original enclosure which accompanied it, in which the question proposed for the determination of the court would appear to be, whether or not a sale of slaves can be legally awarded by a court of judicature.

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The sentiments of the provincial court not having been recorded on the question, the judges desire you will submit your opinion on the point propounded with as little delay as possible.

No. 139. FROM Mr. *W. B. Anderson*, Third Judge for Register Provincial Court, Western Division, to the Register to the Court of Sudder Adawlut, Fort St. George, dated 24th February 1837.

1. WITH reference to your letter of the 6th instant, I am directed to forward, to be laid before the judges of the Sudder Adawlut, copies of a further correspondence with the judge of Canara on the same subject.

2. It will be observed, that the point that officer wishes to be referred is, "whether an award of slaves is authorized by a British court of judicature; and whether, as in the case in question, they can be legally ordered by him, as a subject of his Majesty's government, to be brought to the bazaar and sold."

3. It will be observed, also, that the zillah judge requests he "may not be required to give an opinion upon a point on which he believes considerable doubts may be entertained."

4. The judges of the provincial court feel some difficulty in submitting their opinion on the point propounded by the zillah judge; indeed, they have great doubts as to the expediency of the question, as that officer has put it, being answered at all, without more full and satisfactory information on the subject than, it is believed, the courts possess at present. It appears to them, that until the subject is set at rest by an express legislative enactment, the less it is mooted in this way the better. And the judges will take this opportunity of observing, that they know of no subject on which a local inquiry by the law commissioners, as contemplated in the opening part of section 54 * of the Act of Parliament, commonly called "The Charter," would be more urgently necessary than that of slavery in Malabar and Canara.

5. The judges believe they are warranted in asserting, that in the provinces of Malabar and Canara the sale of slaves, except with the estate or land to which they may belong, has never been authorized by the courts. There is, however, 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.

6. It occurs to the provincial court, that the best mode of disposing of the zillah judge's reference will be, to direct him to confine himself to the actual circumstances of the case which has given rise to it. He may then perhaps find, that the decree of the moofy sudder amin in appeal, No. 148 of 1835, from which the zillah judge has admitted a special appeal, is irregular in adjudging the slaves to be sold, for a reason on which a doubt can hardly arise, viz., that their sale had not been sued for; on the contrary, the original action, in which a decree was given by the moonsif in the plaintiff's favour, was brought, in order to remove the attachment of the slaves, on the ground that the plaintiff held a mortgage claim on them. When, therefore, in disposing of the appeal, the sudder amin considered the plaintiff to have failed in establishing his claim, he should have confined himself to dismissing that claim. He had clearly no right to go beyond that, and to decree, as he did, that the slaves should be sold.

No. 140. FROM Mr. *W. B. Anderson*, Third Judge for Register Provincial Court, Western Division, to the Judge of Canara, dated 13th February 1837.

WITH reference to your letter and accompaniments of the 17th ultimo, and to the annexed copy of one from the register to the Sudder Adawlut, dated the 6th instant, I am directed by the judges of the provincial court to request, that you will state more particularly the point you wish to be referred, as also your own opinion thereon.

No. 141. FROM Mr. *G. Bird*, Judge, Zillah Court, Canara, to the Register to the Provincial Court of Appeal, Western Division, Tellicherry, dated 17th February 1837.

I HAVE the honour to acknowledge the receipt of your letter of the 13th instant (annexing copy of a communication from the register to the Sudder Adawlut), with a request from the judges of the provincial court that I should state more particularly the point which I required a reference upon in my letter and accompaniments of the 17th ultimo, and in reply to state, that the point I solicit the opinion of the superior courts upon is, whether an award of slaves is authorized by a British court of judicature, and whether, as in the case in question, they can be legally ordered by me, as a subject of his Majesty's Government, to be brought to the bazaar and sold.

2. Prior

* "And be it enacted, that the said (Indian Law) Commissioners shall follow such instructions, with regard to the researches and inquiries to be made, and the places to be revisited by them," &c.

2. Prior to making the present reference, I examined several decrees amongst the records of the court, to see if an award similar to the one under discussion could be found; but I 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 this decree.

3. Under these circumstances, and in the absence of all "specific rule" for my guidance, and with the provisions of the 88th section of the late Act before me, I considered it preferable to solicit instructions from the superior courts, and, having done so, to request that I may not be required to give an opinion upon a point on which I believe considerable doubts may be entertained.

EXTRACT from the Proceedings of the Sudder Adawlut, under date the 31st March 1837.

No. 142.

" READ letter dated the 24th ultimo, from the provincial court of appeal in the western division, submitting, with reference to the letter from this court, dated the 6th February 1837, copies of a further correspondence with the judge of Canara, in which the point referred is 'whether an award of slaves is authorized by a British court of judicature, and whether, as in the case in question, they can be legally ordered by him, as a subject of his Majesty's Government, to be brought to the bazaar and sold.'

" 1. The provincial court state, that 'they feel some difficulty in submitting their opinion on the point propounded by the zillah judge, and that they have great doubts as to the expediency of the question, as that officer has put it, being answered at all without more full and satisfactory information on the subject than it is believed the courts possess at present;' that 'the provincial court believe they are warranted in asserting, that, in the provinces of Malabar and Canara, the sale of slaves, except with the estate or land to which they may belong, has never been authorized by the courts. There is, however, 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;' but that, 'it occurs to them, that the best mode of disposing of the zillah judge's reference will be, to direct him to confine himself to the actual circumstances of the case which has given rise to it. He may then perhaps find the decree of the moofly sudder amin in appeal, No. 148 of 1835, from which the zillah judge has admitted a special appeal, is irregular in adjudging the slaves to be sold, for a reason on which a doubt can hardly arise, viz., that their sale had not been sued for; on the contrary, the original action, in which a decree was given by the moonsif in the plaintiff's favour, was brought, in order to remove the attachment of the slaves, on the ground that the plaintiff held a mortgage claim on them;' that 'when, therefore, in disposing of the appeal, the sudder amin considered the plaintiff to have failed in establishing his claim, he should have confined himself to dismissing that claim;' that 'he had clearly no right to go beyond that, and to decree, as he did, that the slaves should be sold.'

" 2. The court of Sudder Adawlut are of opinion that the course proposed by the provincial court should be followed.

" 3. The zillah judge may properly refuse to do more than has already been done 'by the courts,' as stated in para. 5 of the provincial court's letter, namely, authorize a sale of slaves with the estate or land to which they belong.

" 4. And as it is known that legislation on the subject of slaves is contemplated, the court would on that ground advise the zillah judge to confine his sanction at present 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.

" 5. Ordered, that extracts from these proceedings be forwarded to the provincial court of appeal in the western division for their information."

APPENDIX X.

EMANCIPATION OF SLAVES ON Government Estates in Malabar.

1. From Secretary Board of Revenue to Chief Secretary to the Government of Madras, dated 24th October 1836.
2. From Principal Collector of Malabar to Secretary to Board of Revenue, Madras, dated 11th July 1836.
3. From Secretary Board of Revenue to the Principal Collector of Malabar, dated 12th September 1836.
4. From Principal Collector of Malabar to Secretary to Board of Revenue, dated 20th September 1836.
5. Resolution of Government, dated 15th November 1836.

Appendix X.

Emancipation of
Government
Slaves.

No. 1.

FROM Secretary Board of Revenue to Chief Secretary to Government of Madras,
dated 24th October 1836.

From the principal collector, 11th in Cons. 28 July 1836.
To ditto, 12 Sept. 1836.
From ditto, 20 " " " " " "
In Cons. 6 Oct. - " " " " " "
Para. 1,356 of Mr. Græme's report to government, dated 14th January 1822.

1. I AM directed by the board of revenue to request that you will submit, for the orders of the Governor in Council, the correspondence noted in the margin, upon the subject of emancipating the slaves on the government lands in the district of Malabar.

2. The lands in question are those which escheated to government, and are treated of in Mr. Græme's report noted in the margin; and from the slaves attached to them the government have yearly derived a revenue, which Mr. Clementson requests permission to exclude from his accounts, proclaiming to the slaves their freedom.

3. Adverting to the observation contained in the 9th paragraph of a letter from the government of India to the commissioner of Coorg, dated the 12th October 1835, transmitted to the board with the extract from the minutes of consultation, dated the 24th November, that "the legislature has already laid down the humane principle, that the extinction of slavery in India is to be effected as soon as it may be practicable and safe to do so," the board have no hesitation in recommending that Mr. Clementson's request be complied with.

4. The amount of annual revenue which will be lost to government, in the event of the slaves being manumitted, is rupees 92-71-30, and may appear as a deduction in the jumabundee accounts.

In Cons. 7th December 1835.

(No. 47.)

No. 2.

FROM Principal Collector of Malabar to the Secretary to the Board of Revenue,
Fort St. George, dated 11th July 1836.

WITH reference to the 34th paragraph of my letter, under date the 18th March last, I have now the honour to forward the statement therein alluded to, and to request that the sanction of government may be obtained for my excluding from the accounts the sum of rupees 168-9-2, the puttom received from the occupants of the government lands on account of the slaves attached thereto, and of proclaiming to these poor people the order of government that they are freemen.

2. It will be necessary to grant remissions to the extent of rupees 759-3-10,* on account of the rent paid for slaves, which is at present blended with the rent of lands leased out to several ryots, for which also I beg to request sanction.

* The account in col. 16 of statement, rs. 927-13-0; deduct amount in col. 13, rs. 168-9-2; difference, rs. 759-3-10.

LIST* of Slaves of the Soil attached to the Lands belonging to Government in Malabar.

TALOOKS.	Total Number of Slaves.				Deduct Old and Young not able to work.		Remainder fit for work.			Rent at present received by the Sircar on account of part of the Slaves in Col. 12.	Annual Rent of each Slave according to the use of the Country.		Total Amount of the Annual Rent of the Slaves according to the Rates in Col. 14 and in Col. 15.		Average Price of each Slave according to the usage of the Country.		Total Value of the Slaves according to the Rates in Cols. 17 and 18.	Number of Slaves on whom there are known claims.	Number of Slaves in Jemmom right.	REMARKS.	
	Male.	Female.	Children.	Total.	Male.	Female.	Male.	Female.	Male.		Female.	Male.	Female.	Male.	Female.						
	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.	22.
Calicut	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	The Total Number of Slaves in Col. 6 may be divided as follows: Slaves attached to lands belonging to Government - 171 Ditto, to lands escheated to Government - 1,718 Ditto, to lands lapsed to Government for want of heirs 120
Cornmeaad	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	TOTAL - - 2,009
Ernaad	455	427	262	1,290	293	192	485	424	381	805	-	-	-	517	10	-	13,110	-	1,290	-	The rent entered in Col. 13 is for part of the slaves only. The rent receivable for the others (forming a greater portion) is blended with the amount payable by each lessee, the proportions for lands and slaves not being distinctly shown in the lease. Calculating the rent, according to the usage of the country, it will, as shown in Col. 16, amount to rupees - 927 13 -
Sheernaad	16	12	8	42	12	8	20	12	10	22	-	-	-	14	-	-	212	8	-	42	-
Bettinaad	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Chowghaut	69	60	20	171	27	25	52	62	57	119	16	8	7	76	13	9	4,250	-	-	171	-
Kootnaad	1	-	-	1	-	-	-	1	-	1	-	-	-	-	9	2	17	2	3	1	-
Nedinganaad	3	3	1	8	1	1	2	3	3	6	2	2	3	3	3	3	180	-	3	5	-
Wallowanaad	11	11	8	33	9	5	14	10	9	19	3	9	3	9	11	5	271	6	11	14	-
Paughaut	26	24	18	82	19	14	33	25	24	49	10	-	-	63	6	10	1,000	11	6	23	-
Ternalpooram	20	23	16	78	18	18	36	18	19	37	11	6	10	37	2	4	973	13	9	24	-
Wynaad	54	60	32	186	34	33	69	62	55	117	124	14	3	124	14	3	1,328	-	-	186	-
Kavay	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Chericut	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Coisate	45	40	20	123	25	19	44	40	39	79	-	-	-	80	-	-	1,190	-	-	123	-
Kartenaad	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cochin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Neigherry	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL	710	660	385	2,009	498	317	755	657	597	1,254	168	9	2	927	13	-	22,833	10	5	65	1,944

This list includes the 122 slaves alluded to in the 31st paragraph of the Report, dated the 18th March 1836.

* See preceding number, part. 1.

(Errors excepted.)
(signed) F. Clementson, Principal Collector.

Appendix X.

Emancipation of
Government
Slaves.

FROM Secretary Board of Revenue to the Principal Collector of Malabar,
dated 12th September 1836.

- No. 3. 1. THE statement which accompanied your letter noted below * having been mislaid, I am directed by the board of revenue to request that you will submit a duplicate copy of it.
2. I am also directed to request that you will explain the difference between the nature of the remissions noticed in the 1st and 2d paragraphs of your letter.

No. 4. FROM Principal Collector of Malabar to the Secretary to Board of Revenue,
dated 20th September 1836.

2. IN reply to the 2d paragraph, I beg to explain, that in leasing out the lands belonging to government, together with the slaves attached thereto, the relative proportion of the rent payable for the lands and slaves has, but in very few instances, been distinctly specified in the deeds; the majority of them only mention the total annual amount payable by the lessees both for the lands and slaves. The amount entered in column 16 of the statement, viz. rupees 927-13-0, is the proportion of rent payable to government on account of the slaves, calculated according to the usages of the country. Of this rupees 168-9-2 is specifically mentioned in the deeds, the residue, rupees 759-3-10 is an estimated amount, both forming part of the gross jumma. It will be necessary to strike off the same therefrom, as the lessees will be entitled to remissions to that extent in the event of the slaves, for whose services they now pay, being emancipated as recommended.

No. 5. RESOLUTION of Government, dated 15th November 1836.

1. THE Right honourable the Governor in Council is pleased to accede to the recommendation conveyed in the foregoing letter in favour of emancipating the slaves on the government lands in Malabar. The amount of annual revenue to be relinquished on this account is stated to be rupees 927-13-0, which, as suggested by the board, may appear as a deduction in the jummabundee accounts.

2. The board of revenue will instruct the principal collector of Malabar relative to the mode of conveying this resolution to the parties concerned. It seems to be unnecessary to "proclaim" the freedom of these slaves, as proposed by the principal collector; but, on the contrary, it is considered very desirable that the measure should be carried into effect in such manner as not to create any unnecessary alarm or aversion to it on the part of other proprietors, or premature hopes of emancipation on that of other slaves.

APPENDIX XI.

CRIMES committed by Cherma Slaves in Malabar; their moral state; means of improving them and ameliorating their condition.

1. Extract Proceedings of Foujdary Adawlut, 14th October 1837.
2. Extract Report of First Judge, late on Circuit, Western Division, 16th August 1837.
3. Extract Orders of Government, 24th October 1837.
4. Secretary Board of Revenue to Secretary to Government, dated 15th October 1838.
5. Principal Collector of Malabar to Secretary to Board of Revenue, dated 24th April 1838.
6. Extract Minute of Consultations, 30th November 1838.
7. Secretary to Board of Revenue to Chief Secretary to Government, 21st February 1839.
8. Principal Collector of Malabar to Secretary to Board of Revenue, 7th January 1839.
9. Extract Minutes of Consultation, 12th March 1839.

Appendix XI.

Crimes by Cherma
Slaves.

No. 1.

EXTRACT from the Proceedings of the Foujdary Adawlut, dated the 14th October 1837.

THE court of Foujdary Adawlut have observed, and they think it worthy of the notice of government, the remarkable fact stated in the fourth paragraph of the above * report, "that out of 31 murders perpetrated and tried during the last and present sessions, 13 were committed by that degraded class of people the Chermars." The Foujdary Adawlut beg
to

* 11 in Cons. 28th July 1836.

† *Vide infra*, from First Judge of Circuit, dated 16th August 1837, No. 2.

to recommend to government that the local officers be called upon to report, whether measures cannot be devised for improving the condition and morals of this most degraded race, possessing of humanity little else than its outward form.

Appendix XI.
Crimes by Chermars
Slaves.

EXTRACT from a Report from the First Judge, late on Circuit in the Western Division, dated the 16th August 1837.

No. 2.

4. IN this case* the prisoners were all Chermars, and it may perhaps be worthy of remark, that out of 31 murders perpetrated and tried during the last and present sessions, 13 were committed by this degraded and low class of people, who, in the commission of such deeds, appear to have been void of all feeling, and perhaps will remain so till some measures be devised for the improvement of their morals and present lamentable low condition in society.

5. It would nevertheless be needless to expect that any material or essential change can possibly be brought about, except step by step, and at a period when they may have attained a greater degree of civilization calculated to extend their mental faculties, and open their eyes as to their present situation. This accomplished, and the pleasing prospect will begin to brighten, of being able to ameliorate the present condition of this unfortunate and no less ill-treated race of fellow-creatures. Whereas any steps prematurely adopted with the view of affording them relief before they are in a fit state to benefit by or duly estimate emancipation from slavery, may irrecoverably tend to frustrate the grand object sought for in the relapse of a great portion to their former state of bondage, even if once liberated; for it is not quite clear, if, and to what extent, they are discontented with their present state of servitude assigned by birth, and inculcated on them from infancy by local usages.

EXTRACT from Orders of Government, dated 24th October 1837, No. 986.

No. 3.

1. THE board of revenue, to whom a copy of para. 1, of the foregoing proceedings,† and of paras. 4 and 5 of the circuit judge's report will be transmitted, will be requested to consider, in communication with the local officers, and report as to the measures it will be advisable to adopt, with the view of ameliorating the condition and improving the morals of the unfortunate class of people adverted to therein.

FROM the Secretary to Board of Revenue to the Chief Secretary to Government, dated 15th October 1838.

No. 4.

THE board of revenue having furnished the principal collector of Malabar with copy of an extract from the minutes of consultation of the 24th October last, with transcript of extracts from the proceedings of the foudary court, and of the first judge on circuit in the western division, relative to the persons denominated Chermars in Malabar, I am now directed to request you will lay before government the accompanying letter from Mr. Clementson, submitting his sentiments on the practicability of improving the condition of this class. 24 April, in Co
7 May 1838.

2. The present reference originated on a consideration of the very large number of charges of murder in which this class of persons were concerned; 13 of 31 cases of murder having been stated to have been committed by this degraded race, who were represented to be devoid of all feeling, and to possess little of humanity but its outward form. It will be seen, however, from Mr. Clementson's letter, that low and degraded though their condition is acknowledged to be, the number of atrocious crimes in which the Chermars were concerned does not in the course of 10 years exceed the proportion of their own numbers in reference to the free population of the district. The late census, it is said, gives their numbers at 144,371, or about one-seventh of the population of the entire province.

3. The board regret that they are unable, with the information now before them, to suggest any well-digested scheme for the permanent improvement of this servile class. The immediate introduction of schools does not appear to them calculated to ameliorate their condition; for the physical improvement of the Chermars must precede, they are inclined to think, any extended efforts for their mental culture. The question of slave emancipation in the western province is one attended with much difficulty; for it is observed by the first judge on circuit himself, that it is uncertain how far the Chermars are themselves discontented with their present state of servitude assigned by birth, and inculcated by local usage; and it is obvious that no step should be prematurely taken to afford them relief until they are in a fit state to benefit by the change. However much, then, their present state of bondage is to be lamented, the measures taken for its amelioration must be gradual, and carried out with

* No. 5, *infra*.

† Of Foudary Adawlut.

Appendix XI.
 Crimes by Chermars
 Slaves.

with discretion, and in concurrence with the landholders on whose estates they are located; any hasty legislation on this subject would otherwise occasion much discontent, and be considered as an invasion of private rights.

No. 5. FROM the Principal Collector of Malabar, to the Secretary to Board of Revenue, dated 24th April 1838.

I DO myself the honour to acknowledge the receipt of the board's proceedings, under date the 2d November last, conveying copy of an extract from the minutes of consultation, dated the 24th of the preceding month, on the subject of the best measures to be adopted with the view of ameliorating the condition and improving the morals of the unfortunate class known generally by the name of Chermars.

2. However desirable the consummation of such an object may be, I confess I am at a loss to suggest any plan which may not involve a violation of the rights of private property, and consequently give rise to much discontent.

3. The only way of improving the morals of the predial or rustic slaves of Malabar would be by ameliorating their condition, and by establishing schools. This has, I understand, been attained to a very satisfactory extent, as regards the slaves attached to Mr. Brown's estate at Anjeracandy; and it appears very evident to me, that any permanent improvement in their condition and morals must emanate from the master of the slave; and this can alone be done by bettering his condition, and thus enabling him to increase the comforts of the slave, to treat him with greater indulgence, and to dispense partially with his services,—a measure that can only be effected, I apprehend, by a relinquishment of revenue, and the establishment of schools throughout the district.

4. It is satisfactory to remark, to the credit of this degraded race, that on reference to the accounts for the last ten years, the murders committed by them do not exceed the number annually committed by the free castes; the average number of murders committed by Chermars being less than five cases, and ten persons per annum. This from a population of 144,371 (the number of slaves of all descriptions, according to the last census), is not perhaps more than occurs amongst the more civilized parts of the population of other districts.

5. The proportion which the aggregate number of slaves bears to the general population (1,140,916) of the district is a fraction above one-seventh, which corresponds with the share of murders that falls to them; for out of 36 cases (the average of the total number of murders), five only were, as already noticed, committed by Chermars.

No. 6. EXTRACT from the Minutes of Consultation, under date the 30th November 1838, upon Letter from Board of Revenue, dated 15th October 1838.

THE improvement of the condition of the Chermars or rustic slaves of Malabar is a subject of such manifest importance, that no measures should be left untried to effect it. The Right honourable the Governor in Council does not consider a legislative enactment to be expedient at this moment in furtherance of the object in view, but presumes that endeavours may be made to have them better fed and clothed by offering rewards and encouragement to such landlords as may be able to show that the condition of their slaves has been bettered. This would be a first step, and, when physically improved, schools might be opened with advantage. He desires, therefore, that the principal collector may be called upon to report how the Chermars are fed, clothed and lodged as compared with the free classes, and what description of reward he would recommend to be given to landlords for the improved condition of their slaves.

His Lordship in Council observes, that the honourable the Court of Directors have, in paragraph 17 of their despatch dated the 17th August last, approved of the measures adopted by this government for the emancipation of the slaves on the government lands of this district, and have directed that means may be devised for extending a similar benefit to the slaves on the estates of private individuals. He resolves accordingly to transmit a copy of the above paragraph to the board of revenue, in view to the subject receiving their consideration in connexion with the present reference.

His Lordship in Council is also desirous of knowing whether the ancient tenures upon which slave property was held in Malabar are still maintained, viz., whether the proprietor of slaves has still the power of mortgaging them and of letting them out for hire, as well as of selling them; whether they can be separated from the land and sold, and whether children can be sold separate from their parents.

FROM Secretary to Board of Revenue to the Chief Secretary to Government, dated
21st February 1839.

No. 7.

WITH reference to the observations recorded in the minutes of consultation of the 30th November last, I am directed by the board of revenue to request you will lay before government the accompanying further letter from the principal collector of Malabar, reporting upon the condition of the Chermars or rustic slaves of Malabar, and replying to the various points noticed by government in the proceedings under acknowledgment.

7th Jan. 1839.

2. It will be seen from this letter, that although no material change in the clothing and food of this class has been made since 1822, a decided improvement in their treatment by their masters has taken place. Mr. Clementson adds that the Chermars 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. The principal collector also reports, that though the power of selling the slaves without the land and children without the parent is claimed by the landlords, in practice the proceeding is seldom or never adopted.

3. The principal collector suggests the expediency of offering a remission of land revenue to slave-owners, on satisfactory proof of the improved condition of each slave, and of the owner being in the habit of treating them with kindness; and the board will not lose sight of the proposition, although at present the suggestion is not before them in a shape sufficiently explicit to enable them to recommend its adoption by government.

FROM Principal Collector of Malabar to Secretary to Board of Revenue, dated
7th January 1839.

No. 8.

I HAVE the honour to acknowledge, on the 24th, the receipt of the extract from the board's proceedings, under date the 6th ultimo, forwarding copy of the board's letter to the chief secretary to government under date the 15th October, together with a transcript of an extract from the minutes of consultation thereon, under date the 30th November last, calling for further information as to the present state of the Chermars at Malabar.

2. In reply, I do myself the honour to state, for the information of the board, that no alteration has taken place in the tenures upon which slave property is held since the report made by Mr. Commissioner Græme in 1822, an account of which is given in detail from paragraphs 32 to 55; little or no amelioration likewise has taken place in respect to their food and clothing; as regards the treatment, however, a decided improvement, from all I can learn, has taken place; and it may be said, generally, that the slaves of South Malabar, as noticed in my letter to the chief secretary to government, under date the 29th November 1833, 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.

3. Though the landlords and proprietors of slaves 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 Chermars running away, which they invariably do, if taken even to the adjoining talook, they get no assistance from the local authorities. In further elucidation of this subject, I would take the liberty of submitting a copy of a report made by me to the provincial court, under date the 19th December 1835.

4. The only means that suggests itself to me of inducing and ensuring kind and considerate treatment on the part of the landlords and owners of slaves, is to offer a remission of land revenue to all owners in double the amount for which slaves are now rented,* on satisfactory proof of the improved condition of each slave, and of the owner being in the habit of treating them with kindness.

EXTRACT from Minutes of Consultation, under date 12th March 1839.

No. 9.

THE Right honourable the Governor in Council observes, that no remission of land revenue can be granted without the authority of the Government of India; but his Lordship in Council will be prepared to give consideration to the measure when submitted in a proper form.

The Right honourable the Governor in Council is satisfied the board will watch the subject of the improvement of the condition of the Chermars with that interest which it eminently merits, and leave no available means untried for effecting that object.

* See statement in the 34th paragraph of Mr. Græme's report.

APPENDIX XII.

TRAVANCORE and ANJENGO SLAVERY.

ACCOUNT of Slavery in Travancore.

1. Extract from the Manuscript Memoir of the Geographical and Statistical Survey of Travancore, under the superintendence of Lieutenants Ward and Connor.

CORRESPONDENCE as to Slavery in Anjengo.

2. From Mr. H. Chamier, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Judicial Department, dated 6th June 1837.
3. From Mr. J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, to the Chief Secretary to Government, Fort St. George, dated 4th May 1837, relative to the system of Slavery existing among the Portuguese inhabitants of Anjengo, within the limits of the British territories, enclosed in No. 2.
4. From Mr. T. A. Philipsz, Superintendent of Police, Anjengo, to Colonel J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, dated 28th April 1837, regarding treatment of Slaves, enclosed in No. 3.
5. From Mr. J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, to the Superintendent of Police at Anjengo, dated 29th April 1837.
6. From Mr. T. A. Philipsz, Superintendent of Police, Anjengo, to Colonel J. S. Fraser, Resident of Travancore and Cochin, Trevandrum, dated 1st May 1837, forwarding list of Slaves.
7. List of Slaves belonging to the Inhabitants of Anjengo, enclosed in the above

Appendix XII.

ACCOUNT of Slavery in Travancore.

Travancore
Slavery.

EXTRACT from the Manuscript Memoir of the Geographical and Statistical Survey of Travancore, under the superintendence of Lieutenants Ward and Connor.

No. 1.
Predial Slavery.

PREDIAL slavery* is common to a considerable portion of the western coast; but its extent throughout this principality is comparatively greater, and the prejudices of the people render the degradation it entails more complete. Those subject to predial bondage are known under the general term of "Shurramukhul" (children of slavery). Their name is connected with every thing revolting. Shunned, as if infected with the plague, the higher classes view their presence with a mixture of alarm and indignation; and even towns and markets would be considered as defiled by their approach. The Shurramukhul are attached to the glebe, but are real property; in absolute market value they are not much above the cattle united with them in the same bondage, and greatly below them in estimation. But though a slavery deserving commiseration, it is by no means the most rigid form of that wretched state. They are treated with a capricious indifference, and rather rigorously. Much of this arises from the prejudices of the Nairs. The Christians have no such excuse, but, though divided in caste, they agree in oppression. 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. Manumission is rarely practised or even desired. Indeed, as the Polayen never possesses property of any kind, his freedom could only be productive of starvation or a change of servitude, which occurs when he is presented to a temple, in compliance with some superstitious vow. The Shurramukhuls are held by various tenures, and the reluctance of their masters finally to dispose of them is so great, that the most pressing necessity can alone induce them to it. They are most frequently mortgaged, or held in punniem; that is, the owner receives the full value, but retains the power of recalling the purchase,—tenures but little adapted to improve the situation of the slave, whose service, being received as equivalent to the interest of the debt, holds out an inducement to urge his labours and diminish his comforts. They are not sold out of the country.

A very considerable number of predial slaves belong to government, to whom they escheat as other property on the failure of heirs. They are partly employed on sircar lands, partly rented out to the ryots; a male being rated at about eight purras of paddy annually (not quite two rupees), the females less than this amount. If, however, hired from a junmee (owner), the demand would be much greater. The value of a male Polayen varies from 6 to 10 pagodas; that of a female may reach perhaps to 12, but (amongst some of the caste of Shurramukhuls) they are very rarely subject to sale.

In

* It is nearly unknown in Nunjaynaad.

In early times, the murder of a slave was scarcely considered as a crime. The deed of transfer goes to say, "You may sell or kill him or her;" the latter privilege has now, of course, ceased. The Shurramukhuls are only employed in agriculture. They live in hovels situated on the banks of the fields, or nestle on the trees along their borders to watch the crop after the toils of the day, and are discouraged from erecting better accommodation, under the idea that, if more comfortable, they would be less disposed to move as the culture required. Their labours are repaid (if such can be called the compensation) in grain. Three measures of paddy to a man, two to a woman, and one to a child, is their daily pittance. This is not regularly given, being reduced to half on days on which they do not work, and withheld entirely on symptoms of refractoriness. Harvest is a period of comparative plenty; but their meagre, squalid appearance betrays the insufficiency of their diet, and the extreme hardships to which both sexes are equally doomed.

They have no idea beyond their occupations, are never guilty of violence to their masters, are said to be obedient, perhaps from the sluggish apathy of their character, which renders them unmindful of their lot. The external distinctions of the predial slaves are subject to great varieties. They are sometimes remarkable for an extreme darkness of complexion, whose jetty hue (which cannot be the effect of exposure) approaches that of an African; but they are invariably stamped with the Hindoo features, nor bear any traces of a distinct race. The bark (spatha) of the areca often furnishes their whole clothing, which at best never exceeds a bit of cloth sufficient for the purpose of decency. The hair, allowed to grow wild, forms in time an immense mass, whose impurities cannot be imagined without shrinking. They are divided into several distinct classes, marked by some peculiarities:—

The Vaituwans (literally hunters) or Konakens, are ranked high, and prized for their superior fidelity and tractability. They are expert boatmen, and often employed in the manufacture of salt. Their women, as an article of sale, are not much valued; the children of this class being the property of the father's master. Vaituwans.

The Polayens constitute much the largest number of the predial servants. They are split into three classes; Vullava, Kunnaka, Moomy Polayen; each baser than the other. Husband and wife sometimes serve different persons, but more frequently the same. The females of this class are given in usufruct, scarcely ever in complete possession. The eldest male child belongs to the master of the father, the rest of the family remain with the mother while young, but, being the property of her owner, revert to him when of an age to be useful, and she follows in the event of her becoming a widow. Polayens.

The Parriars also form a very considerable number of the slaves. The caste is divided into, Perroom Parriar, north of Kodungaloor, and Moonay Parriar, south of that place. They are inferior to those of the other caste, and reckoned so very vile that their contact would entail the most alarming contamination. Their taste for carrion has doubtless caused this prejudice, which goes so far as to suppose they inhale a fetid odour. The death of a cow or bullock is with the Parriars the season of jubilee; never stopping to inquire its cause, they indulge the horror of the higher classes in the feast it affords. Unlike some of the other caste of Shurramukhuls, they do not connect themselves with their kindred, but, as with the Vaituwans, the children are the property of the father's master. They are ingenious in wicker-work, and are capable of great labour, but in point of value and character are greatly below the Polayens. They pretend to be great necromancers, and their masters respect their powers or fear their spells; nor shall we regret the credulity that puts at least one check on the caprice of their owners. Parriars.

The Vaiduns and Ooladurs are the least domesticated of the predial slaves. They are employed in cutting timber, making fences, guarding crops, declining or being prohibited from giving any aid in the other rural labours. The former claims a superiority; but the existence and subsistence of both is indescribably miserable: they are not insensible to the vanity of ornaments, the neck being hung round with shells, but they use no cloth, a verdant fringe of leaves strung round their loins being their only covering. A dark complexion, restless glance and exuberance of hair give them a wild appearance; but they are extremely gentle, and so timid, that on the least sound of approach the shock-headed savage flies into the woods. Though reduced to a low state of debasement, they are yet superior to the Nai-ades, who, in the opinion of all, are at the very last step of vileness. This wretched race is only found in the northern parts of Cochin; they are banished the villages, and live on the low hills near the cultivated lands, a bush or rock being their only shelter. The Nai-ades present a state of society not seen in any other part of India. Wild, amidst civilized inhabitants, starving amongst cultivation, nearly naked, they wander about in search of a few roots, but depend more on charity, which the traveller is surprised at their clamorous impetuosity in soliciting. Ascending the little slopes that overlook the village or road, they vociferate their supplications. Whatever charity they receive is placed on the ground, near where they stand; but on observing their petitions are heard, they retire from the spot, that they may not defile, by their presence, those coming to their relief. Vaiduns and Ooladurs.

Nai-ades.

Appendix XII.

CORRESPONDENCE as to Slavery at Anjengo.

Anjengo Slavery.

No. 2.
Judicial Department.

FROM Mr. *H. Chamier*, Chief Secretary to the Government of Madras, to the Secretary to the Government of India, dated 6th June 1837.

I AM directed by the Right honourable the Governor in Council to transmit to you, for the consideration and orders of the Right honourable the Governor-general of India in Council the accompanying copy of a letter (dated 4th May 1837), from the resident in Travancore and Cochin, relative to the system of slavery lately discovered to exist among the Portuguese inhabitants of Anjengo, within the limits of the British territories. As the draft Act for prohibiting the importation of slaves by land, transmitted with my letter of the 17th November 1835, has been referred for the consideration of the law commissioners, whose attention in the course of their labours must necessarily have been drawn to the subject generally, it would seem advisable also to refer to them the papers now forwarded. And with the view of placing those gentlemen in possession of every information on this important subject, I am further directed to transmit the accompanying letters and their enclosures, received at different periods from the court of Sudder Adawlut and the board of revenue, relative to the subject of slavery generally, as it exists in the various provinces subject to the presidency of Fort St. George.

No. 3. FROM Colonel *J. S. Fraser*, Resident, to the Chief Secretary to Government, Fort St. George, dated 4th May 1837.

The superintendent of police at Anjengo to the resident, dated 28th April 1837.
The resident to the superintendent of police, dated 29th ditto.
The superintendent of police to the resident, dated 1st May.

1. I REQUEST you will be so good as to submit to government the correspondence noted in the margin, and to acquaint me whether it will not be considered right, since the territory of Anjengo belongs to the honourable Company, that the system of slavery, which appears to have immemorably prevailed there, should be now discontinued, and positively prohibited in future.

2. In this case, it may be proper, also, that the whole of the present slaves should be emancipated, reimbursing their owners for the amount they originally paid for them.

No. 4. FROM Mr. *T. A. Philipsz*, Superintendent of Police, Anjengo, to Colonel *J. S. Fraser*, Resident of Travancore and Cochin, Trevandrum, dated 28th April 1837.

I BEG leave to bring to your notice that a practice infringing the laws appears to be in existence amongst the inhabitants of Anjengo, of buying human beings, and making them their slaves. And this kind of purchase, I find, is effected from the utmost poverty of the lowest class of individuals, who readily offer to sell their offspring for the sake of money.

The inhabitants treat their slaves inhumanly, and consider themselves to have a control over them and over their issues, even while they do not give them the means of living, and while such slaves maintain themselves without depending upon their purchasers. It is my intention, therefore, to issue a proclamation forbidding all the irregularities above described, provided it would meet with your approval.

No. 5. FROM Colonel *J. S. Fraser*, Resident of Travancore and Cochin, Trevandrum, to the Superintendent of Police at Anjengo, dated 29th April 1837.

IN reply to your letter, No. 3, under date the 28th instant, I request that you will, with the least practicable delay, give me further information in regard to the subject on which you have addressed me; and with this view I transmit a form which you will be so good as to fill up.

2. As it is of great importance, and that the case involves, as you yourself observe, an infringement of the laws, you are directed to state why you have not earlier reported it to me, or whether you ever did so to any former resident.

No. 6. FROM Mr. *T. A. Philipsz*, Superintendent of Police, Anjengo, to Colonel *J. S. Fraser*, Resident of Travancore and Cochin, Trevandrum, dated 1st May 1837.

AGREEABLY to the first paragraph of your letter, No. 715, of the 29th ultimo, I beg leave to forward herewith a list of the slaves at Anjengo.

With reference to the 2d paragraph of your above said letter, I beg leave to state that, with the exception of the reports I have made to you and Mr. Casamajor, through my letters of the 13th September 1835 and 31st March 1836, I have had nothing further to report relative to the purchase of slaves, as it appears the inhabitants of Anjengo have kept the matter rather secret; and it is only now that I have come to understand the case, by the few complaints received from certain slaves as to the bad treatment they have suffered from their purchasers.

No. 7.—LIST of the SLAVES belonging to the Inhabitants of Anjengo.

Names of Persons who have purchased or still possess Slaves.	Of what Description, whether Portuguese, Country born, or Hindoos; and, in the latter case, of what particular Caste.	Names of each individual Slave.	Whether Male or Female.	Age.	Caste.	When purchased.	From whom purchased.	For what Sum purchased.	In what Description of Labour employed.	If any Slaves purchased at Anjengo, or purchased elsewhere, and brought into that place, have ever been sold, to whom they were sold, and to what place they have been carried.	Remarks of the Superintendent of Police.
Mr. Francis Rodrigues	native Portuguese	Francisco	male	14 years	Mocooovah	1832	from his father	100 gully fanams*	as a servant	- - his father bought him at Anjengo from Pootentope, near Vellie, and sold to Mr. Rodrigues.	
Ditto	ditto	Silvestrah	female	60 "	Ecloovra	- - about the year 1802.	- - from Cooboo Cooty Chanan.	unknown	- - live upon their own labours.	- - purchased at Venniacoodoo, in the Sherrienguil district.	
Ditto	ditto	Reetah	male	50 "		unknown	- - from her late mother, Magdalena.	ditto	avah	purchased at Poothoocoorch, ditto.	
Ditto	ditto	George	female	46 "		ditto	- - from a person who eloped with her from a far country.	ditto	a maid of the house	purchased at Vezooneclair.	
Mr. Domingo Rodrigues, deceased, and now possessed by his nephew, Mr. Noe.	- - the former ditto, and the latter French extraction.	Shavareeah	female	60 "	Mocooovah	unknown	- - from her late mother, Magdalena.	ditto	ditto	purchased at Poothoocoorch, ditto.	
Mrs. Magdalena Fernandes, deceased, and now possessed by her son, Mr. F. Anthony Fernandes.	- - native Portuguese.	Dominga	female	70 "	Ecloovatee	ditto	- - from a person who eloped with her from a far country.	ditto	ditto	purchased at Vezooneclair.	
Padre Salvador Remedios, deceased, and now possessed by his cousin, Mr. F. Anthony Fernandes.	- - ditto	Nathawadeah	female	20 "	Mocooovah	1822	from her uncle	70 gully fanams	ditto	purchased at Pudpanabapoorum.	
Diogo Francisco Fernandes	Thorrayer	Shavareeah	female	18 "	"	1836	from her parents	35 ditto	ditto	purchased at Anjengo.	
Sagaum Hoominee Miranda	ditto	Pedro	male	15 "	"	17 Oct. 1831	from his parents	45 ditto	a servant boy	purchased at ditto.	
Mr. Philip Wesp	country born	Basteeannah	female	10 "	"	1832	from her mother	40 ditto	a maid of the house	purchased at Tootoor.	
Mr. Miguel Fernandes, deceased, and now possessed by his relation, Padre Laurence Sbr. Lopez.	- - both native Portuguese.	Marcelino	male	45 "	Tandan	unknown	from his late mother	unknown	labourer	- - purchased at Badateavoor, in the Sherrienguil district.	
Ditto	ditto	Martha	female	35 "	- - Chunnambo Paratio.	ditto	- - from Pedro Anthony Kanaken.	35 fanams	- - lives with her husband.	- - mortgaged by the said Pedro Anthony Kanaken, the person who had bought her mother, a woman of Daya-toortee, in the Sherrienguil district.	
Ditto	ditto	Roza	female	60 "	Ecloovatee	- - about the year 1792.	from her late mother	100 ditto	cook-maid	- - purchased at Cullatoo, in the Tri-vandroom district.	
Ditto	ditto	Luiza	female	25 "	- - Chunnambo Peratee.	- - about the year 1819.	ditto	unknown	a maid of the house	- - purchased at Poolloomdooritee, in the Sherrienguil district.	
Ditto	ditto	Thomasiah	female	30 "	Cavarrachee	unknown	ditto	ditto	water-woman.		
Ditto	ditto	Jacob	male	25 "	- - Chunnambo Paravam.	- - about the year 1819.	ditto	ditto	servant	purchased at Poolloomdooritee, in ditto.	

* At 7¹/₂th to a rupee.

(continued.)

List of SLAVES belonging to the Inhabitants of Anjengo—continued.

Names of Persons who have purchased or still possess Slaves.	Of what Description, whether Portuguese, Country born, or Hindoos; and, in the latter case, of what particular Caste.	Names of each individual Slave.	Whether Male or Female.	Age.	Caste.	When purchased.	From whom purchased.	For what Sum purchased.	In what Description of Labour employed.	If any Slaves purchased at Anjengo, or purchased elsewhere, and brought into that place, have ever been sold, to whom they were sold, and to what place they have been carried.	Remarks of the Superintendent of Police.
Francisco Xavier Fernaudes	Parathar - country born	Anna - female	12 years -	Ecloovatee -	1 July 1831 -	from her mother -	31 fanams -	a maid of the house	purchased at Anjengo.		
Mr. Salvador Brandenbourg -	country born	Maria - "	7 "	Shavallacar -	1834 -	ditto -	25 ditto -	ditto -	purchased at Caroomgollum.		
Anthony Miranda -	Thorrycar - Parathar -	Dominga - "	11 "	Moccoovah -	23 July 1832 -	from her parents -	32½ ditto -	ditto -	mortgaged by her parents at Anjengo.		
Francisco Xavier Lobo -	Parathar -	Egnacia - "	35 "	Panauchanatee -	1810 -	from a man called Nanasoo.	25 ditto -	cook-maid -	purchased at Oodiagerry.		
Messear Salvador de Cruz -	ditto -	Therzia - "	21 "	Chunambo Paratee -	1806 -	her late mother -	unknown -	ditto -	given with the portion of dowry by her late owner, Pandaran Pires of Anjengo.		
Shavarimootoo, deceased, and now possessed by his relations.	ditto -	Thomasia - "	40 "	Ecloovatee -	1804 -	from a woman called Antonia.	30 fanams -	now a beggar -	first bought by Antonia of Trivandrum, who re-sold her at Anjengo.		- - this woman is allowed monthly three fanams from the poor fund at Anjengo.
Mariano Cruz -	Thorrycar -	Bastianah - "	35 "	Cavarachee -	17 April 1810 -	from Andra Jose -	150 ditto -	ditto -	ditto -		
Sagayum Maracan, deceased, and now possessed by his family.	ditto -	Martha - "	40 "	Moccoovah -	1800 -	from her parents -	80 ditto -	lives by her own labour.	ditto -		
Pichay Canaquen, deceased, and now possessed by his son.	ditto -	Famacarree - "	60 "	" -	1785 -	from her late father -	125 ditto -	lives with her husband.	ditto -		
Andray, deceased, and now possessed by his daughter.	ditto -	Maria - "	40 "	Ecloovatee -	1801 -	from her late mother -	unknown -	a maid of the house	purchased at Attingeray.		
Ditto - ditto -	Parathar -	Alleixo - male	31 "	Ecloovan -	1805 -	from his late uncle -	ditto -	labourer -	purchased at Corinadah.		
Joseph Crenning -	Parathar -	Famacarree - female	9 "	Moccoovah -	5 Jan. 1835 -	from her mother -	30 fanams -	a maid of the house	mortgaged for the amount by her mother at Anjengo.		
Cochoo Shavareeah -	Thorrycar -	Shavareeah - "	25 "	Ecloovatee -	1 July 1832 -	from her former owner.	55 ditto -	ditto -	ditto -		
Mr. J. Z. Lopez -	country born	Sharscar - male	15 "	Moccoovah -	1834 -	from his father -	40 ditto -	servant -	ditto -		
S. Famacarren Fernandez -	Thorrycar -	Anna - female	9 "	" -	1833 -	from her father -	35 ditto -	a maid of the house	ditto -		
Madavardean Davido -	ditto -	Salavador - male	7 "	" -	1831 -	from his father -	40 ditto -	a servant -	ditto -		

(A true copy.)

(signed) J. S. Fraser, Resident.
(signed) H. Chamier, Chief Secretary.

APPENDIX XIII.

COORG.

1. From the Junior Secretary to the Government of India, Legislative Department, to the Secretary to the Indian Law Commission, dated 27th July 1840.
2. From Lieutenant-Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Officiating Secretary to the Government of India, Political Department, Fort William, dated 13th June 1840.
3. From Captain C. F. Le Hardy, Superintendent of Coorg, to the Officiating Secretary to Commissioner for the Affairs of Coorg, dated 15th May 1840.
4. From Mr. H. M. Blair, Magistrate, Mangalore, to the Superintendent of Coorg, dated 10th March 1840.
5. From Lieutenant Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Superintendent of Coorg, dated 19th May 1840.
6. From idem to the Superintendent of Coorg, Mercara, dated 20th May 1840.
7. From Captain C. F. Le Hardy, Superintendent of Coorg, to the Officiating Secretary to the Commissioner for the Affairs of Coorg, Bangalore, dated 6th June 1840.
8. Extracts from Correspondence connected with the question of Slavery in Coorg.

Appendix XIII.

FROM Junior Secretary to the Government of India, Legislative Department, to the Secretary to the Indian Law Commission, dated 27th July 1840.

I AM directed by the Right honourable the Governor-general in Council to transmit to you for the information of the law commissioners the accompanying copies of papers noted on the margin relating to the restoration of certain slaves who fled from the district of Canara into Coorg.

Coorg.

No. 1.

Letter from commissioner for Coorg, No. 153, dated 13th June 1840, with enclosures, to the officiating secretary to government of India, in the political department.

FROM Lieutenant-Colonel M. Cubbon, Coorg Commissioner, Bangalore, to the Officiating Secretary to the Government of India, Political Department, Fort William, dated 13th June 1840.

No. 2.

I HAVE the honour to transmit for submission to the Right honourable the Governor-general of India in Council copy of a correspondence with the superintendent of Coorg on the subject of an application made by the principal collector of Canara for the restoration of certain Dhers (slaves) who had fled from that district into Coorg, and to express my hope that I shall not be considered to have erred in refusing to interfere in the matter, pending a reference for the orders of his Lordship in Council.

Enclosure (A.)

2. In the districts skirting the Western Ghats, where alone in the Mysore territory pre-dial slavery prevails, and there to no great extent, it is generally understood that the authority of government will in no case be exercised to compel the return of a runaway slave to his owner; therefore the power which a slave possesses of freeing himself whenever his servitude becomes insupportable, not only tends to ameliorate his present condition, but to discourage the investment of capital in so precarious a description of property.

3. Although Coorg is not yet prepared for the formal introduction of this practice into its internal management, it has nevertheless been invariably observed with regard to all slaves who have escaped across the frontier into Mysore, excepting on one occasion under peculiar circumstances; and Captain Le Hardy would seem, from his letter of the 6th instant, to anticipate no particular inconvenience from the continuance of that course.

4. The present being the first application which I have received for the restoration of slaves who had fled from the British possessions, I have deemed it my duty to submit the same to his Lordship in Council, and respectfully to solicit instructions for my guidance in the present case, as well as on the general question arising out of it; as the orders of the Honourable the Court of Directors, under date the 12th of February 1834, forbidding the surrender of revenue defaulters, may not have been intended to apply to the case of slaves, and I am not aware of there being any specific enactment or orders of government on the subject.

5. The question of the manumission of the private slaves in Coorg having been under the consideration of the Government of India, and fully discussed in the correspondence between Mr. Secretary Macnaghten and the late commissioner, extracts from which I beg to forward for the convenience of reference, I took advantage of the present application so far to revive the subject as to request Captain Le Hardy's opinion of the probable consequences of liberating such slaves only as had fled from Coorg, paying, as proposed by Mr. Macnaghten, the full value of each slave to his proprietor; but that officer's reply, while it bears satisfactory testimony to the general good conduct of the public slaves set at liberty under the orders of government, dated the 8th of February 1836, and to the general humane treatment of the slave population in Coorg, would seem to afford little encouragement even to this small attempt towards emancipation, which he thinks would be productive of alarm and discontent by encouraging desertion, while it may likewise be apprehended that the public recognition of a right on the part of the owner to compensation for the loss of his slave might, through

Enclosure (B.)

Appendix XIII.

Coorg.

through their mutual collusion, give rise to many unfounded claims for ransom, and that, even without such collusion, many of the slaves who might be redeemed under the proposed arrangement would, after the example of their brethren in Coorg, grow tired of their freedom, and ultimately defeat the beneficent views of the government by returning voluntarily into bondage.

(A.)

No. 3. FROM Captain *C. F. Le Hardy*, Superintendent of Coorg, to the Officiating Secretary to the Commissioner for the Affairs of Coorg, dated 15th May 1840.

I HAVE the honour to forward copy of a letter addressed to me by the principal collector of Canara, requesting me, should no objection exist to the measure, to order a number of Dhers, who have taken refuge in Coorg, to be made over to a person named Nursing Rao, their owner, and to request that you will be so good as to favour me with the instructions of the Commissioner on the subject.

2. Partial assistance has occasionally been accorded to inhabitants of Canara in recovering slaves who have taken refuge in this country, 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 I am now induced to solicit instructions on this point, in consequence of the very severe inconvenience which many ryots have suffered of late, owing to the greater part of their slaves having fled to Mysore; * and if objections exist to assist them in the recovery of these, it would hardly be fair, I think, to compel them to part with such slaves as may abscond from neighbouring districts, and voluntarily take service with them.

No. 4. FROM Mr. *H. M. Blair*, Magistrate, Mangalore, to the Superintendent of Coorg, dated 10th March 1840.

I HAVE the honour to enclose copy of a report from the peishcar of Mpinangady, from which you will observe that a number of Dhers belonging to one Nursing Rao, have taken refuge in your district. I request that, should they be found there, and no objection exist to the measure, you will be so good as to order them to be made over to the agent of the claimant who accompanies this letter.

No. 5. FROM Lieutenant-Colonel *M. Cubbon*, Coorg Commissioner, Bangalore, to the Superintendent of Coorg, dated 19th May 1840.

I HAVE the honour to acknowledge the receipt of your letter of the 15th instant, with its accompaniment, being copy of one to your address from the principal collector of Canara, informing you that a number of slaves from that district had taken refuge in Coorg, and requesting, if no objection should exist to the measure, that you order them to be made over to the agent of their owner.

2. In reply, I would suggest that you inform the principal collector of Canara, that no impediment will be offered to the voluntary return of these slaves to their owner; but that you do not feel yourself at liberty to interpose your authority to enforce their compulsory restoration without the sanction of the Government of India, to which the question will be referred.

No. 6. FROM Lieutenant-Colonel *M. Cubbon*, Coorg Commissioner, Bangalore, to the Superintendent of Coorg, Mercara, dated 20th May 1840.

WITH reference to your letter of the 15th instant, and to your report on the jumabundy, under date the 14th August 1837, in which you state that you have not heard a single instance of any of the Punnah slaves emancipated in that year having misconducted themselves; that you have every reason to believe that they are a remarkably quiet, well behaved, industrious people; that a number of them have continued in the service of the ryots to whom they were formerly attached; that 383 families of them have during the past season established themselves as independent labourers; and finally, that between 50 and 60 families cultivate on their own account small patches of land; I have the honour to request you will have the goodness to make a further report on the circumstances of these individuals from the period referred to up to the present time, as it would be exceedingly interesting, in its bearing on the general question connected with the amelioration of slavery in India, to learn in what way they have employed themselves; whether they have persevered in orderly and industrious habits; whether they have preferred to remain in Coorg rather than seek for a livelihood in the adjacent countries; and whether their condition on the whole is so prosperous as to occasion a feeling of discontent amongst the remaining slave population of Coorg.

I should also be obliged by your furnishing me with such information as you may possess with respect to the causes which have contributed to such an extensive migration of slaves from Coorg into Mysore, as is reported in your letter of the 15th; whether there be any ground

* It is stated that upwards of 500 slaves (including women and children) have fled from Kiggutnaad alone, since the beginning of this year.

ground to believe that they have forsaken their masters chiefly to escape from oppressive and cruel treatment, or simply from their desire to obtain the privileges of freemen, and in what degree this desire has arisen from the emancipation of the public slaves; whether the rates of wages current in Mysore are such as to offer encouragement to desertion from Coorg; whether the condition of the slaves (apart from their personal freedom) is supposed to be improved by the change of country; and whether, if the freedom of fugitive slaves were purchased by government from their owners, the former would return and establish themselves in Coorg, as so many of the emancipated slaves have done; or whether the Coorgs would, under present circumstances, be able to draw labourers from the adjoining countries for the cultivation of their lands.

I should also be glad if you would favour me with your opinion as to the probable consequence which 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 from Malabar and Canara into Coorg.

FROM Captain *C. F. Le Hardy*, Superintendent of Coorg, to the Officiating Secretary to the Commissioner for the Affairs of Coorg, Bangalore, dated 6th June 1840.

No. 7.

I HAVE the honour to acknowledge the receipt of the commissioner's letter of the 20th ultimo, requesting me to report further on the condition of the Punnah slaves who were emancipated in 1836; also requesting information as to the causes which have contributed to the extensive migration of slaves into Mysore, brought to notice in my letter of the 15th ultimo, and on different other points connected with the general question of slavery in Coorg.

2. In reply, I have the honour to state, that I have not, up to the present period, heard a single instance of any of the Punnah slaves having misconducted themselves; but on the contrary, all accounts which I have received of their pursuits and habits have only tended to confirm the favourable opinion which is expressed of them in my letter of the 14th August 1837. A few of those who had undertaken the cultivation of lands on their own account have thrown them up, but there are still between 30 and 40 families so engaged; about a fifth of the whole have established themselves as independent labourers, and the remainder have either returned to their former masters, or have attached themselves to other ryots as domestic servants. No one that I have questioned can speak positively as to any having left the country; but it is supposed that a few of the Yerrwanroo caste, who had come from Wynaad, have returned thither, and have entered the service of ryots to whom their relatives are attached. The number of these must, however, be very small.

3. Such of the emancipated slaves as have taken lands for cultivation have congregated in small villages in the neighbourhood of the Punnahs to which they formerly belonged. The sizes of their farms vary from 50 to about 200 butties of land, assessed on sagoo tenure, at from 5 to 20 rupees. 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.

4. 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 to which they belong, are allowed the same rations, and are required to work the same number of hours, but instead of receiving the clothing to which slaves are entitled once in six months, some have stipulated for a payment in money of from two to four rupees a year. I am told, however, that the greater number receive the same allowances, and are otherwise treated exactly as if they continued slaves; indeed, that many of them have destroyed the certificates of freedom which were given them, and have bound themselves to continue for life in the service of their masters, on condition of being maintained as slaves 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, be regarded as being in any way improved, nor can I say that I perceive any difference in the circumstances of those who have established themselves as independent labourers; the rates of hire differing so very little from what they formerly received, that the freedom which they now enjoy may be regarded as almost the only advantage which they have derived from their emancipation.

5. The present condition of the Punnah slaves is not, therefore, on the whole such as to occasion any feelings of discontent amongst the remaining slave population; nor have I ever heard that the emancipation had had that effect, although, previous to its taking place, this was the principal objection which was urged against the measure. On the contrary, many persons whom I have since questioned on the subject have assured me that, with a very few exceptions, the liberation of the Punnah slaves had been regarded by the rest with perfect indifference, and that it had not, to their knowledge, produced the slightest alteration in the conduct of any.

6. On making more particular inquiries regarding the desertion of the slaves from Kiggutnaad, brought to notice in my letter of the 15th ultimo, I find that I was misinformed as to the number who have proceeded to Mysore. Upwards of 500, including women and children, are still stated to have left Kiggutnaad since the beginning of the year; but it now appears that nearly the whole of these have proceeded to Wynaad, the number who have gone to Mysore not exceeding 50 or 60 at the utmost. Had I been

aware

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aware of this fact when I despatched my letter of the 15th ultimo, I should not have considered it necessary to advert to the loss sustained by those whose slaves have absconded, as they have no cause of complaint, there being an old understanding between the Coorgs and the ryots of Wynaad, according to which slaves absconding from either district are not claimable by the masters whom they have left after having crossed the frontier. For some years past this custom has operated much to the advantage of the Coorgs, the desertions from Kiggutnaad being very few, whilst the number of slaves who have come from Wynaad has sometimes amounted to 200 or 300 in the course of a season. This year, however, owing, it is said, 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, several of those who had come from Wynaad have returned to their former masters, and have, moreover, induced a number of the slaves of this country, with whom they were associated, to accompany them. This is one reason offered for the large migration which has taken place. Another reason given is, that these slaves are of unsettled migratory habits, and remain seldom more than four or five years in the same place, leaving their masters on the slightest grounds, and very frequently without any apparent cause at all. Moreover, it is said that the labour in Wynaad is much lighter than that which is exacted in Coorg, and that the slaves, when put upon an equality in point of food and clothing, would of course prefer the former district.

7. Desertions in this manner, from one district to the other, appear to have been of constant occurrence for many years past. Most of the slaves, on crossing into Coorg, are claimed by ryots to whom they were formerly attached; and the same is, I believe, the case in regard to those who abscond from this country into Wynaad; so that many of the slaves on either side of the frontier are considered as having masters in both districts; and I am told that they have changed so often from one to the other, that it would now be almost impossible to say to which they properly belong.

8. The slaves who have proceeded to Mysore are generally supposed to have left their masters in consequence of inducements held out to them, by inhabitants of the adjacent talooks, to enter their service, as well as from a desire to obtain the privileges of freemen. I have been unable to ascertain, with any degree of certainty, whether the wages current in the villages bordering on Coorg are such as to offer any particular encouragement to the desertion of slaves, but, from all I can collect, I rather think they are not, and that the condition of fugitive slaves (apart from their own personal freedom) is not in most cases improved by the change of country, as many, after an absence of some months, occasionally of some years, return to Coorg of their own accord. The only satisfactory cause I can find, therefore, for the migration of those who have proceeded thither, is that which is assigned by the proprietors themselves, or more probably a desire to settle in the neighbourhood of their own caste people residing in the adjoining talooks of Mysore.

9. I hardly think that they can have been driven by cruelty to leave the country. Instances of ill-usage must of course occasionally occur; but I have every reason to believe that such are very rare. Judging from my own observation, as well as from all I have heard on the subject, I should say that the slaves of Coorg are generally treated with much kindness, and that the greatest attention is paid to their wants and comfort. Indeed, when it is considered that they 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, it may readily be supposed that the conduct of the master towards his slave cannot differ much from what it would be, were the latter a free domestic servant.

10. A number of the ryots of Kiggutnaad and Yedaynacknaad living near the frontier of Mysore possess slaves whose families originally came from Periatam and other talooks adjoining Coorg. Many of these slaves would most likely take the first opportunity of leaving their masters, with the view of settling amongst their relatives or caste people, if they were quite sure of not being sent back. But, excepting the loss which the proprietors of this class might sustain, I do 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; nor am I 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. The slaves of all other castes in Coorg, on leaving their masters, either proceed to other parts of this country or to Wynaad, but never for any length of time to the open country, to which their aversion is said to be so great that no temptation would induce them to settle there. It may be concluded, therefore, when slaves of the latter classes desert to Mysore, that nothing but ill-treatment has driven them to do so, and the same may be inferred in the case of such as desert from Malabar or Canara into Coorg, 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.

11. In either case, therefore, it appears highly advisable that the owners should be left to their own resources in recovering their fugitive slaves, after they have left the district to which they belong. Perhaps it would be as well that no exceptions were made to this rule, although the case of those castes of slaves who have connexions residing in the adjoining talooks of Mysore is somewhat different. Their desertion in most instances may be supposed to proceed from a desire to settle in the neighbourhood of their own caste people; and if there be no check to their leaving their masters, the latter, however kind and considerate may be their conduct, will always be liable to suffer serious losses.

12. The number of these slaves probably amounts to 200 or 300 families, or, supposing all whose families originally came from Mysore still to have ties there, the number may possibly amount to 200 or 300 more. They belong to the Bulgi Hollieroo, Buddugen, Yerrwanroo, and Jain Carrooburoo castes. There were between 300 and 400 of them attached to the Punnahs, and they form the only portion of these slaves who have established themselves independently; they are indeed the only castes amongst the slaves of Coorg who appear to attach any value to the enjoyment of personal freedom, as I cannot find that any of the emancipated slaves belonging to these castes have left the country, although many must still have connexions in Mysore; I am led to believe, that if government were to purchase the freedom of such as may take refuge in Mysore, many of those who have absconded during the last three or four years would return to Coorg, although it is probable, that, rather than re-enter the service of their former masters, they would settle in the country as independent labourers; I fear, however, that a measure of this kind would give rise to much alarm, and I rather think that the majority of slave-owners, if consulted, would prefer receiving no remuneration than risk the loss of more slaves by the encouragement which the system of purchasing the freedom of fugitive ones would offer to further desertions.

13. The cultivation of wet lands in Coorg begins just as the rains set in; and the most important operation, the transplanting of the paddy, which occupies in most farms a month or six weeks, takes place during the very heaviest part of the monsoon; the slaves or labourers employed by the ryots are, consequently, obliged to undergo a degree of exposure, such as none but persons who have long been inured to the climate are willing to endure, or, indeed, are capable of bearing. From this cause, as well as from the aversion which the natives of the adjoining districts have to the climate of Coorg, even in the most favourable seasons of the year, it will always be difficult to procure labourers; and were any large number of slaves to leave the country, great distress would no doubt be the result, as the owners would be under the necessity of abandoning most of the lands which were cultivated by them.

14. But, as I have already stated, the migration of any large number of slaves from Coorg is a contingency which I see no cause to apprehend, from the officers of government refusing to recognize the rights of owners to such slaves as abscond beyond the frontier; nor, indeed, do I believe that any serious inconvenience would result to the owners were the district authorities even prohibited from taking any active part in restoring runaway slaves who may remain in Coorg (the masters being left to depend entirely on their own resources for their recovery); but this latter is a course which it would hardly be expedient to adopt. At present, applications for assistance of this nature are of extremely rare occurrence, and 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 these families. In short, I know of no change which would be likely to give rise to so much alarm and bad feeling as the adoption of any measure tending to weaken the right which masters now possess to the services of their slaves, or, indeed, of any important alteration in what has hitherto been the custom of the country in regard to this description of property.

(B.)

EXTRACTS from Correspondence connected with the question of Slavery in Coorg.

No. 8.

Para. 10. THERE are about 1,500 slaves attached to the estates of the late rajah, described in my letter of the 1st instant. These might have been emancipated had there been no others in the country, but there are several thousands more, as I find that slavery prevails here generally. I have therefore deemed it inexpedient to attempt any change in the existing system, and have merely directed that correct and detailed returns of the slaves be made to me, with a view of immediately liberating the Coorgs or other inhabitants of the country who have been condemned of late years to perpetual slavery by the capricious tyranny of the ex-rajah, but of allowing the original bondsmen, who have been attached to the soil from time immemorial, to remain there as at present, until a more intimate acquaintance with the subject in general shall enable me to report it to government.

Colonel Fraser's
letter to Mr. Mac-
naghten, dated the
3d May 1834.

MEMORANDUM respecting the Condition of the Slaves in Coorg, transmitted with Colonel Fraser's Letter to Mr. Secretary Macnaghten, dated 14th July 1834.

SLAVES in the Coorg country are termed Jummed Aloo, a compound term signifying labourers attached to jummah lands, and their number is estimated at 6,089. It seems that slavery has existed in this country from time immemorial. It is supposed that half of the agricultural labourers here are in a state of bondage, the nature of which does not seem to differ in any material degree from that which exists in other parts of Hindoostan.

There are two descriptions of slaves in the Coorg country, one called Boomee Jummed Aloo, signifying those who are attached to the soil, and liable to be transferred from one proprietor to another, but not removable from the land to which they belong; and the other called Vuccaloo Jummed Aloo, meaning those who are the personal slaves of cultivators, and

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Betta Koorabaroo.
 Janoo Koorabaroo.
 Pancayara.
 Badaga Taraba.
 Punjay Taraba.
 Paulay.
 Koodeah.
 Adeah.
 Kembutta Holeyaroo.
 Badaya Holeyaroo.
 Rookka Holeyaroo.
 Kapaul.
 Mudegaroo.
 Maduroo.
 Maree Holayur.
 Murtha Holayur.

who may be either sold or mortgaged by them ; they always remain attached to their masters, and move with them wherever they go ; they are indeed the movable property of the cultivators, from whom they never separate under any circumstances.

The slaves here are of the castes mentioned in the margin. It seems to be the opinion of the most intelligent persons here, that their bondage must either have been originally derived from a voluntary submission on their part to become the slaves of cultivators, in order to obtain a livelihood, or that the cultivators purchased free persons for the purpose of assisting them in their cultivation at the cheapest rate. 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 occasionally made over to him from those belonging to the sircar. The ex-rajah had about 1,757 slaves. They were not only employed in the cultivation of the royal lands, but also in the performance of other mean labour. The rajah used to employ them in the conveyance of his arms whenever he went on hunting excursions. The ex-rajah called not only upon the slaves attached to the royal lands, but also upon those, the property of cultivators, to afford military aid in the late war, their masters having been directed to supply them with arms.

The proprietors of the Vuccaloo Jummed Aloo, in Coorg, have the power of selling them, but not to a person who will carry them out of the country, unless the slaves themselves consent. The rights of slaves consist in receiving subsistence and protection for themselves and their families, from their masters, who are bound to observe the custom of the country with respect to the quantity of food and clothing given to them. 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 by them, sometimes monthly, and at other times daily. The slaves are likewise entitled to a load of grain once a year, at the time when the crops are reaped. This quantity is called "horay," which varies in different naads. The slaves reside in houses provided for them by their masters in the small village, and a piece of land is appropriated to their use, on which they usually grow vegetables or tobacco. Besides the subsistence given to the slaves, and the allowance above mentioned at the time of harvest, they are supplied by their masters with clothing twice a year ; first, when the seed is sown, and, secondly, when the crops are reaped. It appears that some ryots in Coorg provide their slaves with subsistence at those times only when they work for them, but that at others they are obliged to seek a livelihood elsewhere, being bound, however, to return to their master at the commencement of the season of cultivation. If the master become either from poverty or any other cause unable to protect his slave, he obtains an employment as labourer under any other person, and earns his livelihood ; but when his master is again in circumstances to support his slave, he returns and attends as before to the business of his master.

In regard to the treatment of slaves by their masters, it is said that the cultivators in Coorg, actuated by self-interest, if not a better motive, pay much attention to their comfort. Aware as they are that any act of severity on their part will induce their slaves to abscond, a circumstance which would subject them to much trouble and inconvenience, they protect and treat them with kindness, as forming a part of their family. The proprietors in Coorg possess no power to inflict severe punishment upon their slaves, but they have authority to chastise them moderately for any faults they may commit. In the time of the rajahs, no instances appear to have occurred of slaves having complained of severity or ill-usage on the part of their masters, a circumstance which indicates that they have experienced good treatment from them. The wealth of a cultivator is generally estimated by the number of his slaves, as in proportion to the number he has lands under cultivation.

It does not appear that any attempt to emancipate slaves should be accomplished without a violation of the rights of private property, and it would unavoidably produce much serious inconvenience, and cause a considerable quantity of land to be abandoned, as the proprietors would be unable to incur the expense of employing free labourers. The slaves who are now in Coorg have been slaves from their birth, and are the descendants of slaves. Marriage contracts among them 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, it is said, always remain attached to their fathers, according to the custom of the country.

During the late war, half of the number of slaves attached to the royal lands escaped from the country, and the other half, amounting to about 860, have been or will be transferred to those ryots to whom the lands in question have now been rented, or are in the course of being so.

Mr. Macnaghten's
 letter to Colonel
 Fraser, dated the
 25th July 1834.

Para. 12. The account furnished by you of the state of slavery in Coorg is circumstantial, but deficient in one important particular. You do not state what is the average selling price of a slave ; and as this is a most material point to be considered in all endeavours for ameliorating the condition of this class, you are requested to supply me with any information you may be able to procure with regard to it.

Colonel Fraser's
 letter to Mr. Mac-
 naghten, dated the
 15th August 1834.

Para. 52. There is scarcely any point on which I have found it more difficult to obtain information than that which regards the state of slavery in Coorg, and it is this circumstance which has delayed for some days the transmission of the present despatch. I have thought that I perceived a reluctance to speak on this subject since I first came into the district, and this may perhaps be attributed in some measure to an apprehension on the part of the people that the inquiry was a preliminary to the emancipation or other change in the condition of the slaves.

53. With regard to the selling price of the slaves, of which his Lordship in Council desires to be informed, the following memorandum conveys all that I am able to state on this subject; and the persons from whom I have received it having somewhat differed in their accounts, I am not prepared to vouch for its perfect accuracy, though I am disposed to think that it is not far removed from the truth.

54. There are about 16 tribes of slaves in Coorg, which are classed under their general denominations, viz. Holeyaroo, Yewaroo and Paleroo. The average price of slaves of the above three denominations is as follows:—

	<i>Males.</i>	<i>Females.</i>
	Rs.	Rs.
Holeyaroo, comprising Kimbutty Holeyer, Madegaroo, Madaroo, Mare Holeyer	18	18
Yewaroo, comprising Betta Koolearoo, Janoo Koolearoo, Panay Yewaroo, Badagay, Yewaroo, Punjay Yerawaroo	10	10
Paleroo, comprising Rookka Holeyaroo, Palaroo, Adeah, Murtha, Holeyur, Rupla	12	12
Total	40	40
Average	13½	13½

55. It is said that, of the above-mentioned tribes, the Kimbutty Holeyer, and Madaroo, are natives of Coorg, and that the rest are originally purchased in Canara, and brought from thence into Coorg. The Holeyaroo are more valuable than the Yerawaroo, because they are more faithful to their masters, and work harder. The Yerawaroo are prone to desertion, and to the commission of theft and other offences, from which cause they are considered of inferior value. The laws of kindred among these classes, excepting the Mare Holeyaroo, are the same as those of the slaves in other parts of India, where the offspring is considered as belonging to the parents; but the laws of the Mare Holeyer are similar to those of Nairs, among whom the inheritance goes to the sister's son. The female slaves of the Paleroo caste do not remain in bondage after the death of their husbands, as they are then free and return to their father's house. It is said that the female children of these slaves are not considered the property of the masters, unless they are purchased; but that they are sent by their parents to the house of their maternal grandmother, and there brought up.

Para. 9. You are aware that the question of slavery in India has deeply engaged the attention of the British Legislature. The subject is one of considerable delicacy, and the Governor-general in Council thinks it exceedingly fortunate that an officer of your approved judgment and discretion should at this juncture reside in a district where slavery is so prevalent.

Mr. Macnaghten's letter to Colonel Fraser, dated the 29th August 1834.

10. From the information which you have been able to collect, it would appear that the average price of a slave in Coorg is between 13 and 14 rupees. From this it is evident that the British Government might effect the emancipation of the entire district at a pecuniary sacrifice too trifling to be mentioned in comparison with the object of conferring personal freedom on so many hundreds of human beings.

11. But the Governor-general in Council is fully aware that in the execution of this beneficent scheme too much caution cannot be exercised. It is desirable that the best possible information should be obtained, both as to the feeling with which the scheme would be received by the masters, and the effect which its execution would have upon the condition of the emancipated slave. To the former it might be palatable by the temptation of a large pecuniary payment; and to the latter it could hardly fail to be advantageous by its securing to him his personal freedom and the fruits of his own industry. It is hardly possible, indeed, to imagine a state of society in which the acquisition of personal freedom would not prove an incalculable blessing to those on whom it was conferred, though the degree in which the benefit would in the first instance be felt may doubtless be affected by peculiar circumstances. On the other hand, it is easy to suppose that they who have been accustomed immemorially to dominate over certain classes of their fellow-creatures, might be unwilling to part with this privilege for any reasonable compensation. The degree of unwillingness which might be felt would be a material point for consideration.

12. The Governor-general in Council would not consider himself justified, even for the attainment of so benevolent an object, in risking the tranquillity of any portion of the country. If, therefore, there was ground to believe that serious disaffection to our rule would be the consequence of proposing any plan of emancipation, his Lordship in Council would be inclined to recommend that the attempt at its introduction should be deferred until a more general diffusion of knowledge among the people should hold out a better prospect of success.

13. There cannot, however, the Governor-general in Council conceives, be the slightest objection to intrusting an officer of your well-known prudence and intimate knowledge of the native character with the duty of endeavouring to ascertain the feeling of the community of Coorg on this important subject. It is not intended that you should institute any formal inquiries with regard to it; but, in the intercourse which you continually have with the more respectable and intelligent persons of the country, opportunities will doubtless present themselves of enabling you to ascertain the feeling with which a proposition would be received, having for its object the emancipation of all the slaves in Coorg, the full value of each being paid to their respective proprietors.

14. The

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14. The Governor-general in Council is well aware that predial slavery is not peculiar to Coorg, and that it prevails extensively in other parts of India, especially on the western coast; but he is unwilling to communicate his sentiments on a question of so much delicacy to any officer in whom he has not entire confidence. Should your report satisfy his Lordship in Council that there is not that decided repugnance to the proposition which might be anticipated, similar inquiries may subsequently be instituted in other quarters. But no steps can be taken in the country for carrying the scheme of emancipation even partially into effect until a reference shall have been made to the home authorities.

Mr. Macnaghten's letter to Colonel Fraser, dated the 9th September 1834.

Para. 9. After the words "corporal punishment" in the 92d rule may be inserted the words "by the officers of government." This will probably remove the scruples adverted to in the 25th paragraph of your letter now acknowledged, though his Lordship in Council is of opinion that any direct recognition of the power of individuals to inflict corporal chastisement on their slaves or others, however moderate, might be attended with very prejudicial consequences.

Colonel Fraser's letter to Mr. Macnaghten, dated the 31st August 1835.

Para. 4. In paragraphs 9 to 15 of your letter to me, under date the 29th August 1834, you desired my opinion in regard to the state of the slaves in Coorg, and the practicability of emancipating them. My views were then opposed to this proceeding as unnecessary and inexpedient, and the dewan Ponnabah, in a private and confidential memorandum furnished to me at the same time, participated in the sentiments I entertained respecting the impolicy of the measure, and the mischiefs by which it would be followed.

5. I have, however, abstained from addressing any official report to you on the subject until time and a further acquaintance with the condition of the people generally in Coorg should enable me to do so with less chance of error.

6. The opinions I then entertained on this point are now more fully confirmed. I think that the emancipation of slaves ought not to be contemplated in the present condition of Coorg, under any circumstance, even of proposed pecuniary compensation to their 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.

7. I have frequently conversed upon this subject with Captain Le Hardy, and the Honourable the Governor-general will find it discussed in paragraphs 138 to 149 of that officer's report.

8. I would not recommend the adoption of any further proceeding at present in this respect than that which is suggested in paragraphs 141 to 149; and this only as an experiment, of which the progress and consequences should be carefully observed and hereafter reported upon.

9. Nothing can be more satisfactory than the state of Coorg. Its inhabitants are a simple, hardy and industrious race, and I entertain the fullest conviction that we may continue to rely upon their allegiance and good-will towards us as long as we treat them with justice and kindness, and that we abstain from any speculative experiments on the institutions and administration of the country as at present established.

Captain Le Hardy's report, dated the 30th July 1835.

Para. 138. The state of slavery is a subject upon which I have received your instructions to report; and I have accordingly omitted no opportunity that has been offered me in conversation with the inhabitants of putting questions, in order to obtain information regarding the condition and character of these classes, and the treatment which they experience from their masters, as well as to ascertain the feelings and opinion of the ryots in respect to their emancipation.

139. I have heard only one sentiment expressed, and it accords in every particular with the opinion offered by the dewan Ponnabah, as stated in the memorandum forwarded to me with your letter of the 18th Nov. last. All my informants concur in predicting that, in the event of their being suddenly emancipated, their habits of idleness and improvidence are such, that they are more likely to retire to the jungles and seek a subsistence by plunder, than to have recourse to manual labour as a means of livelihood. This may admit of a doubt; but an unanswerable objection offered to their sudden manumission is the utter impossibility of finding substitutes for performing the agricultural operations of this country, owing to the absence of superfluous labourers, and the difficulty and expense of procuring any from Mysore or Malabar, should the slaves, on obtaining their freedom, proceed elsewhere or refuse to work. Indeed, the strongest possible objection appears at present to exist on the part of the people to any measure amounting to an abrogation of slavery.

140. I doubt, therefore, the practicability of accomplishing the purchase of the whole or of any considerable number of the slave population with the consent of the proprietors; but I think, at the same time, that there are many individuals, who, although unwilling to part with their slaves, might be induced, by the offer of favourable terms, to allow them some of the most essential privileges of freedom, and also to give up all claims to their progeny.

141. My attention has accordingly been divided to the consideration of some measure by which emancipation might be gradually accomplished, without alarming the prejudices of the people; and a most favourable opportunity of discussing this delicate question has been afforded me from the necessity of devising some immediate arrangement for the disposal of the slaves attached to the Punnahs.

142. I found the dewans at first obstinately opposed to any plan which had for its object the emancipation of these slaves, on the principle that a measure tending to improve the condition of a portion would occasion a feeling of discontent amongst the whole of the remaining slave population of Coorg. After reconsideration, however, and on my pointing out to them the improbability of government sanctioning the sale of the Punnah slaves, they have furnished me with a memorandum which provides what appears to me a simple and perfectly feasible

feasible means of meliorating the condition of the present generation, and at the same time of emancipating their progeny without the risk of danger or inconvenience.

143. They propose that the Punnah slaves should continue to be considered the property of government, with the view of preventing any feeling of discontent which their sudden emancipation would occasion amongst the remainder of the slave population; but that, instead of continuing to be employed on their present footing, they be intrusted to the care of respectable ryots, who shall 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.

144. The rising generation are also to be considered the property of government, but to be in reality perfectly free; except, first, in their being placed under the surveillance of the potails of the villages which they may select as their place of residence; and, secondly, in their being obliged to apply for the permission of the sircar when desirous of removing from one part of the country to the other. In other respects they are to be on the same footing as all other ryots, to be allowed to cultivate land on their own account, or to work as labourers for whomsoever they choose.

145. Thus the condition of the present Punnah slaves will be very materially improved, while the rising generation are to be allowed almost perfect freedom, unless their conduct is such as to render it necessary to place them under guardianship, in the same manner as their fathers were.

146. This appears as much as can be wished for as a first step towards their entire emancipation, and I perceive no serious impediments to the plan being carried into effect, although it is possible that there may at first be some difficulty in placing the slaves on their new footing, and in securing to their posterity the privilege of freemen. These difficulties may, however, I think, be overcome by a little attention to their comforts on the part of the district officers, and by the assistance of a trifling advance from government, on their first establishing themselves as free labourers, under the surveillance of the potails of villages.

147. The apprehension at first expressed that the sudden emancipation of the Punnah slaves would occasion a feeling of discontent among the whole of the slave population of Coorg, may not be unfounded, but I conceive it exceedingly improbable that any inconvenience or danger will result from the plan now proposed, viz., their being allowed to assume the privileges of freemen by degrees. Indeed, I feel satisfied that the dewans, who are themselves extensive proprietors of slaves, would never have recommended the measure, were there the slightest grounds for entertaining any doubt on the subject.

148. I have, therefore, no hesitation in recommending the adoption of the plan which they have proposed, and I feel peculiar satisfaction in submitting their memorandum on the subject for consideration, as it appears to me to open a safe and easy road for carrying into effect a more extensive measure of emancipation hereafter, should the present plan be found, in practice, liable to no serious objections.

149. The dewans also recommend that the slaves of which individuals were deprived by the ex-rajah be returned to their former owners; but I see no reason why these should be made an exception to the rest, should the foregoing plan meet with approval.

Para. 8. The 11th and 12th propositions require distinct notice. The Governor-general in Council is not aware of any objection to the rule of assessment proposed for the Punnah lands, supposing that question to be altogether distinct from the plan suggested for the disposal of the slaves attached to those lands.

Mr. Macnaghten's letter to Coloael Fraser, dated the 12th October 1835.

9. But with regard to this last suggestion, I am desired to observe, that the Governor-general in Council cannot bring himself to concur in it, notwithstanding the very great confidence he reposes in the general accuracy of your views and opinions. The legislature has already laid down the humane principle that the extinction of slavery in India is to be effected as soon as it may be practicable and safe to do so. No opportunity would appear to be more favourable than the present for making an effort to promote this benevolent object. The slaves are the unquestioned property of government, with whom it undoubtedly rests to dispose of them as it may seem proper, and the number is not so large as to create any apprehension of extensive disturbances, should they abuse the freedom which may be conceded to them.

10. The Governor-general in Council, however, sees no reason to apprehend that such would be the case; judging from the experience of other countries and other times, there is every reason to suppose that the emancipated slaves of Coorg would willingly work to obtain their livelihood, and that those for whose benefit they have hitherto been tasked would willingly employ them as hired labourers. The objection alluded to by Lieutenant Le Hardy, in the 142d paragraph of this report, cannot be allowed any weight in the consideration of this question. That the British Government should be prevented from performing an act of justice and humanity, "on the principle that a measure tending to improve the condition of a portion would occasion a feeling of discontent amongst the whole of the remaining slave population of Coorg," is a doctrine which, with every disposition to consult the wishes and even to respect the prejudices of our newly-acquired subjects, the Governor-general in Council cannot for a moment entertain.

11. You will accordingly understand that it is the settled determination of government to emancipate those slaves, whose persons, as belonging to the State, it has the undoubted right to set at liberty; and you are requested to state your opinion as to the best course of proceeding,

Appendix XIII. proceeding, for the purpose of securing an employment and livelihood for the individuals so liberated, whether by locating them on the Punnahs, on the footing of ordinary ryots, or by Coorg. any other means.

(Here follows in the Manuscript the Correspondence printed in Slavery in India Papers, 1838:—

Page 72, No. 125, Lieutenant-Colonel J. S. Fraser to Mr. W. H. Macnaghten, 1836, January 18th.

Idem, No. 126, Captain C. F. Le Hardy to Lieutenant-Colonel J. S. Fraser, 1835, November 23d.

Page 74, No. 127, Mr. Secretary W. H. Macnaghten to Lieutenant-Colonel M. Cubbon, 1836, February 8th.

Page 79, No. 85, Captain Le Hardy to the Commissioner of Coorg, 1836, April 26th.

Page 78, No. 83, Lieutenant-Colonel M. Cubbon to Mr. Secretary W. H. Macnaghten, 1836, June 3d.

Page 79, No. 86, Mr. Secretary W. H. Macnaghten to Lieutenant-Colonel M. Cubbon, 1836, June 27th.)

Captain Le Hardy's letter to Colonel Cubbon, dated the 14th August 1837.

I have much pleasure in stating that I have not heard a single instance of any of the individuals who were emancipated from slavery at the beginning of last year having mis-conducted themselves as it was at first apprehended they would do. Indeed, as far as I can judge from what has fallen under my own observation, I have every reason to believe that they are a remarkably quiet, well-behaved, industrious people; a number have continued in the service of the rajahs to whom they were formerly attached; but it will be observed, under the head of "House Tax," in the accompanying memorandum, that 383 families of them have during the past season established themselves as independent labourers. Between 50 and 60 families cultivate on their own account small patches of land.

APPENDIX XIV.

BRIG MOYDEEN BUX.

1. LETTER from Secretary to Indian Law Commission to the Chief Secretary to the Government of Fort Saint George, Madras, dated 11th March 1840.
2. Reply from the Secretary to Government of Fort Saint George to Secretary to the Indian Law Commission, dated Neilgherries, Ootacamund, 2d April 1840.
3. From Mr. Advocate-general George Norton to the Secretary to Government, in the Marine Department, Fort Saint George, dated 5th November 1839.
4. From Captain Christopher Biden, Beach Magistrate, to the Secretary to Government, dated Madras, 4th November 1839.
5. From idem to Mr. A. Rowlandson, dated idem.
6. From idem to the Secretary to Government, Madras, dated 4th December 1839.
7. From Mr. R. A. Bannerman, Magistrate, Purlah Kemedey, Ganjam, to the Master-Attendant and Beach Magistrate, Madras, dated 27th November 1839.
8. From Mr. T. Conway, Head Assistant Magistrate, Calingapatam, to Mr. R. A. Bannerman, Magistrate of Ganjam, dated 21st November 1839.
9. From Captain Christopher Biden, Beach Magistrate, to the Secretary to Government of Madras, dated 3d January 1840.
10. From Mr. W. U. Arbuthnot, Magistrate, Vizagapatam, to Captain C. Biden, Beach Magistrate of Madras, dated 24th December 1839.
11. From Sir H. C. Montgomery, Acting Principal Collector, Tanjore, to the Collector of Vizagapatam, dated 24th December 1839.
12. Extract from the Proceedings of the Foujdary Adawlut, under date 17th September 1839.

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FROM Secretary to Indian Law Commission to the Chief Secretary to Government of Fort St. George, Madras, dated 11th March 1840.

No. 1.

THE attention of the law commission has been attracted to the recent trial at Madras, under the statute 5 Geo. 4, c. 113, of the nacodah of the brig Moydeen Bux, and 15 other persons, for dealing in slaves contrary to the said Act, and to an opinion which they understand has been expressed by the advocate-general in a report to government upon this case, that the forfeitures under the Act must be condemned in some admiralty court. The law commission direct me to request that the Right honourable the Governor in Council will be pleased to cause them to be furnished with copy of the opinion of the advocate-general and an account of the proceedings on the case, both before the magistrate and before the supreme court.

FROM

FROM the Secretary to Government, Madras, to Secretary to the Indian Law Commission, No. 2.
dated 2d April 1840.

I AM directed by the Right honourable the Governor in Council to acknowledge the receipt of your secretary's letter of the 11th instant, and in transmitting to you copies of the papers* noted below, which contain the opinion of the advocate-general and the reports of the beach magistrate relative to the case of the nacodah of the brig *Moydeen Bux*, and others, charged with slave-dealing, to state that the parties were acquitted on the trial before the supreme court, on a point of law, in consequence of a verbal omission in the indictment. Neilgherries, Ootacamund.

FROM Mr. Advocate-General *George Norton* to the Secretary to Government, in the Marine Department, Madras, dated 5th November 1839.

I HAVE the honour to report, for the information of the Right honourable the Governor in Council, that an inquiry is now proceeding at the police office into a case of extensive slave-dealing carried on by sea and at various ports of this side of India by a vessel now in the roads, owned and navigated by Mussulmans. The slaves discovered on board are all of very tender age, none being above seven or eight years old, and some apparently no more than four years old.

Upon learning the matter from a personal communication of the magistrate, the master-attendant (who is conducting this inquiry), I judged it expedient, without loss of time, to instruct Mr. Rowlandson, the solicitor, who is the partner of the Honourable Company's acting solicitor, at present confined to his bed by serious illness, to wait on the magistrates and offer his professional assistance (in the place of the Honourable Company's solicitor) in the investigation now proceeding, and subject to the sanction of government. I conceive it a very fit case (should there appear eventually ground for committing any of the parties charged for trial in the supreme court) for a public prosecution by the law officers of government.

At the same time it appears fit that I should recal to the consideration of the Right honourable the Governor in Council, that under the instructions of the supreme government of India, communicated to the chief secretary in the letter of the secretary to that government of 9th September last, for the information of this government (and which were forwarded to me under the minutes of consultation of 10th ultimo, No. 807), the Government of India has directed, "that it should rest entirely with the honourable judges on perusal of the depositions to determine in what cases of those sent up by the magistrates, in which no counsel has been retained for the prosecution, the services of the government officers should be employed on the part of the Crown."

If this rule should be strictly enforced, I should be premature in thus anticipating the opinion of the honourable judges. But I conceive it must be obvious, on consideration, that, not only in this but in all other cases, the professional assistance, which is chiefly valuable towards conducting the investigation, seeking the available evidence, and maturing the case for counsel's instruction, will be lost, and that any direction which may come from the honourable judges, after they shall have considered of the depositions, will generally come too late for the law officers conducting the prosecution with due efficiency. Moreover, as neither they nor the judges themselves will have had any opportunity whatever of learning the real merits of the case, save as far as may appear from the depositions, the duty of counsel will, as I apprehend, be confined merely to the tenor of those depositions, and the law as arising therefrom, both as regards addressing the jury or the court, and the examination of the witnesses at the trial.

With regard to the only other occasions in which the law officers of government under the above instructions are to interfere in aid of the prosecution, namely, "when counsel for the defence happen to be retained," I would crave to submit for consideration that the effect of this rule will assuredly be, that the law officers will never know of such retaining of counsel for the defence until the very eve of the trial being called on, when these officers who are to conduct the prosecution will never know more of the merits of the case than the depositions disclose, and hardly have time indeed to ascertain the purport of the depositions themselves.

I trust I shall be held excused if I have been led out of my proper course in noticing thus much; but it seemed to me, at all events, necessary, that I should explain to government some grounds for my deviating in the present instance from the instructions forwarded to me.

P. S.—The above was written previous to the receipt of your letter of yesterday's date. I now beg to add, that upon subsequent communication with the beach magistrate, there appears much reason to suspect that other vessels are engaged in slave-trafficking along the coast, and particularly at Calingapatam, Vizagapatam, Bimlipatam and Nagore; at the first of which ports children are now believed to be kept in waiting for another vessel which is bound to Nagore. I beg therefore to suggest, that all the authorities on the coast should be immediately apprized of this, and directed to take measures accordingly.

Under the Slave-dealing Act, 5 Geo. 4, c. 113, this vessel and her cargo will (in case the slave-dealing shall be established) be forfeited, and she may possibly be so also under the Registry

* From the advocate-general, 5th November 1839. From the beach magistrate, 4th November 1839. Ditto, 4th December 1839. Ditto, 3d January 1840. See Nos. 3, 4, 6 and 7, seq.

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 Brig Moydeen Bux.

Registry Acts. But there are none but the governors of Her Majesty's colonies, or their deputed officers, or Her Majesty's naval or military officers, who are competent to seize such forfeitures, and they must be condemned in some vice-admiralty court. That jurisdiction, it has been decided by the court here, does not exist at this presidency, for want of renewal of the commission to the chief justice. Under these circumstances it appears to me expedient that prompt notice should be sent to some naval officer nearest to Madras, and also to the admiral of the station. In the meantime I have under my consideration by what course the vessel may legally be detained here or elsewhere.

6th November 1839.

No. 4. FROM Captain *C. Biden*, Beach Magistrate, Madras, to the Secretary to Government, dated Madras, 4th November 1839.

I HAVE the honour to enclose the copy of a letter which I have addressed to the Company's solicitor.

The subject is of such vast importance, and requires such immediate attention, that I have considered it my duty to adopt this course of proceeding without loss of time.

The detention of a vessel at this season of the year can only be justified under such extraordinary circumstances as those detailed in my letter to the Company's solicitor; and I shall suggest to him the expediency of permitting the brig to depart after an examination of her crew, if consistent with the ends of justice.

Under all these circumstances, I am most anxious to be relieved from the responsibility I have undertaken, by receiving the orders of the Right honourable the Governor in Council for my guidance.

No. 5. FROM Captain *C. Biden*, Beach Magistrate, Madras, to Mr. *A. Rowlandson*, dated 4th November 1839.

As Mr. Rose, the Company's solicitor, is prevented by severe illness from attending at his office, I have the honour to acquaint you, that I have taken and detained in custody the nacodah, of the native brig Moydeen Bux, and several other persons implicated with him, on suspicion of their being concerned in kidnapping children under 10 years of age, probably with an intent of dealing with them as slaves.

By the evidence adduced before me in support of these charges, I am of opinion that they are well grounded; and I feel it my duty to solicit your advice and assistance in a case of such vast importance to the public interest.

Since the last examination of witnesses on Saturday the 2d instant, at five P.M., when 10 children were taken by the marine police, and 12 by the general police, four more children have been found by the general police peons, and are identified with the same parties. I have, therefore, taken upon myself the responsibility of detaining the brig, although her port clearance has been obtained, because I consider further evidence can be obtained from her crew, and as the Moydeen Bux is sailing under British colours, it is probable that vessel may be liable to condemnation.

Under these circumstances I shall feel obliged if you will favour me with an interview, that we may adopt such immediate measures as may be deemed expedient, especially as the detention of the brig is of consequence during this unsettled weather.

No. 6. FROM Captain *C. Biden*, Beach Magistrate, to the Secretary to Government, Madras, dated 4th December 1839.

I HAVE the honour to forward, for the information of the Right honourable the Governor in Council, copy of a letter, with its enclosure, which I have this day received from the collector of Ganjam.

The information which these letters convey corroborates such material points of the evidence adduced before me against the owner, the nacodah and other persons, lately belonging to the Moydeen Bux, and now in custody under a charge of piracy and felony, that I consider these offences can be clearly proved against them.

I will forthwith communicate this further intelligence to the advocate-general, and lose no time in acquainting the collector of Ganjam, whether in his (the advocate-general's) opinion, it is necessary to have any of the witnesses alluded to in these reports brought to the presidency to give evidence in support of the prosecution.

No. 7. FROM Mr. *R. A. Bannerman*, Magistrate, Purlah Remedey, Ganjam, to the Master-Attendant and Beach Magistrate, Madras, dated 27th November 1839.

WITH reference to your letter of the 5th, and to my communication to your address dated the 13th instant, I have the honour to transmit, for your information, copy of a letter received from my head assistant, reporting the result of his inquiry into the circumstances connected with the recent shipment of children from the port of Calingapatam on board the native brig Moydeen Bux.

From

From Mr. Conway's letter you will observe, that the embarkation of the children on board that vessel, by the nacodah and others belonging to the brig, can be proved by a number of individuals who have been examined, and the substance of whose declarations is stated in Mr. Conway's letter; but the fact of the children having been conveyed away from thence with a view to their being introduced at Nagore or elsewhere as slaves, can, I presume, be sufficiently established by evidence already available at Madras. If further evidence on that head should be required, one or more of the persons mentioned in Mr. Conway's letter might be produced as witnesses. To support a charge of kidnapping, however, I conceive it would be necessary to adduce such evidence as would show that the possession of the children was improperly obtained, either by force or fraud, by the parties in whose custody they have been found. But as the children do not appear to have been procured in the neighbourhood of Calingapatam, or from any places within the limits of this district, it has not been practicable to ascertain under what circumstances they may have come into the possession of the Choolias. It seems probable that most of the children have been brought from the Vizagapatam district, where much distress was experienced during the past season; but if the names of the villages to which the parents of the children belong can be ascertained, as suggested in my letter of the 13th instant, the means would be afforded of prosecuting the inquiry with more effect.

It would be observed that the head assistant magistrate has communicated to the magistrate of the Vizagapatam district such part of the examinations taken by him as seemed calculated to assist Mr. Arbutnot in the inquiries he may have instituted into the case, with the result of which I conclude he will acquaint you.

Measures have been adopted to prevent the embarkation on vessels touching at or sailing from the ports in this district of children or young persons not belonging to such vessels.

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FROM Mr. T. Conway, Head Assistant Magistrate, Calingapatam, to Mr. R. A. Bannerman, Magistrate of Ganjam, dated 21st November 1839.

No. 8.

I HAD the honour to receive, on Friday last, at Chicacole, your letter of the 13th instant, forwarding for my information an original letter, with its enclosures, from the beach magistrate at Madras, and requesting me to institute an inquiry into the case of a number of young children having been shipped from Calingapatam, on board the native brig Moydeen Bux, which sailed from that port about the beginning of last month.

A number of paupers find relief at Chicacole, by the charitable exertions of the resident missionary, Mr. Dawson, who is assisted by subscriptions received from the European and native inhabitants at the station; and as I was aware that many of those unfortunate people had emigrated from the Vizagapatam district, in consequence of the scarcity, and as many of the children referred to have come from that neighbourhood, I thought that I might probably obtain, through their means, some information in respect to the transaction under notice, or that I might by chance find amongst them the parents of some of the children; with this view, I got the list containing the names of the children and of their parents taken to the place where they are fed. I failed in obtaining any information direct from them; but it happened that there was present a peon, who has been permitted to assist in distributing the alms to those people, who mentioned that an orphan child, by name Modena Saib, of Toonee Pikaroupett, in the Vizagapatam district, had been fed for some time at this asylum, and had been taken away by some Choolia people (name unknown): he saw a boy in the town of Chicacole, with his head shaved, in the company of the above-mentioned people, who had with them three or four other children, and on his asking the boy why he had ceased to come for his food at the charitable institution, he told him that the Choolia people had offered to take better care of him, and that he wished to go with them. The peon learnt from the Choolia people that they belonged to Nagore, and were proceeding at that time towards Berhampore; and he informed me that strangers of the Choolia caste, in passing through Chicacole, usually lodged in the house of a person named Meerah Saib. I accordingly sent for Meerah Saib, and he has stated that Tambeeham, the nacodah of the before-mentioned brig, lodged in his house for two months, he (the nacodah) having come to Chicacole for the purpose of disposing of part of the cargo of his vessel; that several of the crew, &c. had accompanied him, and some of them had gone to Bimlipatam for a short time, and returned, bringing with them four children, which the nacodah and crew proceeded with to Calingapatam the day after they were brought into his house. He states he does not know how they were procured, but that they were not of his caste; and without hesitation informed me, that two Choolia people had that very morning brought with them from Bimlipatam two children of the same description.

On examining the two persons above alluded to, as to how they became possessed of the children in question, they state that their parents brought them to them at Bimlipatam, and begged them to take them, and in return they gave a few rupees. One of the children is a girl of about seven years and the other a boy of about five years of age. They have mentioned their own names and that of their relations and villages, and corroborate the statement made by the Choolia people. I have sent copies of the proceedings taken by me in the above matter to the magistrate of Vizagapatam for his information, and I have informed him that the parties will be detained at Chicacole pending his wishes in respect to their disposal.

On arriving at Calingapatam on Saturday morning, I sent for two Choolia people, whom I understood to be residing in the village, and I discovered that they had under their protection three children, which they had obtained under somewhat similar circumstances.

It is not improbable that the boy, the third in the second sheet of the list, is the one here alluded to, and that in giving Hassein Saib as his former and present name, he has not understood the question put to him. The age and height noticed in the list agree with that given by the peon.

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Two of these children are very young ; but, from the inquiries I have made, I have no doubt that they have adopted them in consequence of their friendless and destitute state. One of the above children has been about a year and the other three or four months with them. The third is a lad about 14 or 15 years of age. His father and mother it appears belonged to the village of Calingapatam, and died when he was three years old, since which he has been adopted into the family of one of the Choolia people above mentioned, has never left the village, and has adopted their dress and caste.

The nacodah of the brig Moydeen Bux, during the period his vessel was detained at this port, rented an empty house from the Choolia people above mentioned, and his crew and some of the passengers rented houses from other parties here. These parties saw the children before they were shipped, and would seem to have been aware that they had been brought from Bimlipatam. The barber of the village states he shaved the heads of 10 or 15 children, of various castes, at the house rented by the nacodah, and if required would no doubt be able to recognize some of the children. The owner and tindals of six boats speak to having taken on board the whole party, and each boat carried from three to five children. One party mentions that, the day after the children were shipped, a person, by name Syud Sha, took about 10 children with him to Bimlipatam, which account corroborates what the boy Hasein Ally, *alias* Cessece Unna, has stated, viz. that there were 14 children left behind to be shipped by another opportunity ; and I imagine they have been shipped from Bimlipatam, or are there still. This circumstance I have communicated to the magistrate of Vizagapatam.

I examined the two Choolia people, and the agent of the vessel, in the hope of obtaining some information from them as to the object these children are required for, but they answered very reluctantly and equivocally all the questions put to them, and I fancy the fact of their having been so intimately connected with the nacodah and his party is the cause of their being unwilling to communicate any information which they probably are possessed of. The sea custom gomastah states, that he saw the children, but that having been told by the nacodah and others that they were part of their families which they brought from Bimlipatam, he had no suspicion of there being any thing improper or requiring to be reported.

I am inclined to think that the children have not been procured in this neighbourhood, and were brought at intervals, and that they have been obtained by the exertions of the nacodah and his crew, unaided by residents in these parts ; and if the above circumstances do not afford evidence of the nature required to bring the parties now at Madras to justice, that further evidence can only be obtained by the Vizagapatam magistrate. I understand that, during the famine which prevailed in the northern districts in 1832-33, a number of children, obtained under similar circumstances to the present, were discovered at Masulipatam, and the parties, who were Choolia people also, were brought to trial before the court in that zillah ; but the Foujdary Adawlut, in their proceedings, under date the 17th September 1839, have declared that the sale of a child in the provinces, in a season of famine, is not punishable by the Mahomedan law ; and judging by the account given by the children and the present appearance of the circumstance under which children come into their possession, I am of opinion it will be found that the poverty and distress which is prevailing has occasioned the unnatural disposal of the children by their parents, or, in other cases, that their orphan and destitute state have led children to accept the protection of these Choolia people, and under these circumstances that there will be a difficulty in bringing to punishment any parties we may apprehend who have the children of others in their possession. But if it is apprehended that advantage is taken by these Choolia people to procure children in times of scarcity, with a view of subjecting them in their country to slavery, I would venture to point out the facilities open to them for effecting their mercenary object, so long as the unfortunate parents or destitute children can find no other asylum.

There are now a number of miserable objects at Chicacole, which the charitable institution established there has been the means of drawing to that point ; but on the removal of the court from Chicacole, the means now at the disposal of the missionary alluded to will be withdrawn ; and unless these unfortunate people are relieved by the bounty of government, their state will be miserable. I would therefore take this opportunity of recommending some steps to be adopted for their relief.

I have issued the necessary orders to the officers at the several ports along the coast for preventing any children being shipped therefrom, and I request to be informed what you wish to be done with the children here and at Chicacole found in the possession of the Choolia people above mentioned, and also with any others who may be recovered from persons who have obtained them under similar circumstances.

No. 9. FROM Captain C. Biden, Beach Magistrate, to the Secretary to Government, Madras, dated 3d January 1840.

1. I HAVE the honour to enclose, for the information of the Right honourable the Governor in Council, copy of a letter I received yesterday from the collector of Vizagapatam, together with 43 original translated depositions referring to the pending investigation of the charges alleged against the owner, the nacodah, and other persons taken upon the 1st and 2d November last, on suspicion of being guilty of kidnapping children with intent to deal with them as slaves.

2. It appears from the evidence already obtained through the zealous exertions of Mr. Arbutnot, and declared by the statements of long and experienced residents within the district

district of Vizagapatam, that the disgraceful practice of kidnapping and selling children has prevailed for a length of time, and the mart for this nefarious traffic has been between that portion of this presidency and Nagore.

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—
Brig Moydeen Bux.

3. Famine and seasons of misery and distress may in some degree palliate the enormity of such offences, yet it is too obvious that these primary causes are frequently made the plea for a progressive and continual source of evil, whereby designing and mercenary offenders may pursue their object to any extent; the systematic schemes of the buyer and seller are evidently shown throughout this our first grand effort to subdue a practice which has been most fraudulent and extensive, and must have produced many instances of cruelty and oppression.

4. The advocate-general and I myself have had under our consideration the most conclusive evidence afforded by these depositions; and by his advice I shall now commit the party in custody for trial; they have hitherto been remanded from time to time in defiance of every attempt to obtain their release by a writ of *habeas corpus*.

5. We are of opinion that as nine of the depositions have positive reference to the parents and near relations of the children themselves, who were rescued from the brig Moydeen Bux, undoubted testimony can be made available to prove the criminal acts charged against the party in custody, by enforcing the attendance of those persons whose statements I have alluded to.

6. It is therefore of the utmost importance that ulterior proceedings against the offenders in question should be deferred until the arrival of those witnesses at the presidency. The evidence they have given before the collector and magistrate of Vizagapatam confirms so much of what has already transpired in the several examinations I have gone through with parties under my charge, that we have reason to believe the whole case against the prisoners can be clearly established.

7. The government have afforded the most liberal and ample means to pursue this most important investigation through all its bearings, and many apparent obstructions and difficulties in our proceedings have been overcome. It would, therefore, in my humble opinion, be most unjust and impolitic to allow any legal objections or technical opposition to impede the fair and upright course of obtaining the ends of justice, inasmuch as in this stage of our proceedings we can obtain the means required to insure an equitable result.

8. The enactments of law for the subjection of the slave trade are so severe and imperative that every person found on board a slave vessel is, in some degree, implicated in the crime. The owner, the nacodah, and those persons about to be finally committed under the Slave Act, are principally identified, and all are more or less involved by the evidence which has been adduced before me. I have therefore no apprehension as regards any legal attempts which may be made to thwart the process of conviction before the supreme court; but I am doubtful whether all the necessary witnesses can arrive by the 15th instant, when the sessions will commence.

9. To obviate any endeavour which may be made on the approaching sessions to foreclose this serious and important case, we have every confidence and assurance in the talented zeal and support of the Honourable Company's law officers; and the present opportunity is most favourable for the annihilation of a practice which has hitherto obtained apparent sanction under the rooted habits and customs of a needy portion of the natives themselves on one side, and the evil propensities of a domineering Mussulman caste on the other.

10. I have every reason to believe that the detection of the persons concerned in this transaction was chiefly owing to the number of children they brought from Calingapatam on board the Moydeen Bux. It appears that after her departure from Bimlipatam, on her intended voyage to this port and Nagore, she was driven in at Calingapatam by stress of weather, and remained there during the whole of the south-west monsoon. This unexpected deviation and detention afforded time to procure so many children; and I suppose the practice had hitherto escaped the vigilance of the officers of government, through the parties engaged in the traffic shipping off only a few at one time. But all attempts of the kind may be prevented hereafter by compelling the commanders or nacodahs of all native vessels to give in at every port they touch attested lists of their crew and passengers.

11. With reference to the 8th* paragraph contained in the enclosed letter, you will observe that the collector of Vizagapatam has applied to the magistrate of Tanjore for information respecting the disposal of the children transported from the northern ports to Nagore. Such a statement is much wanted, and may throw considerable light on the whole history of these transactions; he also states in the same para., that he wishes to know what steps he is to adopt regarding the disposal of a number of children he has discovered within his district who are in the possession of some Choolia people. The children he alludes to have declared their wish to remain where they were found; but it may be observed that they have been made converts to a new religion and caste, and cannot be considered as free agents.

FROM Mr. W. U. Arbuthnot, Magistrate, Vizagapatam, to Captain C. Biden, Beach
Magistrate, Madras, dated 24th December 1839.

No. 10.

I HAVE NOW the honour to submit my proceedings, with translations, relative to the children supposed to have been taken on board vessels at the northern ports for the purpose of being disposed of as slaves.

2. In

* See No. 10, seq.

Appendix XIV.

Brig Moydeen Bux.

2. In this investigation my attention has been principally directed to two points : first, to ascertain, as far as practicable, the history of the children discovered on board the Moydeen Bux; secondly, to ascertain to what extent the practice of procuring children has been carried, and how long it has existed.

3. I have prepared a statement which briefly exhibits the information I have been able to procure relative to the children now under your charge. I have been unable to discover the relations of many of the children, although I have done every thing in my power to effect this object. In the first instance, I caused proclamations to be made throughout the district, calling on any persons who had lost their children during the famine to appear before me and represent their case, as there was a prospect of their children being restored to them. None of the relations of the children under your charge came forward on this invitation, but many others have appeared. Some have stated that their children have been lost, while others acknowledged that they sold them. Subsequently, on receiving the house names of the boys and the residing villages of their parents or relations, I issued orders to the different heads of police to cause the attendance of the latter before me. Many of them, particularly those who were stated to be residents of Vizagapatam, were not to be found. Nor is this surprising when the circumstances of the past season are taken into consideration. In consequence of the number of starving families who crowded into Vizagapatam, a subscription was raised, and a choultry established where rice and cony were distributed to such as from their age, debility or state of health were unable to work. This attracted numerous families from great distances, who for a time resided in Vizagapatam; but as the famine did not extend beyond the northern frontier of the district, many of them eventually emigrated to the Ganjam district, and even beyond it. Vizagapatam and the adjoining hamlets are mentioned as the residing villages of most of the children. I am inclined to think that some of them must have come there merely for the time, as their names are perfectly unknown.

4. In the accompanying proceedings* will be found the depositions of such of the relations as could be found.

5. I have seen no reason to suppose that the Choolias themselves have used violence to procure children, simply because I know that any number of them might have been procured for the merest trifle, or even by persons of respectability, for nothing at all. The practice of purchasing children is however a most objectionable one, and ought to be prohibited, because it serves as an inducement to unprincipled persons to kidnap children and dispose of them as their own. That this has been done in several instances, my present proceedings sufficiently prove. Indeed, there seems too much reason to suppose that the Choolias have not only neglected instituting any inquiries regarding the children brought for sale, but that they have, in some instances, purchased them from persons whom they must have known to be in the habit of trafficking in children.

6. You will not fail to observe that statements have been taken from all those suspected by you of being concerned in this transaction, as well as from several others who seem to have been concerned with them. The persons whose statements are marked from Nos. 14 to 20 are in custody, and will be detained till your wishes regarding them are made known to me.

7. I now pass to the second point to which my attention has been directed, viz. the extent to which the practice of procuring children has been carried, and how long it has existed.

8. Bimlipatam, which was formerly a Dutch settlement, has from time immemorial been the resort of Choolia merchants. The head quarters of these persons is Nagore; but some members of the family reside at Bimlipatam, and passing to and from their own country carry on a very extensive trade. The evidence, which I now forward, proves beyond a doubt, that these persons have ever been in the habit of procuring children and conveying them to their own country. They allege, and the people of the country evidently give credit to their assertions, that their object is to procure converts to their religion, lascars for their vessels, and slaves for domestic purposes. It is not in my power to ascertain what becomes of the children carried away from this part of the country. I have applied to the magistrate of Tanjore for information on this point, but have not yet received his answer. I have found 16 children in the houses of the different Choolias now residing at Bimlipatam. I have taken depositions from such of them as were old enough to make themselves understood, and they all expressed themselves perfectly satisfied with their situation. I should wish to be informed of the wish of government regarding them. On my instituting the present inquiry, the Choolias seemed disposed to turn them out of their houses; but as many of their parents were not to be found, I would not permit this to be done at present, but insisted on their supporting them till I could receive orders on the subject.

9. There has been some delay in disposing of this case, in consequence of my being unavoidably absent from Vizagapatam, on duty, when your first communication was received.

No. 11. FROM Mr. *H. C. Montgomery*, Acting Principal Collector, Tanjore, to the Collector of Vizagapatam, dated 24th December 1839.

IN reply to your letter of the 23d ultimo, I have the honour to state that the answers furnished by the officers in charge of the several ports, to questions put to them in consequence

* Not forwarded to the law commission.

quence of it, give no grounds to suppose that it is customary for native vessels to bring children to the ports in this district for the purpose of disposing of them for domestic or other description of slavery.

The attention of the sea custom department will be given to this subject.

Appendix XIV.
—
Brig Moyden Bux.

EXTRACT from the Proceedings of the Foujdary Adawlut, under date 17th September 1839.

No. 12.

(Circular order, No. 3.*)

DOUBTS having been entertained as to the course of proceeding it is legally competent to a magistrate to adopt in the case of the sale of a child by its parent in the provinces under this presidency, and the Mahomedan law officers of the Foujdary Adawlut having declared that according to the Mahomedan law the act is not punishable when committed in a season of famine, and that at all other times it is punishable by tazeer, the court of Foujdary Adawlut resolve to promulgate that opinion for the information and future guidance of the judicial officers subject to their control.

Ordered, that extract from these proceedings be sent to the four provincial courts of circuit, with instructions to communicate the same to the several criminal judges and magistrates within their respective divisions, by precept, returnable within 10 days from and after its receipt.

APPENDIX XV.

SALE of Children by Parents according to the Mahomedan Law.

1. FROM Acting Register, Foujdary Adawlut, Madras, to Chief Secretary to Government, 19th November 1839.
2. Opinion of Ghulam Subhan, Kazi-ul-Kuzat of the Nizamut Adawlut, Fort William, to whom the opinion of the Mufti of the Foujdary Adawlut of Madras was referred, at request of the Law Commission, for verification.

Appendix XV.

FROM Acting Register, Foujdary Adawlut, to Chief Secretary to Government of Fort Saint George, dated 19th November 1839.

Sale of Children by Parents.

No. 1.

I AM directed by the judge of the Foujdary Adawlut to acknowledge the receipt of the order of government, dated 8th November 1839, No. 887, transmitting a communication under date the 21st ultimo, from the officiating secretary to the Government of India, and requiring the court to report the circumstances under which the issue of their circular order, No. 111,† regarding the sale of children by their parents was thought advisable, and to submit the following explanation on that point:—

Enclosed in a letter from the Indian Government to the Law Commission, dated 16 December 1839.

2. During several years past, references have from time to time been made to the Foujdary Adawlut by the judicial officers in the provinces, for instructions in regard to the disposal of cases wherein persons were charged with the sale and purchase of children for different purposes.

3. On the 24th May 1817, the magistrate of Vizagapatam reported that a "Hindoo woman made a verbal complaint before him that a police peon of the same caste had failed in his engagement with her in the purchase as a slave of her infant son, aged seven months. The child was sold for eight rupees, but the peon refusing the mother access to her infant, and not having procured her eldest son an employment as stipulated, the mother entreated permission to return the purchase-money and to receive her infant again."

4. "This most extraordinary purchase and sale," the magistrate observed, "was cancelled at his particular desire; for he could not satisfy himself as to the manner in which the complaint should be judicially determined, both parties being, in his opinion, equally culpable." But on being informed by the judge of the zillah that the case was cognizable only by the civil court, he referred the matter for the consideration of the Foujdary Adawlut, observing, that if the opinion of the zillah judge, that, under the existing regulations, the parties were not liable to a criminal prosecution, were correct, it was high time that "the defect in the law was rectified, and that slave-dealing was declared to be abolished in India."

5. In reply to this reference, the court of Foujdary Adawlut, in their proceedings under date the 20th June 1817, observed, that "the matter is connected with the religious usages and institutions of the native subjects of this government, and it is cognizable as a civil action under the provisions of section 16, Regulation III. of 1802," and that "the magistrate is not authorized to take cognizance of the matter in question."

6. On the 5th December 1825, the collector of Tinnively brought to the notice of the Foujdary Adawlut, through the provincial court for the southern division, "a custom," which the collector observed, "is, I believe, more or less prevalent throughout the Madras territories,

* See No. 1 of Appendix XV., *seq.*

† See No. 12 of Appendix XIV., *supra.*

Appendix XV.
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 Sale of Children
 by Parents.

tories, and, as far as my own observation has gone, is more frequent in the district of Tinnivelly. The practice I allude to," continued the collector, "is the sale and purchase of female children by dancing-women for the avowed purpose of bringing them up to a life of immorality. The custom is so notorious, and its abominable tendency so evident, that no comment can be necessary; but I am apprehensive that unless it be specifically excepted from those purchases of children which are now (under some circumstances) legal, an opinion may be entertained that such dealings are countenanced by law. A prohibition of such transactions could not be complained of as an infringement of any acknowledged rights. It would serve as a check upon child-stealing, which is occasionally practised under the pretence of purchase, and the public expression of the will of the government could not but have a beneficial tendency to promote morality."

7. In conclusion, the collector recommended that the practice in question should be "prohibited by law."

8. The judges of the provincial court submitted their opinion, that there was "not any occasion for the interference of government, or for any special authority to be given to the magistracy to prevent the sale of children to persons described in the collector's letter. The sale of a child," the provincial court observed, "excepting under very particular circumstances, is punishable under the Mahomedan law; and if the magistrate is of opinion that the people are not aware of the fact, he has full authority, in virtue of his office, to issue a notification declaring that the crime of child-selling is punishable by law."

9. In laying the papers before government the Foudary Adawlut recorded their concurrence in the opinion of the provincial court.

10. By a letter dated the 13th January 1826, from the secretary to government, the court of Foudary Adawlut were informed that the Governor in Council entirely concurred with the judges in deeming any enactment unnecessary; and with reference "to its connexion with the ceremonies and observances, both civil and religious, of the great bulk of the people," remarks were added in regard to the necessity for caution in conducting any interference at all, with the view of preventing parents or guardians from assigning children in the customary modes, to be brought up to the profession of dancing-women.

11. On the 16th August 1839, the same provincial court (southern) submitted a communication from the magistrate of Trichinopoly, in which that officer requested to be informed "whether the sale of a child by its mother is considered, under the existing regulations, an offence cognizable by the magistrate, and whether he is in such a case to be content, as has hitherto been the practice in this district, with using his influence to annul the sale, or to send the case for final adjudication to the criminal court," and, on this occasion, the judges of the provincial court submitted their opinion, "that some specific penalty should be promulgated for the purpose of checking an offence so revolting to humanity, and that it should not be left at the discretion of the magistrate merely to use his influence to annul a sale of this description."

12. On receiving this reference, the court of Foudary Adawlut called upon the Mahomedan law officers to state whether, under that law, the mother, in the case reported by the magistrate of Trichinopoly, would be liable to punishment; and in their answer those officers declared that she was liable to tazeer, or discretionary punishment.

13. It being found, on reference to the records of this court, that, in case No. 7 of the Malabar calendar for the fourth quarter sessions of 1819, the Mahomedan law officers had delivered in a futwah declaratory of the non-liability to punishment of a party selling his or her child, the court called upon their law officers to submit their reasons for dissenting from the futwah of their predecessors in the case above mentioned; and those officers then repeated the opinion already given; observing, that it was accordant with the decisions recorded in the books of Haneefah, that, at 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.

14. Of the correctness of this last opinion there can be no doubt; and the court of Foudary Adawlut, adverting to the different references made to them on the subject, the discordant opinions which had been given, and the doubts generally entertained by the officers in the provinces, as to the course they were authorized to pursue in such cases, deemed it proper, as stated in the circular order* under consideration, to promulgate that opinion, with reference to the provisions of section 7, Regulation X. of 1816, for the information and future guidance of the judicial officers subject to their control.

No. 2. OPINION of *Ghulam Subhan Kazi-ul-Kuzat* of the Nizamut Adawlut, Calcutta, to whom the opinion of the Muftis of the Foudary Adawlut, of Madras, was referred at request of the Law Commission, for verification.

As directed, I have considered the points contained in the opinion of the muftis of the Foudary Adawlut, as set forth in the case referred to in regard to sale of their children by parents. I state my opinion under the Muslim law. The muftis write that "the father and mother who sell their children in times of scarcity and drought are not liable to punishment: but if at any other time they sell, they are liable to punishment (tazeer)." This opinion conforms to the reports of some jurists who hold, that in need and the
 extremity

* See No. 12 of Appendix XIV.

extremity of want, the sale of a free person is legal. But this doctrine, on the basis of which exemption from tazeer rests, is only founded on the marginal annotation of our Lord, Allah Dad, who copied it from the Mahit and Zakhira. I have not found it in other books of recognized authority, and it is contrary to the principles of jurisprudence, for the contract of sale and purchase is limited and restricted to property: but the freeman is not held to be property by any person, that he should be the object of a sale. Therefore, the sale and purchase of a free person under all circumstances, according to the Muslim law and the doctrine to be observed in expositions, is radically illegal. In my opinion, therefore, the parents who sell their children in dearth or drought are liable to discretionary punishment (tazeer); though of course the degree of that punishment would depend on the existence or non-existence of the need and urgent want of the parents.

(True translation.)

J. C. C. Sutherland, Secretary.

APPENDIX XVI.

BOMBAY.

OFFICIAL RETURNS as to Slavery in the Provinces included in the Presidency of Bombay.

1. LETTER from the Law Commission to the Register of the Courts of Sudder Dewanny and Foujdary Adawlut, Bombay, dated 10th October 1835.
2. Reply thereto, from the Register of the Bombay Sudder Foujdary Adawlut, dated 14th May 1836.
3. Return by Mr. G. Grant, Acting Judge and Session Judge of Surat, enclosed in No. 2.
4. Return by Mr. W. Richardson, Assistant Judge and Session Judge, Broach, enclosed in idem.
5. Return by Mr. P. W. Le Geyt, Acting Judge and Session Judge, Ahmedabad, enclosed in idem.
6. Return by Mr. J. A. Shaw, Judge and Session Judge, Conkan, enclosed in idem.
7. Enclosure of No. 6, from Mr. W. J. Hunter, Acting Senior Assistant Judge and Session Judge, Rutnagiree, dated 6th January 1836.
8. Return by Mr. A. Bell, Judge and Session Judge, Poonah, enclosed in No. 2.
9. Return by Mr. G. H. Pitt, Acting Assistant Judge, Sholapoor, enclosed in No. 8.
10. Return by Mr. R. D. Luard, Acting Joint Magistrate, enclosed in No. 9.
11. Return by Mr. B. Hutt, Acting Judge and Session Judge, Ahmednugger, enclosed in No. 2.
12. Return by Mr. W. Birdwood, Assistant Judge and Session Judge, Khandeish, enclosed in No. 11.
13. Return by Mr. J. B. Simson, Judge and Session Judge, Dharwar, enclosed in No. 2.
14. Return by Mr. J. Vibart, Principal Collector, Surat, enclosed in idem.
15. Return by Mr. N. Kirkland, Acting Sub-Collector and Joint Magistrate, Broach, enclosed in idem.
16. Return by Mr. J. H. Jackson, Acting Magistrate, Ahmedabad, enclosed in idem.
17. Return by Mr. W. Stubbs, Magistrate of Kaira, enclosed in idem.
18. Return by Mr. W. Simson, Acting Magistrate, Tannah, enclosed in idem.
19. Return by Mr. A. Remington, Assistant Collector and Magistrate, Tannah, enclosed in No. 18.
20. Return by Mr. George Coles, Acting Assistant Magistrate, Tannah, enclosed in No. 18.
21. Return by Mr. J. M. Davies, Second Assistant Magistrate, Tannah, enclosed in No. 18.
22. Return by Mr. H. H. Glass, Collector and Magistrate of Rutnagiree, enclosed in No. 2.
23. Return by Mr. R. Mills, Magistrate, Poonah, enclosed in idem.
24. Return by Mr. R. D. Luard, Acting Joint Magistrate, Sholapoor, enclosed in No. 23.
25. Return by Mr. G. Malcolm, Acting First Assistant Magistrate, Poonah, enclosed in No. 23.
26. Return by Mr. H. P. Malet, Acting Second Assistant Magistrate, Poonah, enclosed in No. 23.
27. Return by Mr. H. E. Goldsmid, Assistant Magistrate at Kusba Indapoor, enclosed in No. 23.
28. Return by Mr. R. D. Luard, Acting Joint Magistrate, Sholapoor, enclosed in No. 2.
29. Return by Mr. H. A. Harrison, Magistrate of Ahmednuggur, enclosed in idem.
30. Return by Mr. W. S. Boyd, Magistrate, Khandeish, enclosed in idem.
31. Extract of Report from Mr. M. Larken, Assistant Magistrate, Khandeish, enclosed in No. 30.
32. Extract of Mr. John A. Dunlop, Acting Principal Collector and Magistrate, Belgaum, enclosed in No. 2.

Appendix XVI.
Bombay.

FROM *Frederick Millett*, Esquire, Secretary to the Indian Law Commission, to *Philip Le Geyt*, Esquire, Register of the Courts of Sudder Dewanny and Foujdary Adawlut, Bombay, dated 10th October 1835.

No. 1.

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 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 Bombay presidency?

2. And, as more immediately connected with their 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 punishment; and what protection are they in the habit of extending to slaves, on complaints preferred by them of cruelty or hard usage by their masters?

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 sections 30, 31 and 32 of Regulation XIV. of 1827, the commissioners do not observe in the Bombay code of regulations any specific provisions on this subject; and with reference to the investigation directed in section 31 above mentioned, to be made by the magistrate previous to the registration of a slave, and the general rules prescribed by sections 26 and 27, Regulation IV. of 1827, as to the laws and usages to be observed by the civil courts in the trial of suits, they are desirous of being informed whether the courts or magistrates 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.

No. 2.

ANSWER of the Register, Bombay Sudder Foujdary Adawlut, dated 14th May 1836, to Letter of the Law Commission, dated 10th October 1835.

So little is slavery a subject of litigation, that but few cases are brought for final adjudication before the judges of the Sudder Adawlut on the criminal side of the court, and still fewer are submitted to the court in its civil capacity. This consideration was an additional reason for seeking for information from the provincial authorities on the several points propounded by the law commission. A circular call was accordingly made to the judges, session judges and magistrates, and I am now instructed to forward the result as exhibited in the reports annexed, and which I request you will lay before the law commission. I am directed by the judges of the Sudder Adawlut to observe, that in their opinion some of these papers appear to contain valuable matter, and treat the subject with great discrimination. Taken as a whole, they lead to the gratifying conclusion that the laws of 1827 are in successful operative force 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. With reference to the 3d paragraph of your letter, I am instructed to state, that the Bombay code contains no further specific provisions on this subject than those cited by you; and in regard to the question whether the law is limited to Mussulman and Hindoo claimants and defendants in relation to slavery, I am directed to say that it is not, but would apply to all persons whom the law of England does not exclude from such relative positions.

No. 3.

ENCLOSURE of Letter of Register, Sudder Foujdary Adawlut, dated 14th May 1836, being Return made by Mr. *G. Grant*, Acting Judge and Session Judge of Surat, dated 22d February 1836.

In the zillah of Surat there are two descriptions of persons who may be denominated slaves, Gholams and Halees; the former are slaves in the usual and full acceptation of the word, being persons or their offspring who have been purchased for a sum of money, or other consideration, whereby they become to all intents and purposes the property of the purchaser. The master, agreeably to both Mahomedan and Hindoo laws, has a right to the possession and services of his slave, save where by an act of his own free will he has relinquished such right either wholly or in part. With regard to their treatment, different customs prevail in different castes. In some they are looked on more as members of the family than slaves, and form connexions in the family. In all, the master is bound to feed, clothe and house them. They are generally married at their master's expense. The property of a gholam, however acquired, belongs to the master, except where alienated by his, the master's, own free act. By the Mahomedan and Hindoo laws, a master may sell his slave; and prostitution forms part of the services which he may exact from his female slave. By the Company's regulations no sale is permitted except in time of famine; and sale for the purpose of prostitution is strictly forbid. The halees, so called from the word
"hull,"

"hull," a plough, their chief employment being that of ploughmen, may more correctly be denominated bondsmen than slaves. They are persons, or their offspring, who have sold their labour for an advance of money, and who are bound to serve the lender and his heirs until they are able to repay the sum. They almost entirely consist of Dooblas, and other low castes of Hindoos. The master is bound to feed and clothe them, give them a piece of land, and to defray their marriage expenses, the sum laid out on the latter, however, being added to the original amount for which their services became his. Such property as a halee may acquire, either by gift, inheritance, or by work done when his services are not required by his master, is his own. The services of a halee cannot be transferred to another master against his will.

The records of this office do not enable me satisfactorily to state what legal rights of masters over their slaves the court practically recognizes, different views of the subject appearing to have been taken by the different trying authorities. My own impression is, that a magistrate is bound to uphold and enforce, by every means falling short of violence or cruelty, the master's right to the possession and personal services of his slave, sanctioned both by Mahomedan and Hindoo laws and the usage of the country, so long as he (the master) fulfils the obligation which rests with him to feed, clothe, and in other respects well-treat his slave. The same principle would, in my opinion, apply to a halee, or bondsman, as to a gholam, or slave.

2. Personal restraint is, in my opinion, the only act otherwise punishable in which the court would recognize the relation of master and slave as justifying, or constituting a ground of mitigation. Cruelty or hard usage on the part of a master to his slave would meet with the same discountenance and punishment as where both parties were free; and any flagrant instance would cost the master, besides, the loss of his slave, and give the latter his liberty.

3. No case could, I imagine, occur in which a court would afford less protection to a slave than to a free person against other wrong-doers than their masters. The right to property, possession or service of a slave, would, I should imagine, be equally recognized by the court on behalf of others than Mahomedan and Hindoo claimants against Mahomedan and Hindoo defendants. The regulations are silent on this point, and, by Mahomedan and Hindoo laws and the usage of the country, there is no restriction as to caste.

Appendix XVI.

Bombay.

RETURN of Mr. *W. Richardson*, Assistant Judge and Session Judge, Broach, dated
21st December 1835, enclosed in No. 3.

No. 4.

I BEG to state that the master has a right to demand service from his slaves. He is entitled to any property which the slave may have amassed even during his lifetime. Should the slave, on his death, leave any property, the master is entitled to it.

2. It is not the practice of the courts or magistrates to recognize the relation of master and slave, either as justifying any illegal acts or as constituting ground for mitigation of punishment. The master, on the complaint of his slave being proved, would be punished by fine or imprisonment, as is usual in all cases of assault.

3. A case could not occur in which less protection would be afforded by the courts or magistrates to slaves than to free persons against other wrong-doers than their masters; neither would the courts or magistrates admit or enforce any claim to property, possession, or service of a slave, except in behalf of a Mussulman or Hindoo claimant against a Mussulman or Hindoo defendant.

RETURN of Mr. *P. Le Geyt*, Acting Judge and Session Judge, Ahmedabad, dated
8th January 1836.

No. 5.

3. IN reference to the first* query of the commissioners, there is not one case on record either in the Dewanny or Foujdary department in which the legal rights of masters and their slaves with regard to their persons or property has been brought before the court.

4. In reference to the second query, the information is equally deficient, as the session judge does not appear to have ever had any complaint before him in which either party has pleaded as a slave, nor is there any case on record of a complaint by a slave against a master for cruelty.

5. In reply to the first part of the third query, from the total absence of any record to the contrary, I believe I may safely state, that less protection has never been afforded by this court to slaves than to free persons against other wrong-doers than their masters.

6. With regard to the latter part of the third query, I regret I can find no precedent on record; but I am inclined to think that all persons to whom the possession of slaves is not forbidden by the established laws in force regarding them, such as British-born subjects, or others amenable to his Majesty's supreme court of judicature, would be equally entitled to be guided by the regulations of the country in respect to purchasing or selling slaves as Hindoos and Mussulmans. But as this is more properly an interpretation of the existing regulations, I have perhaps over-stepped my proper limits in mentioning it; and if such be the case, I trust the judges will pardon me, and perhaps, if wrong, be kind enough to set me to rights.

* See No. 1 of this Appendix.

- No. 6. RETURN of Mr. *J. A. Shaw*, Judge and Session Judge, Conkan, dated 12th January 1836, to Letter of the Acting Register of the Sudder Dewanny and Sudder Foujdary Adawlut, Bombay, dated 20th November 1835.

I CANNOT find that there have ever been any cases, civil or criminal, in this court, determining the rights of masters over slaves. During my own service, certainly none have occurred. I am aware, however, that some rights do exist in the common or unwritten law of the country, and I, as a magistrate (in former days), have, on more occasions than one, given up a claimed runaway slave to his or her master, not only, however, taking such precautions as I could against undue severity, but distinctly holding out the civil court as the court of ultimate resort in case parties were disposed to dispute my award. I have used the term "unwritten law" in the foregoing sentence, because the laws regarding slaves have accommodated themselves to the feelings of the present government, in a great measure, although founded, originally, on the now impracticable rules prescribed in the Koran and the Shasters. Notwithstanding that the present practices bear a certain degree of reference to the written codes, I doubt very much whether any written code is held in strict and general observance.

Under circumstances like these, it would seem to me that there could be no very material difference in the principles on which decisions were framed between the slaves belonging to Christians and those belonging to Mussulmans or Hindoos. Slavery having been recognized, and the written law rejected, cases in which the rights of masters over slaves were tried would be determined according to circumstances; and by these circumstances a distinction could only be sanctioned in the specification of the civil rights which custom has introduced in the class of the parties who were interested in the dispute.

With the exception of such generally admitted rights over the property and person of the slave in the civil courts, and perhaps some trifling indulgence in the criminal courts, I do not know that a slave would, on the whole, enter our courts under circumstances less favourable than freemen.

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- No. 7. ENCLOSURE of above, from Mr. *W. J. Hunter*, Acting Senior Assistant Judge and Session Judge, Rutnagiree, dated 6th January 1836.

2. IN reply, I beg to acquaint you, that there are no cases in which the rights of masters over their slaves have been made a subject of investigation in this Adawlut, neither have any complaints ever been preferred by slaves against their masters on account of ill-treatment or cruelty.

3. In all cases where slaves and persons (not being their masters) are concerned, the same protection is extended to them as to other subjects.

4. Mussulmans and Hindoos are the only persons, in my opinion, who could be admitted by our courts as claimants to the service or possession of a slave, and these only in cases where the defendants are also either Hindoos or Mussulmans.

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- No. 8. ANSWER of Mr. *A. Bell*, Judge and Session Judge, Poonah, dated 9th March 1836, to the Acting Register to the Sudder Dewanny and Sudder Foujdary Adawlut, Bombay.

WITH respect to the principle of the system, I can most sincerely declare, that as far as my judgment, personal observation, and other means of information, enable me to offer an opinion, it appears to me that, even admitting the clamour so generally raised against possessors of slaves in other parts of the world to be well founded (which, however, I cannot actually do to the full extent asserted), it cannot, I conceive, apply in the slightest degree to the state of persons so designated in this country, either within the British territories or other powers, in which this class of people almost always forms part of the family to which they are attached, and are treated with the greatest possible kindness. This, it may be asserted, proceeds from selfish notions. Admitting such to be the case, 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.

It may appear a paradoxical assertion, but it can be clearly proved, that slaves are far better treated in the Portuguese settlements in India, and amongst the Mahomedans and Hindoos, who are all deemed to possess arbitrary notions, than they are by the Dutch colonists, who were formerly republicans.

In regard to the third question, I am not aware of our courts having on any one occasion afforded less protection to slaves than to free persons against other wrong-doers than their masters, both the Mahomedan and Hindoo laws prescribing the same protection to a slave, when wrongfully molested by any other than his master, as to a free person.

And in respect to the last query, namely, whether the courts 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, I most undoubtedly think

think our courts would be fully justified in so doing under the provisions of section 26, Regulation IV., A. D. 1827.

I have the honour herewith to submit the remarks of my detached assistant on this subject.

Appendix XVI.

Bombay.

ENCLOSURE of Mr. *Bell's* Letter from Mr. *G. H. Pitt*, Acting Assistant Judge, Sholapoor, dated 11th January 1836.

No. 9.

HAVING been in communication with the joint magistrate of this place, as well as the law officers of the court and the commissioners of this division of the Poonah zillah, I have now the honour to submit copy of the reply from the acting joint magistrate, in which he states that the records of his office furnish no information on this subject, and the several commissioners also state that no case of slavery has ever come before them since 1823, when their courts were established.

Perhaps in no civilized country has there been so small a proportion 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 are very limited in proportion to the population.

The soil in this country is cultivated by a caste both numerous and respectable; and it is the system of castes which is one of the causes of the exemption of slavery in India; 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.

ANSWER of Mr. *R. D. Luard*, Acting Joint Magistrate, Bhavee, dated 3d January 1836, enclosed in Mr. *Pitt's* Letter.

No. 10.

I HAVE the honour to inform you that the records of this office afford no information upon the subject.

2. I myself have had no experience whatever upon the points referred, and can therefore give no practical information, which is, I should imagine, the only description required.

3. I have referred the case to the different mamlutdars, who all report that slavery has not existed in their districts since the British Government.

ANSWER of Mr. *B. Hutt*, Acting Judge and Session Judge, Ahmednugger, dated 17th December 1835, to the Acting Register of the Sudder Dewanny and Sudder Foujdary Adawlut, Bombay.

No. 11.

THIS is a very comprehensive question;* for, in the civil court, we must admit whatever appears to be the usage of the country or the law of the parties; and in the criminal court, except in the few cases falling under sections 30, 31 and 32 of Regulation XIV. of 1827, the law of the parties must also be the great guide. I have never yet been called on to pass judgment either in the civil or criminal court in any case of this nature; nor do I find any on the records of this court, but such as come under the above quoted section and regulations. Slavery exists to a great extent in this country. There are few amongst the Hindoo or Mahomedan population who can afford it that have them not; and the fact of no cases coming before the courts is either a proof of the very mild character of it, or the excessive ignorance of the whole of the lower classes of the protection which the British Government affords them, or a combination of the two, which, indeed, I believe to be the truth. The usage of the country and laws of the Hindoo and Mahomedans give the master full power over the property of his slave, and he can dispose of his slave also in loan, gift, or devise—a mode of transfer not noticed in our regulation, and, therefore, not restricted.

There has been no practical experience in these matters;† but were I required to try an ordinary case of assault in the criminal court, I should admit somewhat the same right on the part of the master that the English law allows in a parent over his child, or a school-master over his pupil; and which is also that recognized by the custom of the country and the law of the Hindoos and Mahomedans, and that which the very right of property in the slaves recognized by the regulation makes necessary. And as the heinousness of all offences will much depend on the moral or religious feeling of the class to which the culprit belongs, all but cases of a very aggravated nature would be considered entitled to exemption from, or a mitigation of, punishment on this account.

I can conceive none,‡ except they be sanctioned by the custom of the country or laws of the parties. There are no rules for the guidance of our courts but those here cited, as the government regulations sanction slavery under certain limitations. I apprehend, all not immediately bound by English law could claim redress in the civil or criminal court against their slaves were they obliged to seek it.

* Answer to query 1st.

† Answer to query 2d.

‡ Answer to query 3d.

No. 12. ANSWER of Mr. *W. Birdwood*, Assistant Judge and Session Judge, Kandeish, 11th December 1835, enclosed in above.

FROM the very nature of slavery, the master from the time he becomes possessed of the slave, must *ipso facto* be entitled to his property. The rights of the masters are, I believe, recognized as long as they feed, clothe and treat their slaves well. As the master possesses the slave's person, he also possesses every thing that can relate to it, as the slave can have no property of his own without his master's consent.

Since the promulgation of the regulation respecting slavery, it has, I understand, decreased considerably, although they are still brought down from Berar and Nimar by banjarees; not so much, however, as formerly, as the risk run by the importer is much greater. As no case of the kind mentioned in the 1st paragraph* has come before the court, I am unable to give the information I could wish on the subject. The magistrate would, I have no doubt, be able to give a more full and detailed statement, as he is the authority in whom is vested the power by the regulations of investigating all cases connected with slavery.

2.† The magistrate does not, I should imagine, recognize the relation of master and slave as justifying acts which otherwise would be punishable. The same protection is afforded to slaves as to any other class of individuals. A slave, if ill-treated by his master, would be manumitted. They are brought up as members of the family, and are married by their masters. If not treated well they would, in all human probability, complain to the magistrate, and this of itself would be one great reason to induce masters to treat them with kindness, as if any ill-usage against them were established, they would be set free, and of course the master would lose the services of his slave. The Kusbeens, I believe, are the principal purchasers of female slaves.

With regard to this paragraph,‡ I should most certainly say there were not; as slavery is allowed by the regulations under certain restrictions, I fancy that the magistrate would be obliged to enforce any claim to property on behalf of a person not being a Hindoo or Mussulman in the same manner as if the parties were Mussulmans or Hindoos.

No. 13. ANSWER of Mr. *J. B. Simson*, Judge and Session Judge, Dharwar, dated 23d February 1836, to the Register to the Court of Sudder Adawlut, Bombay.

2. IN respect to the 1st query,§ the rights of proprietors over the persons and property of their slaves recognized by our courts and magistrates, there are certain qualifications laid down by enactment, by which we are of course bound to abide; there are other occasions and occurrences in which few officers, I imagine, would not support the slaves, although it is possible that, antecedent to the introduction of the British Government, their owners, on application to the ruling powers, might have been more favoured; for instance, I much doubt if any tribunal would now compel a slave, especially a female, to return to his or her master if any ill-treatment was proved against him. Unquestionably some property in the person of the slave does exist, and it is, I think, highly expedient that for the present such should be recognized; we must bear in mind that the obligations are reciprocal; that the slave has a right to sustenance, if unable to obtain his own livelihood, so long as he has obeyed his master; we cannot enforce this claim unless we in some manner compel the former to perform his part of the engagements; hence we must admit the master's rights over him; were it otherwise, in sickness, dearth, or other misfortune, what would become of the slave? We should be conferring on him a nominal emancipation, and entailing a serious injury; we should be following up a theory at the price of a practical benefit; we should grasp the shadow and lose the substance.

3. From a cursory examination, which is all I have had leisure to make, I understand that, previous to our government, there were two species of slavery,—the one in a manner voluntarily entered into, the other a compulsory,—the rights and privileges of master and bondsman in both often varying, and in many points alike.

4. The voluntary slave was one who had incurred a debt and engaged his or her personal services in liquidation of the principal or interest of that demand; the period of service was sometimes for life, sometimes for a limited period, and often till the debt should be repaid; the master had no power to sell such slave; if the debt remained unpaid at the death of the bondsman, the proprietor had no right, as master, over the heirs. The terms of the agreement settled his claim as a creditor of the estate; for these slaves could possess property which would descend to their children or others, in like manner as if they were altogether free.

5. The compulsory bondsman was a public criminal, whose offence did not authorize a capital punishment. Captives by chance of war were not viewed as slaves. Adultery was a common cause of slavery to women; these slaves could be bought and sold, or otherwise disposed of to others; they were deemed incapable of acquiring property in any way; their gains were due to their masters.

6. The features in which both kinds of slavery resemble one another were, that all castes but Brahmins, including their widows, would be enslaved, but only to one of the same or of a superior caste. Nor did they lose caste by slavery; and their masters were not allowed to require

* Answer to query 1st.

† Answer to query 3d.

‡ Answer to query 2d.

§ See No. 1 of this Appendix.

require services at their hands which might endanger such a contingency. Children of slaves were never on that account slaves. Even if a master incurred the expense of his slave's wedding, this gave him no claim over his wife and offspring as slaves. It is unusual to give female slaves in marriage; but if it occurred, the master lost all property in her, even if espoused to his own man slave, and she was bound to live with the latter rather than her former master. Moderate and reasonable punishment was sanctioned enough to ensure the due discharge of legal service; but ill-treatment warranted complaint to the public authorities, who were empowered even to release slaves if they considered that they had expiated their offences, or made good the debt which occasioned their servitude. Manumission, particularly at the master's death-bed, was not unusual, and was binding on the heirs. A master could at any time discharge his slave, except when from age or disease the latter could not gain a livelihood; he was bound to support him as long as these causes operated. No lapse of time prevented a master claiming a runaway slave.

7. In respect to the sale of children by their parents, it would appear altogether forbidden and punishable by the Hindoo law. It was connived at by the state in times of famine and difficulties, when the guardians had not the means otherwise of supporting existence; and in practice these sales were much more numerous than the above causes could in any way warrant; nor does the right of redeeming the child appear to have been reserved, and the powers of the purchaser corresponded with those of a master of a slave who had been a public offender.

8. If I am right in the foregoing summary, compulsory slavery is now no more; and there appears very little in the servitude voluntarily entered into, in which I should not feel disposed to enforce the old practice, except perhaps compelling a slave to return to his master; for, viewing it as a civil compact, I should consider the latter had his remedy at law, by a civil suit, to recover damages.

9. In respect to slaves purchased as children, such being clearly contrary to the law of the land, I should only so far give way to the custom of the country, in opposition to that law, as to consider the slave in the light of one who had become so voluntarily; and where the rights of the master by prescription exceeded those powers he would have possessed over such a bondsman, I would not recognize them in any way; custom may have great weight, even beyond the law; but surely not in opposition to it, and in actual abrogation of it.

10. Applying these principles to the remaining queries* of the Indian Law Commissioners, I might view with leniency a moderate assault, committed by the master upon his servant, occasioned by remissness on the part of the latter; but such indulgence would in no degree whatever extend to cases of cruelty or hard usage; either of which, in a civil action, would justify me, in my own estimation, in reducing damages from a runaway bondsman to a very diminutive sum.

11. I should consider a slave, when a party in court, as in all respects a freeman, excepting in so far as his own acts had rendered him amenable to his master, in purse or person, his actual labour if refused being compensated for through his pocket. But even this slight exception would in no wise extend to other wrong-doers, the subject of the commissioner's third query. These slaves retain entire their civil rights, except where they have mortgaged them in part to their immediate masters. And in reference to the concluding part of Mr. Millett's letter, I certainly, speaking generally, should both admit and enforce a claim on behalf of any one and against any defendant, without reference to their religions, where the latter had bound himself, in a manner, an apprentice to the former, for value received, and where the claimant had faithfully abided by his part of the agreement.

ANSWER of Mr. *J. Vibart*, Principal Collector, Surat, dated 16th December 1835, to Acting Register of the Sudder Dewanny and Sudder Foujdary Adawlut, Bombay.

No. 14.

2. WITH regard to the first point* submitted, I have to state, that almost the only description of slaves known in these districts are the halee or hereditary bondsmen, and usually employed in agricultural labour. The master's claim to these individuals is generally founded on expenses incurred in bringing them up from infancy, or for sums of money advanced to them for marriage expenses. During the time this money is owing, the individual and his family are held in bond. On repayment of these sums they all become free. By a letter from government, dated 19th April 1822, the magistrates are authorized to apprehend and return to his master any halee who may abscond, provided the complaint is laid within 12 months of the time of the absconding, and there appears no ground for supposing that he has suffered ill-treatment on the part of his master. In the event of a halee refusing to return, the Sudder Foujdary Adawlut have ruled, under date 13th December 1830, that, though a domestic slave, he can only be punished as an ordinary servant under the provisions of clause 3, section 18, Regulation XII. of 1827. The master possesses no right or title to any property that may be possessed by the halee under any circumstances whatever.

2. With regard to the second query, I have to state, that the relation of master to slave justifies no acts which would be punishable in the case of an ordinary individuals. I have already mentioned, that for misconduct the halees can only be punished as ordinary servants.

For

* See No. 1 of this Appendix.

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Bombay.

For any criminal acts they would, of course, be tried in the same way as any other offender under our criminal code. All complaints by slaves against their masters would be disposed of precisely in the same manner as if the acts complained of had been perpetrated by any ordinary party.

3. Slaves are afforded precisely the same protection against other wrong-doers as any other class of the Honourable Company's subjects. With regard to the concluding part of the third paragraph, I do not consider that I should be justified in enforcing any claim to property, possession or service of a slave, except on behalf of a Mussulman or Hindoo, and against any other than a Mussulman or Hindoo defendant. This is merely my view of the case, as I can find nothing on record bearing on the point.

4. I can find no cases whatever on these records regarding any other description of slaves than those above-mentioned, and as the law commissioners require to know the practice that exists, I conceive any opinion unsupported by facts is not required.

No. 15.

ANSWER of Mr. *N. Kirkland*, Acting Sub-collector, and Joint Magistrate, Broach, dated 18th December 1835, to the Acting Register to the Sudder Dewanny and Sudder Foudary Adawlut, Bombay.

2. IN reply, I beg to report for the information of the judges of the Sudder Dewanny and Sudder Foudary Adawlut, that no legal rights of masters over their slaves, with regard both to their persons and property, are practically recognized by the Company's courts and magistrates in this sub-collectorate. The slaves may live with their masters as long as they please; and in the event of their being dissatisfied, they are at liberty to go where they please; and if the masters apply to the magistrate, they are ordered to file civil suits for such damage as they may suffer from the loss of their slaves; but no force or threats, during my experience, has ever been made use of by the court or magistrate to prevail upon the slaves to return to their masters.

3. The practice of the courts and magistrates to recognize the relations of master and slave is to the same extent as other individuals independent of each other. When a complaint is preferred by a slave for cruelty or hard usage from his or her master, and if the charge is proved, the latter is dealt with in the same way as other subjects, without regard to the relation of master and slave; and should it appear that the master would molest the slave, he is required to find security for his peaceable conduct towards the slave as a protection to the slave.

4. I am not aware of any case in which less protection is afforded to slaves than to free persons against other wrong-doers than their masters. Nor do I think the court or magistrate would admit or enforce any claim to possession or service of a slave; and with regard to property, if the master proves in the court that the property is *bonâ fide* his, he would obtain a decree in his favour.

5. In the town of Broach there are 62 slaves altogether, two of whom are males and the rest females. In the pergunnahs of this sub-collectorate there are no slaves among the government subjects; there may, however, be a very few with the Thakoors of Ahmode, Kairwara, and other respectable Grassias.

No. 16.

ANSWER of Mr. *J. H. Jackson*, Acting Magistrate, Ahmedabad, dated 23d February 1836, to the Acting Register of the Sudder Foudary Adawlut, Bombay.

I BEG to state, that in cases of complaint of a criminal nature made by a slave against his master, the same measure of justice would be awarded by me in his case as I should give to any other complainant, as I find nothing in the criminal code which would warrant a partial decision either in favour of a master or of any other person.

With respect to the rights of masters over the property of slaves (derived from lands, which alone the collector is competent to try), I have been unable, in the records of this office, to find a single instance in which a case has arisen wherein the merits of either have been tried. I should be inclined to be guided, however, were a case to arise, by section 26, Regulation IV., and the exposition of the law by the law officers, referring to the Hindoo law officer when the master might be a Hindoo, and when a Mahomedan, to the law officer of the Mahomedan creed.

In cases where one or both of the parties might happen to be of the Christian religion, and more especially a British-born subject, I should feel it my duty to refer such case for the consideration of higher authorities, making their decision my guide.

No. 17.

ANSWER of Mr. *W. Stubbs*, Magistrate of Karia, dated 14th January 1836, to the Acting Register to the Sudder Dewanny and Sudder Foudary Adawlut, Bombay.

I DO myself the honour, in reply, to state, that as the questions * asked by the Commission are not relative to what should be the course pursued, but what is and has been the course pursued in this zillah with respect to slaves, the only correct answers would be afforded

* See No. I of this Appendix.

afforded by a reference to past proceedings, and to cases wherein complaints have been made by slaves against their masters, and decided by the officers of this department.

2. Having, therefore, carefully examined the magisterial records for a space of 10 years, and having found only one case in which master and slave are concerned as complainant and defendant, I can hardly give a decided opinion as to what has been the practice with reference to such cases.

3. In this solitary instance, the master was convicted of keeping a female slave with irons on her legs, and beating her. He was sentenced to six months' imprisonment. So that here was evidently no "recognition of any relation between master and slave which would justify acts otherwise punishable and constituting a ground for mitigation."

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Bombay.

ANSWER of Mr. *William Simson*, Acting Magistrate, Tannah, dated 16th March 1836, to the Acting Register to the Sudder Foujdary Adawlut, Bombay.

No. 18.

2. MESSRS. COLES & REMINGTON differ from Mr. Davies in considering the persons of slaves to be absolutely at the disposal of the master, as well as their property. Mr. Davies's analogy between the relation of master and slaves and a contract seems to want precision. The conclusion, however, to be inferred is, that in his opinion the slave is very much the master of his own person and services. All agree that slaves can hold no property independent of their master, and also, that in case of personal ill-usage, masters are subject to the ordinary rules applicable to violence and assault equally with indifferent persons, some slight consideration, perhaps, being allowed for the parental relation in which they are held to stand towards their slaves. Mr. Remington's instance of the slave by descent being returned to the patell by the magistrate is very striking.

3. All think that the caste of the slave-owner would make no difference whatever in the view to be taken by the authorities when cognizant of cases, such as are particularized at the conclusion of the secretary's letter.*

4. Applying my own impressions to the evidence now submitted, and answering the points referred in a general way, I would offer it as my opinion that, in this collectorate, the rights of masters over the property of their slaves are absolute,—over their persons and services very qualified, ceasing the moment the master by using any *duresse* becomes obnoxious to the ordinary law; that very little allowance is made for the sovereign or paternal character of the master; that slaves are commonly very well used, and that caste is of no consideration at all in practice.

ANSWER of Mr. *A. Remington*, Assistant-collector and Magistrate, Tannah, dated 11th December 1835, to Acting Collector and Magistrate of Tannah, enclosed in No. 18.

No. 19.

AND first, as to what are the legal rights of masters over their slaves with regard both to their persons and property. I have always understood it to be held, and such practices as have come under my own observation confirm the impression, that the services of persons sold into a state of slavery are of right due to their master, and not transferable to other persons without his consent; subject to these disabilities are their wives, children and subsequent generation, who lie under the force of the same obligation to serve in the family of the original purchaser. In proof thereof, I would cite a case which occurred a few months ago, where some slaves, the descendants of persons originally sold into slavery, and the property of a Hindoo patell, having decamped into another talooka, entered the service of government as seapoys,† but, being claimed, were restored to their owner by order of the magistrate, and their situation declared vacant. As these persons can acquire no property on their own account, supposing always they be retained in servitude, from which some masters release them, especially those who, exhibiting a talent for any particular handicraft, are enabled, from the profit derived from their industry, to purchase "a sootee putra" or manumission, what property they do possess must be derived from and belong to their masters; who again, according to the rules which guide the relation between the two, may withhold their claim to it, as, where a slave is working out his own emancipation, he is nevertheless in a state of slavery, though comparatively free from its effect.

Slavery being of a very mitigated nature in this country, persons unfortunately so situated differ in no other way from menial servants (who themselves, in most instances, are under obligations, contracted to defray the expense of their marriage, to serve for a limited time) than what such a predicament commonly expresses, namely, a continued state of slavery, and are subject to exactly the same treatment, any departure from which implying an act of a criminal nature would constitute most undoubtedly a case cognizable in the ordinary tribunals; and this applies, of course, with greater force to others than their masters.

A right to the possession of a slave is not, I apprehend, confined to caste and persons who formerly retained slaves in their household, and perhaps now do, though in a more limited way, and such would find equal favour with the court as either a Hindoo or Mussulman.

* See No. 1 of this Appendix.

† *Vide* note at page 165 of the Report.

No. 20. ANSWER of Mr. *George Coles*, Acting Magistrate of Tannah, dated 9th March 1836, to Mr. *William Simson*, Acting Magistrate of Tannah, enclosed in No. 18.

1. It has always been my impression that the persons of slaves, with all they are possessed of, are solely the property of their masters; and, acting upon this, I should not hesitate, upon an application from his owner, in restoring the person and property of a slave who might have absconded from his house.

2. Nothing further would be considered by me as justifying the master who had been guilty of an act towards his slave, which, had not this relation existed, would be punishable, nor further mitigation of punishment be extended to him than what would be allowed by me to the head of a family in preserving the good order of his house; and any ill-usage or cruelty on the part of a master to his slave would be visited by me with the punishment provided by the regulations for cases of assault; and if a repetition of ill-treatment was foreseen, the master would be called upon by me to give security for his future good conduct towards his slave.

3. The fact of an individual being a slave would make no difference in the protection which I should feel it my duty to extend to him as to any free person who has been injured.

4. I am not aware that the possession of slaves is restricted to caste: and any claims to the person's service or property of slaves from others would be attended to by me in the same manner as those made by Mussulmans and Hindoos.

No. 21. ANSWER of Mr. *J. M. Davies*, Second Assistant Magistrate, Tannah, dated 11th March 1836, to Mr. *William Simson*, Acting Magistrate, Tannah, enclosed in No. 18.

2. In the talook of Rygur, there are 75 slaves, chiefly African; in the Rajpooree district, there are 18; in Sankse, there are 28; and in the talooka of Salsette and Oorun, there are 32; being a total of 153 slaves to a population of about 200,000.

5. The persons of slaves are the property of their masters only so long as the former tacitly consent to remain in a state of slavery. There has not, however, occurred a single case, during the 19 years of the Honourable Company's jurisdiction, in which this point has been tried in court. Practically, however, the slaves are only such so long as they comply, either tacitly or expressly, with the conditions of their masters. Sooner, indeed, than degrade themselves by appearing in court with a slave in the character of either plaintiff or defendant, the Mussulman or Hindoo masters of this part of India would consent to relinquish all claim upon their services. With regard to property, the case is different. The slave enjoys property (whether obtained in free gift or acquired by labour) only as a usufruct. The master lays claim to it in cases of death or of alienation. If a master relinquish his right over a slave, all property held by the latter at the time, unless especially provided by agreement, belongs to the emancipated slave.

4. With regard to the relation recognized by the local courts between master and slave, as justifying any acts which would be termed illegal amongst freemen, the point has never been yet tried in a civil court that I can discover. But I for one should never construe Regulations IV. or XVI. of 1827 as warranting any invidious and unjust distinctions. I cannot, however, discover either a civil or criminal case of this nature on the records of my charge.

5. Slaves have never been registered in these districts.

6. In fact, the relation between master and slave, as practically found to exist, bears a much nearer analogy to a contract, either express or implied, than to any recognized right on the part of the master or of obligation on that of the slave against the will of either party.

7. Slaves were originally brought down from the interior by a caste of traders called "Lummun," and were sold to the natives of these talooks during the period of the native government. Rights and obligations were recognized as reciprocal, and were insisted upon accordingly; but during the British rule, by far the greater number of slaves have emancipated themselves owing to the unwillingness of their masters to try their right before any competent authority.

8. Alienation or transfer on the part of the masters is seldom known to occur. The descendants of the first purchased slaves are usually to be found in the family who first took them. They are in general well off as to bodily comforts, and are evidently satisfied with their lot. The fact of there being no tried case on record proves the facility with which they can, if they choose, rid themselves of their yoke without the interference of the magistrate; while to suppose that for 19 years the masters have successfully prevented their slaves from complaining would be highly improbable.

No. 22. ANSWER of Mr. *H. H. Glass*, Collector and Magistrate of Rutnagiree, dated 1st March 1836, to the Acting Register to the Sudder Dewanny and Sudder Foudjary Adawlut, Bombay.

2. In reference to the first point* of inquiry, as to the legal right of masters over their slaves, in regard to their persons and property, recognized by the courts and magistrates, I beg to observe that sections 30, 31 and 32 of Regulation XIV. of 1827, recognize slavery and the sale of slaves under certain limitations; and, although there are no instances on record

* See No. 1 of this Appendix.

record in this office of complaints having been made by a master against his slave, or by a slave against his master, yet on the occurrence of such, the interference of the magistrate, I should consider, would be restricted to the prevention of violent assault or unjustifiable treatment. The right to property would be decided according to the law of the master, under sections 26 and 27 of Regulation IV. of 1827.

3. With regard to the second point, there is no part of the Bombay code which would authorize a magistrate, in meting out punishment for an offence committed by a master against his slave, to show a greater degree of leniency to him than to any other offender. But the degree of authority and chastisement usually conceded as the right of a master of a family would, I imagine, to the full extent be granted to the owner of a slave. No less protection would be afforded to the slaves on complaints being preferred by them against other wrong-doers than their masters than to any other individuals.

4. I have doubts if any class of persons besides Mussulmans and Hindoos possess slaves ; certainly none within my jurisdiction. No right of this nature, that I am aware of, has ever formed matter of litigation in our civil courts. But as the regulations now in force make no exception in favour of any particular class or sect, I think if a claim were made by a Portuguese for the property, possession and service of a slave, our courts could not refuse to admit it.

ANSWER of Mr. *Richard Mills*, Magistrate, Poonah, dated 28th January 1836, to the Register of the Sudder Foujdary Adawlut, Bombay.

No. 23.

2. I CANNOT call to mind that any dispute has ever been brought before me, between masters and their slaves, which has brought the question of the legal rights of the former over the latter under discussion. But were any complaint to be made, the course I should adopt would be, to refer the question for the opinion of the law officer, and act, in deciding, according to the general principles of justice and equity. Whilst I would protect the slave from any harsh and severe measure which the master might adopt, I would recognize the right of the master to exact such duties from the slave as are consistent with the maintenance of domestic authority, and the usages of the caste and religious law of the parties.

3. Independent of the power of the master over his slave, I would protect the latter in every respect the same as any other individual of the community. Being a slave is no authority for any one to tyrannize over him ; and I would punish on complaint any acts of violence, &c., committed towards a slave, in the same manner as towards a free person.

ANSWER of Mr. *R. D. Luard*, Acting Joint Magistrate, Sholapoor, dated 3d January 1836, to Mr. *R. Mills*, Magistrate of Poonah, enclosed in No. 23.

No. 24.

THE records of my office afford no information upon the subject of slavery.

2. I myself have had no experience whatever upon the points referred, and can therefore give no practical information, which is, I should imagine, the only description required.

3. I have referred the case to the different mamletdars, who all report that slavery has not existed in their districts since the British Government.

ANSWER of Mr. *George Malcolm*, Acting First Assistant Magistrate, dated 26th December 1836, to Mr. *R. Mills*, Magistrate of Poonah, enclosed in No. 23.

No. 25.

2. As I have never had a case to decide between a slave and his master, and do not know of any precedent showing how such cases are in the habit of being disposed of by others, the following opinions are given with considerable diffidence :—

3. I consider that slavery under the Bombay presidency is only nominal, inasmuch as a slave remaining in his master's house depends on his own free will and pleasure. If a master were to solicit my interference in the case of a runaway slave, I should send a search for the slave, and, when brought before me, try and ascertain the following points : how far he had acted on the impulse of the moment ; whether he had been seduced or not by the persuasions and bribes of others ; and lastly, if ill-treatment was the cause. I should be guided, of course, greatly by the result of this inquiry into the cause of his running away, but in general should try and persuade the slave to return to his master's house ; yet if he was obstinate and refused, I should not force him.

4. If a master was accused of having beat a slave boy, and should it appear to be the same kind of correction as a father might use towards a child, I should consider the master justified in so doing. But, generally speaking, the relation of master and slave does not justify any act which otherwise would be punishable ; and I should extend exactly the same protection to slaves, on complaints preferred by them of cruelty or hard usage by their masters, as to any other claimants for justice.

5. I am of opinion that there are no cases in which the courts and magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters. I should think that a slave had no right to claim for service ; instead of which, he has claims on his master for clothing and subsistence. this being almost the only difference between

Appendix XVI. between him and a servant, but that the courts and magistrates would admit and enforce any claim to property of a slave, no matter who the defendant might be.
Bombay.

No. 26. ANSWER of Mr. *H. P. Malet*, Acting Second Assistant Magistrate, Poonah, dated 5th January 1836, to Mr. *R. Mills*, Magistrate of Poonah, enclosed in No. 23.

2. I HAVE the honour to inform you, that I never had a case before me as to the legal right of a master over his slave, with regard to his person and property. In the absence of any specific regulations on this point, I should be guided by the opinion of the law officers of the caste, or by that of persons conversant with the usages of the sect to which the case related.

3. I should see no reason for altering the law, which operates upon other persons, in regard to a slave complaining of hard usage or cruelty practised on him by his master.

4. I should afford the same protection to a slave against any other than his master, as to one against any other independent person.

5. I should not feel myself officially bound to enforce or admit any claim to property, possession or service from a master over his slave in any way, but would endeavour to induce the parties concerned to abide by the usages of their caste explained to them by persons acquainted with the same.

No. 27. ANSWER of Mr. *H. E. Goldsmid*, Assistant Magistrate at Kusba Indapoor, dated 2d January 1836, to the Magistrate of Poonah, enclosed in No. 23.

I BEG to state, that never having had complaints preferred before me by slaves against their masters, I am unable to speak from actual experience. But in event of a slave being ill-treated or abused, I should afford him as much protection as if he were a freeman, no regulation, of which I am aware, pointing out a contrary course. In event, however, of a person thinking that his property in the slave implied a power to ill-use him, I should always permit his ignorance to plead in mitigation of punishment for a first offence.

With regard to the 3d paragraph * of the letter from the secretary to the law commission, I have only to observe, that I cannot conceive a case in which a magistrate would afford less protection to slaves than to free persons against other wrong-doers than their masters. Were a claimant to be Mussulman, Hindoo, or of any other caste, to prefer a claim to property, possession or service of a slave, I should, before passing a decision, request the instruction of my superiors.

No. 28. ANSWER of Mr. *R. D. Luard*, Acting Joint Magistrate, Sholapoor, dated 3d January 1836, to the Register of the Sudder Foujdary Adawlut, Bombay.

I HAVE the honour to inform you that the records of this office afford no information upon the subject.

2. I myself have had no experience whatever upon the points referred, and can therefore give no practical information, which is, I should imagine, the only description required.

3. I have referred the case to the different mamletdars, who all report that slavery has not existed in their districts since the British Government.

No. 29. ANSWER of Mr. *H. A. Harrison*, Magistrate of Ahmednuggur, dated 14th December 1835, to the Acting Register, Sudder Dewanny and Sudder Foujdary Adawlut, Bombay.

2. IN reply, I beg you will acquaint the judges, that during the period I have acted as a magistrate I have never had occasion to consider what the legal rights of masters over their slaves are with regard to their person and property. A question respecting these rights never having arisen, they have been exercised, as heretofore, without inquiry or interference on the part of the magisterial authorities.

3. Cases to which the points noted in the 2d and 3d paragraphs * refer never having been brought before the magistrate, it remains to be determined what practice should be observed on each particular point.

4. Respecting the last subject of inquiry, it would seem to be very doubtful what course should be pursued, and the instructions of the judges would be required before the magistrate ventured to act in such a case as that supposed by the commissioners.

No. 30. ANSWER of Mr. *W. S. Boyd*, Magistrate, Khandeish, dated 18th February 1836, to the Register of the Sudder Foujdary Adawlut, Bombay.

2. IN answer to the first question,* I should say that slaves legitimately acquired previous to the promulgation of the Regulations of 1827, are considered in our courts, in ordinary cases,

* See No. 1 of this Appendix.

cases, as subject to the same rules which the usages of the country formerly prescribed. What I mean by "ordinary cases," is simply with regard to the right to profit by their sale or labour; that is to say, our courts would sustain an action for the recovery of a slave or the price of one, provided neither cruelty nor the insufficiency of the claim did justify the manumission of the individual, or the dismissal of the suit.

3. With regard to their property, there is no doubt that the property of slaves dying without heirs is claimed by their owners. The property of slaves during their life-time was never taken from them unless in cases of bad behaviour; but of course when the person itself is the property of an individual, it appears but an empty privilege, the alleged right to hold property. I beg to be understood as speaking as a magistrate, not having for many years been employed in the civil branch of the judicial line.

4. Since 1827 no slave can, agreeably to the regulations, be sold without the sanction of the magistrate, and the instances are so few in which that sanction will be applied for, that I consider the present code as calculated to effect the total suppression of slavery. Only one application to purchase a slave has been made since 1827 in this province; but as many have been manumitted on the irregularity of the sale being shown, the feelings with which this traffic is received by the ruling power is so well known that its existence as a source of profit will soon cease, if it has not already ceased altogether.

5. With regard to the second query,* I beg to state, that I consider the right of a master over his slave to extend to a reasonable portion of labour, and that I would recognize the right of a master to chastise his slave only as far as I would that of a parent to punish his child, and that any assault or injury complained of by the slave, exceeding what I have described, would be listened to by me as if no connexion whatever existed between the parties.

6. In answer to query 3d, a slave is in all respects equally protected with all members of the community whatsoever; and with regard to the latter part of the query, I should consider it the duty of the courts to support just complaints of a native-born Christian or Jew against his slave, as well as that of either Mussulman or Hindoo. No European could, of course, possess a slave.

7. In conclusion, I beg to enclose an extract † from a report on this subject by a very intelligent assistant of my own, Mr. M. Larken, and I shall only add, in agreeing with that gentleman's remarks, so little is domestic slavery a source of tyranny and oppression, that in the course of six years I have been at the head of this province, I have myself only had three complaints.

8. Slaves for domestic purposes will now never be purchased in the Company's territories. The individuals who require and are permitted to purchase such costly additions to their establishments are all people of the better ranks, and too well aware of our strong prejudice against slavery, in any shape, to make themselves individually prominent, by applying for a formal permission to do that which, though not perhaps forbidden, they are conscious is disgusting.

EXTRACT of a Report from Mr. *Metcalf Larken*, Assistant Magistrate, to the Address of the Magistrate in the Province of Khandeish, dated 1st December 1833, enclosed in No. 30.

No. 31.

10. ON the subject of domestic slavery I must premise, that since the operation of the Regulations in this province, sales of slaves have, of course, become of very rare occurrence, owing to the various risks and insecurity attending all illegal transactions. Female slaves are, to a very great proportion, more numerous than males. The latter are always brought up from childhood in the house and with the family of the master; when they grow up they are treated rather as humble relatives than menial servants; and as the children are always purchased when very young, the attachment existing between them and the members of their master's family, who have "grown with their growth," is any thing but unnatural or surprising. Their condition is not one to be lamented, and (as was said of the slaves of others) is far preferable to the condition of free citizens in many of the other states.

11. Should a family fall into decay, the opportunity is not seized by the slave to break this thralldom; but in almost every instance his conduct has appeared uniformly faithful, and he has clung to the fallen fortunes of his master's house, induced to do so, not only from gratitude, but from the feeling that his affections and home are theirs.

12. Nor is this feeling entirely unreciprocal. No person of respectability, though in straitened circumstances, will sell his slave. An act of this kind militates alike against public opinion and private inclination.

13. The number of female slaves, as I have observed, is far greater than that of the males. They too are bought when very young, and are brought up with the women of the family in domestic employments. There is no doubt, however, but as they grow older, personal attractions are not without the effect of saving them from the more laborious parts of household drudgery. That their condition be enviable or otherwise, must, of course, depend upon circumstances. It is sufficient here to remark, that a complaint of ill-treatment from either male or female slave is of the very rarest occurrence.

14. There

* See No. 1 of this Appendix.

See No. 31 seq.

Appendix XVI.
 —
 Bombay.

14. There is another kind of slavery which requires no illustration,—I allude to the male and female slaves of dancing-women. The most effectual way of recruiting a “ typha ” was by purchasing children and educating them to the profession. This class of people, under the old government, formed a constant market for the slave-dealers ; but since the country came into the Honourable Company’s possession, for reasons before mentioned the practice has obviously decreased ; and as it is now generally well known that no sale under these circumstances is legal, this abominable traffic will rapidly cease altogether.

No. 32. ANSWER of Mr. *John A. Dunlop*, Acting Principal Collector and Magistrate, Belgaum, dated 19th March 1836, to the Acting Register to the Court of Sudder Dewanny and Sudder Foujdary Adawlut, Bombay.

2. THE only cases that appear to have been brought before the magistrate were as follows, from the Chuckores talooka, where it was discovered that seven female children had been purchased by dancing-women for the purpose of bringing them up to their degrading profession, but the purchases were found to have been made before that district was subjected to our regulations, so that the purchasers could not be punished, but the sale was declared illegal, and the slaves were set at liberty ; though it may be doubtful if all of them availed themselves of their freedom to quit their mistresses.

3. There was also one case of the purchase of a girl by a dancing-girl or prostitute, all the parties concerned in which, to the number of ten, were committed, tried and condemned to various degrees of punishment ; but it appeared on the trial that they were ignorant of the criminality of their act, and means were consequently taken to publish the law more generally ; which, I trust, have been successful.

4. Domestic slavery prevails very extensively in the respectable families of this zillah, and among the petty states and jageerdars under the political agent, more especially among the Marattas, who have few other domestic servants.

5. These are principally females who perform the domestic drudgery of cleaning, plastering (with cow-dung) their floors and houses, grinding grain, carrying water, &c., and were formerly obtained, sometimes by purchase, but more commonly by condemnation to this state for various offences, to which the prospect of benefiting by their services offered strong temptations.

6. 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. These persons have not been compelled to return, but a mutual agreement generally recommended, which both parties are usually well disposed to, for the sake of obtaining their services on one side, and on the other to secure at once a home and provision for old age.

7. The progeny of these slaves continue nominally in the same state, but are generally the most trusted and best treated of dependents ; and from the general knowledge that slavery has been abolished by government being spread over the country, I am of opinion that any treatment sufficiently severe to induce slaves to forego the benefits of their situations, and to break the other ties that bind them to their master’s service, would be followed by desertion ; and unless persuaded to return of their own free will there is now no means of compelling service, so that it seems in this respect to be placed on the best footing for both parties, and scarcely deserves the name of slavery.

8. The sources from which slaves used to be obtained are now entirely closed, and therefore the class of domestic slaves must in a great measure die out with the present generation ; and unfortunately the class of persons able to afford the luxury within our own territories seem destined to an almost equally speedy extinction ; the majority of both are, therefore, likely to escape from the operation of any law that could now be made on the subject.

9. The sale of females for prostitution, the most likely to continue, is already sufficiently provided against by our laws.

10. I am not aware of any distinction being ever made between slaves and free persons when brought before magistrates. Both would be equally listened to as witnesses or complainants, and both would have the same measure of punishment dealt to them for offences ; and, with the exceptions allowed by the 30th, 31st and 32d sections of Regulation XIV. of 1827, both would be perfectly upon a par.

APPENDIX XVII.

GUICOWAR'S APPLICATION.

MAGISTERIAL Power of surrendering Slaves.

1. Translation of a Yad from his Highness the Guicowar to the Political Commissioner, dated 6th Zilkad 1238; A. D. 2d February 1838.
2. Letter from Mr. R. H. Arbuthnot, Joint Magistrate, Punpree, to the Magistrate of Ahmednugger, dated 2d March 1838.
3. Letter from Mr. H. A. Harrison, Magistrate, Ahmednugger, to the Secretary to the Government of Bombay, Judicial Department, dated 8th March 1838.
4. Translation of a Yad from his Highness the Guicowar, 17th Zihaj; A. D. 14th March 1838.
5. Minute by the Right honourable the Governor of Bombay, dated 8th April 1838.
6. Minute by the Honourable Mr. Farish, dated 10th April 1838.
7. Idem by the Honourable Mr. Anderson, dated 11th April 1838.
8. Idem by the Right honourable the Governor of Bombay, subscribed to by the Honourable Mr. Farish, dated 16th April 1838.
9. Minute by the Honourable Mr. Anderson, dated 17th April 1838.
10. Minute by the Right honourable the Governor of Bombay, dated 1st May 1838.
11. Minute by the Honourable Mr. Farish, dated 2d May 1838.
12. Minute by the Honourable Mr. Anderson, dated 3d May 1838.
13. Translation of a Yad from his Highness, dated 4th Suffer; A. D. 29th April 1838.
14. From the Political Commissioner and Resident, Baroda, to the Secretary to the Government, Bombay, dated 2d May 1838.
15. From idem to idem, dated 2d April 1838.
16. From Mr. W. B. Salmon, Acting Superintendent of Police, Poonah, to the Political Commissioner and Resident, Baroda, dated 21st March 1838.
17. Minute by the Right honourable the Governor of Bombay, dated 21st April 1838.
18. Minute by the Honourable Mr. Farish, dated 21st April 1838.
19. Minute by the Honourable Mr. Anderson, dated 23d April 1838.
20. Minute by the Right honourable the Governor of Bombay, subscribed to by the Board, dated 30th April 1838.
21. Letter from the Secretary to the Government of Bombay to the Political Commissioner for Guzerat, dated 18th May 1838.
22. Letter from Mr. James Erskine, Political Agent in Katteewar, to Mr. J. P. Willoughby, Secretary to the Government of Bombay, dated 31st December 1837.
23. Deposition of Seedee Moobaruck, Rajcote, dated 15th September 1837.
24. Minute by the Right honourable the Governor of Bombay, dated 26th January 1838.
25. Minute by the Honourable Mr. Farish, dated 27th January 1838.
26. Minute by the Right honourable the Governor of Bombay, dated 2d February 1838.
27. Minute by the Honourable Mr. Farish, dated 3d February 1838.
28. From the Secretary to the Government of Bombay to the First Assistant Political Agent in charge, Katteewar, dated 10th February 1838.
29. From Mr. James Erskine, Political Agent, Katteewar, to the former, dated 24th March 1838.
30. From the First Assistant Political Agent in charge, Dhorajee, to Colonel Pottinger, Resident in Cutch, dated 26th February 1838.
31. From the latter to the former, dated 19th March 1838.
32. From the Secretary to the Government of Bombay to the Political Agent, Katteewar, dated 9th June 1838.
33. From idem to the Accountant-General, dated 9th June 1838.
34. Letter from the Officiating Secretary to the Government, Judicial Department, to the Secretary to the Government of Bengal, dated 24th September 1838.
35. Letter from the Register of the Sudder Dewanny and Nizamut Adawlut, Fort William, to the Secretary to the Government of Bengal in the Judicial Department, dated 9th Nov. 1838.
36. From the Acting Chief Secretary to the Government of Bombay to the Secretary to the Right honourable the Governor-General of India, Camp, dated 12th September 1838.

TRANSLATION of a Yad from his Highness the Guicowar to the Political Commissioner, dated 6th Zilkad 1238; A. D. 2d February 1838.

My daughter, Eshada Bae 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,

Appendix XVII.

No. 1.

Appendix XVII.

Guicowar's
Application.

Sheraboode, given over to the Company's officer at Nassick. This sircar is about to send Gubbagee Seapoy to Nassick to bring them back. Let a letter, ordering them to be given to Gubbagee, be immediately written to the gentleman at Nassick, and sent to me for transmission.

- No. 2. FROM Mr. *R. H. Arbuthnot*, Joint Magistrate, Punpree, to the Magistrate of Ahmednugger, dated 2d March 1838.

THE resident of Baroda having transmitted a yad from his highness the guicowar, requesting that two female slaves who had accompanied his daughter, Eshada Bae Ghoorporee, from Poonah to Nassick, and had there left her, may be made over to a person sent by him to receive them, I beg you will do me the favour to represent to the Right honourable the Governor in Council, that both women object to proceed to Baroda along with the person sent for them, and that I have to request his instructions regarding the disposal of them under section 5, Regulation XI. of 1827.

2. One of the women, by name Dhoondee, states she accompanied Eshada Bae from Baroda on her journey to Poonah, about a year ago, and remained with her there, but subsequently left her at Nassick on her return to Gujerat, in consequence of ill-treatment.

3. The other, by name Parvattee, declares she is an inhabitant of Poonah, and has never been in Gujerat. She took service with Eshada Bae at Poonah, and left her at Nassick from the same reason.

- No. 3. FROM Mr. *H. A. Harrison*, Magistrate, Dongurgaon, to the Secretary to Government of Bombay, dated 8th March 1838.

I HAVE the honour to transmit copy of a letter from the joint magistrate of Nassick, dated the 2d instant, requesting the instructions of government under section 5, Regulation XI. of 1827, respecting two female slaves, the delivery of whom has been demanded by his highness the guicowar, and request you will favour me with the instructions of government for the guidance of the joint magistrate.

- No. 4. TRANSLATION of a Yad from his Highness the Guicowar, dated 17th Zihaj; A. D. 14th March 1838.

(After recapitulating the former yad.) The letter sent by you was forwarded by the hand of Gubbajee Seapoy to the gentleman at Nassick, but he, raising objections about their consent or non-consent, has not, up to this time, given up the slave-girls to Gubbajee. The slaves of this sircar have run away; and notwithstanding that they are actually in the possession of the gentleman at Nassick, he raises objections to giving them back. Let another letter, therefore, be written to that gentleman, directing him to give them up immediately, without any further objections, to Gubbajee Seapoy.

- No. 5. MINUTE by the Right honourable the Governor of Bombay, dated 8th April 1838.

THERE is a good deal of difficulty in dealing with cases like this on principle.

Slavery, however, is not unlawful here, nor do I find that the regulations forbid the export of slaves for the purpose of sale or prostitution. Therefore, I am not aware that the guicowar calls on us to do any thing illegal, or to do 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 resist 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.

If this view is concurred in, we must call on the collector to state, as well as he can, the price of each. Possibly the sum given by the guicowar lady for the Poonah girl may be ascertained, and it is even possible that the slave may have relations willing to redeem her. This should be inquired into, and, to save time, the collector might be authorized to communicate directly with the Poonah authorities.

The collector should transmit to us such information as he can get, and also a translation of the guicowar's yad of 8th April.

- No. 6. MINUTE by the Honourable Mr. *Farish*, dated 10th April 1838.

IN a recent case in Katteewar, the redemption of a runaway slave on the ground of ill-treatment was sanctioned, and there are perhaps stronger grounds in the present case for the same course. To avoid the embarrassment of not surrendering them, it seems the best course, and I concur in this as a special case.

MINUTE by the Honourable Mr. *Anderson*, dated 11th April 1838.

No. 7.

I THINK there are great objections to either course.

MINUTE by the Right honourable the Governor of Bombay, subscribed to by the Honourable Mr. *Farish*, dated 16th April 1838.

No. 8.

I HAVE nothing better to propose than the course stated in my minute of the 8th instant.

MINUTE by the Honourable Mr. *Anderson*, dated 17th April 1838.

No. 9.

Is there an obligation to give up the slaves? If such obligation exist, it must be complied with. I do not see how it is met or got over by redeeming the slaves. If there is not the obligation, then, I conceive, we must leave them alone to do as they please.

MINUTE by the Right honourable the Governor of Bombay, dated 1st May 1838.

No. 10.

I TRUST I shall not be thought to act disrespectfully towards the board if I do not prolong discussion in cases when the measures I take the liberty of proposing are objected to, but without any one specific proposition being made on the other side. I am aware that the case is a difficult one, and think it probable that a better adviser might devise some better mode of dealing with it than I have done; but none such has occurred to me.

MINUTE by the Honourable Mr. *Farish*, dated 2d May.

No. 11.

I REFER to my first minute, of the 10th April.

MINUTE by the Honourable Mr. *Anderson*, dated 3d May 1838.

No. 12.

1. I QUITE regret to have given so much trouble to the Right honourable the Governor. My object was not to prolong discussion, but that the determination the board might come to should be correct. The proposed course appearing to me doubtful, I so stated it, with an impression in my own mind, at the same time, that the subject would then form a matter to be brought up at the council board, when, after being considered, it could be disposed of.

2. I may be wrong in imagining this the usual mode in which the board would act in such a case; but I claim some indulgence, in not yet being quite aware of the usual mode in which business is transacted.

3. Upon the question itself, I would beg to refer to a minute I wrote a few days ago on a case of slaves being claimed. The present case differs, in the demand being made by his highness the guicowar, but in other respects, as far as relates to the practice of our magistrates on claims for delivering up slaves, it is the same.

The question I put in my last minute on the present reference is this: What is the obligation we are under to give up the slaves? If it is by any article of the treaty, let it be shown, and then if the treaty imposes the obligation, it must be complied with.

In regard to the course of redeeming the slaves, I do not think it an expedient course. It is not one that would be liked or be assented to by his highness, I should imagine; and if the treaty does not oblige us to cause the return of the slaves, it is not necessary.

Before, too, it could be done, I imagine the expenditure must be confirmed by the Government of India.

As it is a political question, and one of some general importance, it might possibly be wise to refer it to the Government of India to know how such a case would be dealt with by the magistrate there, on a similar demand by any foreign prince with whom we are in alliance. I hope I shall not be here thought as desiring to prolong discussion, but simply to do what is right, that the best conclusion may be come to.

TRANSLATION of a Yad from his Highness, dated 4th Suffer: A. D. 29th April 1838.

No. 13.

(After recapitulating the foregoing.) NOTWITHSTANDING my application for another letter to Nassick, the slave-girls have not been as yet given up. Let another letter, therefore, be given to me for that gentleman, according to the yad of the 17th Zihaj (14th March 1838), for this sircar's people have been detained three months at Nassick. Let a letter be written directing that immediately on its receipt the slave-girls be given up.

(True translation.)

(signed)

W. Courtney,

2d Asst. Pol. Comr.

(True copies.)

(signed)

L. R. Reid,

Actg. Chief Secy. to Govt.

No. 14. FROM the Political Commissioner and Resident, Baroda, to the Secretary to Government of Bombay, dated 2d May 1838.

I REQUEST you will do me the favour to represent to the Right honourable the Governor in Council, that his highness the guicowar is much dissatisfied at two female slaves of his daughter's having run away from her service, and that, although placed under the surveillance of the joint magistrate of Nassick, she is unable to recover them.

2. I received a communication from his highness on the 2d February last, and sent a copy of it to the joint magistrate of Nassick on the 6th, through his highness's people.

3. On the 14th March a second note was received, stating that the authority at Nassick, allowing objections to be raised of the slaves being unwilling to return, had not surrendered them, and again desired my interference. Consequently, on the 19th of that month, I forwarded a copy of the note to the joint magistrate, but to neither of these representations have I been favoured with any reply. I have been unable, therefore, to give any satisfactory explanation to his highness of the reasons that have prevented ready compliance with his wishes.

4. As his highness now complains of the detention of his people at Nassick, I have no other resource left than to address the Right honourable the Governor in Council, requesting that speedy measures be taken to remove the molestation, and the slave-girls be given up.

5. Natives of this country are tenacious of all matters connected with domestic arrangement; and as the high personage in question is dissatisfied, I am led to hope that a satisfactory disposal of the subject may soon take place.

6. I myself can offer no opinion on the reason for delay, not having been informed of any legal impediment to the delivery of the females. But adopting the facts as stated in his highness's notes to me, I should think that as domestic slavery is permitted by universal custom among natives of India and the laws of the Hindoos, which have never been abrogated by any legislative enactment in England or India, there can be no valid objections to mete out justice to his highness on this occasion; for I cannot persuade myself the Right honourable the Governor in Council would countenance the operation of private notions of right and wrong in supersession of written law, by which alone a magistrate should be guided in the discharge of his official duties.

No. 15. FROM the Political Commissioner and Resident, Baroda, to the Secretary to Government of Bombay, dated 2d April 1838.

1. I HAVE the honour to request you will submit the subject of this address for the consideration of the Right honourable the Governor in Council, that instruction may be issued placing the matter to which it relates on a proper footing.

2. 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 or enforce his return.

3. By this denial of justice the master of the slave is injured in his property, and I should think the superintendent is not justified in acting as he has done; for he possesses the same powers within military limits that a zillah magistrate does within his jurisdiction under general regulations.

4. 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 on the relative positions 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.

5. The only enactment touching slavery is entirely distinct from this case, and pertains to the purchase and sale of slaves.

6. Magistrates restore runaway slaves. Indeed they are bound to yield their aid in so doing in the same way as in cases of master and servant, or in matters connected with the forcible detention of property, while there is no law, rule or recognized custom to the contrary that I am aware of.

7. Mr. Salmon is not singular in the opinion he has given; for many have erroneously acted on the same principle, emanating, I believe, from emancipation of slavery 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 that are prescribed for their guidance.

No. 16. FROM Mr. *W. B. Salmon*, Acting Superintendent of Police, Poonah, to the Political Commissioner and Resident, Baroda, dated 21st March 1838.

1. IN answer to your communication, No. 101, dated 14th February 1838, received through Sheik Umeerooden, I beg to inform you, that the slave alluded to is not detained here by me, but is at present residing in the sudder bazar, and objects to return to his master.

2. I beg further to state, for your information, that there is no power vested in the superintendent of police by which he can in any way interfere or enforce his return.

MINUTE by the Right honourable the Governor of Bombay, dated 21st April 1838.

1. THERE seem to me to be considerable difficulties in this case, though I quite agree with Mr. Sutherland that we are not to apply to it European standards of law or feeling. The *status* of domestic slavery is, in this country, a legitimate one, and while it subsists, there are obligations arising out of it which none can be justified in violating, and which the magistrate is on occasion bound to enforce.

2. In the present instance, a foreigner travelled into the Bombay territories, accompanied by a slave, who refused to attend him back on his departure. On that refusal taking place, the master might undoubtedly have applied to the magistrate, who would, I presume, have summoned the slave, and called on the master to prove his title. I see nothing in the regulations as to the nature of the proof required, and know not the practice; but I do suppose that the alleged slave would have been allowed a sufficient *locus standi* in the magistrate's court to dispute the claimant's title, either on the ground that he was not his slave, or that, having been such, the relation had, by subsequent consent, or some other cause, been dissolved, or, at all events, that the master by cruel treatment forfeited his right to enforce it.

3. All this would have been matter of regular inquiry and adjudication, the parties being confronted, and the witnesses being examined on oath in open court; and the decision would, I presume, have been examinable by a higher judicature.

4. It seems to me a very different case when a person residing at Baroda claims to be the master of a person residing in the heart of the Bombay territories, and through the British resident calls on the local Bombay magistrate to seize the person so claimed, and to deliver him up to the foreign master. The title here is made out, if made out at all, before an officer, who has, properly speaking, no judicial powers, and by an *ex-parte* proceeding, in the absence of the party who is to be so deeply affected by it; and it is to be enforced, if at all, by the local magistrate, on a mere intimation of it by letter, without going through any part of that judicial process which is necessary in all other cases of property claimed by a suit at law, and to which the master must have submitted had he preferred his claim personally, and without affording to the alleged slave any opportunity of appealing against the decision if unjust.

5. There can be no doubt that a foreigner may sue in our courts of civil justice for the restitution of property unjustly withheld from him, but there he must, I apprehend, proceed in one of two ways. He must appear before the court either personally or by an attorney lawfully constituted, and in either case he must establish his claim by sworn proofs, subjected to strict examination in the presence and on the part of the resisting party, and involving the penalties of perjury if found to be false.

6. I see not why the same principle does not hold in such an instance as the present. It would undoubtedly hold, I presume, if the property claimed were of any other kind. Let us suppose this Baroda inhabitant to inform the British resident that there was a horse or a bale of goods in the possession of a person at Poonah, which such person refused to give up, and then let us suppose the resident to write to the magistrate of Poonah, assuring him that he (the resident) had satisfied himself of the justice of the claim, and therefore requested the magistrate to seize such horse or bale of goods, and forthwith to send it by a careful person to Baroda. Would any magistrate listen to such an application? Or could he be censured for not listening to it? Yet it cannot be conceived that less care or ceremony is necessary when the property claimed is the person of human beings.

7. There is another class of cases which may be referred to on the present occasion. A foreign subject accused of crimes, or suspected of machinations against the state to which he belongs, flies into our territory, and, being reclaimed through the British resident at that state, is given up by order of this government. This, however, is confined in the cases of persons suspected of being criminals or traitors, and even in such cases a compliance with the demand is by no means a matter of course. It must be an act of the government done either on solemn consideration of the particular circumstances, or in fulfilment of some stipulation in a treaty which pre-supposes such consideration to have been given to the subject generally. No magistrate would give effect to such a demand, except under orders general or particular from his government. Nor would any government exercise on light grounds a power which implies, I would not say vigour beyond the law, but certainly a supersession of the ordinary forms of judicial procedure.

8. How far the case of a fugitive slave would fall within the class just described, I will not attempt to determine. It certainly would fall within that class if the fugitive were suspected of having robbed his master, or of some other crime; and possibly the very fact of his flight might be thought to afford *prima facie* ground for such suspicion. But to apply the rule where no crime is alleged or pretended to have been committed, would, as it appears to me, be a very hard proceeding. I know that in our slave colonies the simple refusal of a slave to follow his master would have subjected him to be handled very roughly; and this is, I conceive, still the case in several of the united states of America, but I am not prepared to act on those transatlantic precedents in this country.

9. The board will judge whether or not the above remarks sustain the proposition with which I set out, namely, that the question before us is one of difficulty. I am, however, in the present instance, peculiarly averse to proceed in a summary way, because the master, or at least the person whom the proper master allowed and directed the slave to attend as such, had the full opportunity of preferring his claim in the regular manner before the magistrate of Poonah or before the superintendent of bazars, and, as far as appears, voluntarily pretermitted such opportunity. He was at Poonah when the slave refused

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refused to follow him. Why did he not at once summon him before the magistrate or the superintendent of bazars? For any thing that appears, he felt that he could not prove or could not press his title. Perhaps he had discharged the slave, perhaps he had treated him cruelly; and all this would have appeared had he gone before the magistrate. He therefore abstains from so inconvenient a course, assured that, on his return to Baroda, a short application to the resident will set all to rights, and restore him the slave in spite of all resistance.

10. 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 inconvenient, as it was both advisable and practicable; but it is planning 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.

11. 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 principle, 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 manner affecting the personal liberty of mankind.

No. 18.

MINUTE by the Honourable Mr. *Farish*, dated 21st April 1838.

THE course pointed out by the Right honourable the Governor appears to me that which would be proper. Mr. Anderson's experience will, however, be more valuable than my opinion.

No. 19.

MINUTE by the Honourable Mr. *Anderson*, dated 23d April 1838.

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 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.

If the Right honourable the Governor and Mr. *Farish* will for a moment turn to that note, they will at once see in how great a state of uncertainty the law at present stands throughout India.

That is, what is the power of a master over his slave; what the authority and practice of the magistrates in cases respecting slaves coming before them.

In respect to the immediate question before the government, I beg to point out that the Bombay code, in its criminal branch, no where excepted the slave from protection. It no where says, that if the slave be assaulted, that the person assaulting, be he his master or any other, shall be exempt from punishment. It no where says that if the slave is restrained, that he shall not be released. It no where says that if the slave refuses to return to the master, that the magistrate shall cause him to return.

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.

MINUTE by the Right honourable the Governor of Bombay, subscribed to by the Board,
dated 30th April 1838.

No. 20.

I AM glad to find that Mr. Anderson, in his minute of the 23d instant, confirms me as to the only course of proceeding open to the claimant, and differs from me only in thinking it very doubtful whether even that course will succeed. I subscribe to his observations on that point, and indeed on all others. Mr. Sutherland should be informed of our views, and should be left to communicate so much of them as he may think proper to the party concerned, informing him, at the same time, that he has no method of recovering his alleged slave but by regularly proving his claim before the local magistrate.

FROM the Secretary to Government of Bombay to the Political Commissioner for Guzerat,
dated 18th May 1838.

No. 21.

I AM directed to acknowledge the receipt of your letter, dated the 2d ultimo, No. 245, representing the non-compliance with your requisition by the superintendent of bazars at Poonah, to deliver up a slave (the property of a guicowar subject), who had taken refuge at that place, and in reply to communicate to you the following observations and instructions:—

2. It appears to the Right honourable the Governor in Council that there are considerable difficulties in this case; but government quite concur in your opinion that we are not to apply to it European standard of law or feeling. The *status* of domestic slavery is in this country a legitimate one, and, while it subsists, there are obligations arising out of it which none can be justified in violating, and which the magistrate is on occasion bound to enforce.

3. In the present instance a foreigner travelled into the Bombay territories, accompanied by a slave, who refused to attend him back on his departure. On that refusal taking place, the master might undoubtedly have applied to the magistrate, who would, it is presumed, have summoned the slave, and called on the master to prove his title. The regulations are silent as to the nature of the proof required; but it is to be inferred that the alleged slave would have been allowed a sufficient *locus standi* in the magistrate's court to dispute the claimant's title either on the ground that he was not his slave, or that, having been such, the relation had by subsequent consent, or some other course, been dissolved, or, at all events, that the master had by cruel treatment forfeited his right to enforce it.

4. All these would have been matters of regular inquiry and adjudication, the parties being confronted and the witnesses being examined on oath in open court, the decision being examinable by a higher judicature.

5. It appears to the Governor in Council a very different case when a person residing at Baroda claims to be the master of a person residing in the heart of the Bombay territories, and through the British resident calls on the Bombay local magistrate to seize the person so claimed and to deliver him up to the foreign master. The title here is made out, if made out at all, before an officer, who has, properly speaking, no judicial powers, and by an *ex-parte* proceeding in the absence of the party who is to be so deeply affected by it, and it is to be enforced, if at all, by the local magistrate, on a mere intimation of it by letter, without going through any part of that judicial process which is necessary in all other cases of property claimed by a suit at law, and to which the master must have submitted had he preferred his claim personally, and without affording to the alleged slave any opportunity of appealing against the decision if unjust.

6. There can be no doubt that a foreigner may sue in our courts of civil justice for the restitution of property unjustly withheld from him, but then he must proceed in one of two ways. He must appear before the court either personally or by an attorney lawfully constituted, and in either case he must establish his claim by sworn proofs, subjected to strict examination in the presence and on the part of the resisting party, and involving the penalties of perjury if found to be false.

7. Government do not see why the same principle does not hold in such an instance as the present. It would undoubtedly hold if the property claimed were of any other kind. For the sake of example, let it be supposed this Baroda inhabitant informing the British resident that there was a horse or any article of merchandize in the possession of a person at Poonah, which such person refused to give up, and then let it be supposed the resident writing to the magistrate of Poonah, assuring him that he (the resident) has satisfied himself of the justice of the claim, and therefore requesting the magistrate to seize such horse or merchandize, and forthwith to send it by a careful person to Baroda. It is clear that no magistrate could comply with such an application, yet it cannot be conceived that less care or ceremony is necessary when the property claimed is the person of a human being.

8. There is another class of cases, which may be instanced as applicable to the present subject. A foreign subject, accused of crimes, or suspected of machinations against the state to which he belongs, flies into our territory, and, being restrained through the British resident at that state, is given up by order of this government. This, however, is confined to the cases of persons suspected of being criminals or traitors, and even in such cases a compliance with the demand is by no means a matter of course. It must be an act of the government, done either on solemn consideration of the particular circumstances, or in fulfilment of some stipulation in a treaty which pre-supposes such consideration to have been given to the subject generally. No magistrate would give effect to such a demand, except

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except under orders general or particular from his government, nor would any government exercise on light grounds a power which implies a supersession of the ordinary forms of judicial procedure.

9. How far the case of a fugitive slave would fall within the class just described, it is difficult to determine. It certainly would fall within that class if the fugitive were suspected of having robbed his master, or of some other crime, and possibly the very fact of the flight might be thought to afford *prima facie* ground for such suspicion. But to apply the rule where no crime is alleged or pretended to have been committed would be a very harsh proceeding.

10. Under the above exposition I am desired to remark, that however right your opinion on this subject may be upon the general question of slavery in this country, you labour under an error in conceiving that you possessed authority, as resident at Baroda, to require a magistrate at Poonah to apprehend or give up a slave claimed by an individual at Baroda.

11. But the question appears to government even more doubtful than this. It is doubtful if the magistrate on the application of the owner himself could have compelled the slave to return to his master.

12. It is here worthy of remark, that the Bombay code in its criminal branch no where excepts a slave from protection. It no where says, that if the slave be assaulted that the individual assaulting, be he his master or any other person, shall be exempt from punishment. It no where says, that if the slave is restrained he shall not be released, nor is it any where laid down that if the slave refuses to return to his master the magistrate shall cause him to return.

13. Upon no point is the law more undefined, and consequently more uncertain, than on the subject of slavery in India, and upon no question have the law authorities in India given more diversified opinions than of the duties required of magistrates in respect of slaves.

14. In consequence of the peculiar difficulties attending this question, government feel averse to proceed in a summary way. It appears that the master, or at least the person whom the proper master allowed and directed the slave to attend as such, had the full opportunity of preferring his claim in the regular manner before the magistrate of Poonah, or before the superintendent of bazars, and, as far as appears, voluntarily pretermitted such opportunity. He was at Poonah when the slave refused to follow him, and it cannot but be regarded as singular that he did not at once summon him before the magistrate or the superintendent of bazars. It is therefore inferrible that he felt that he could not prove or could not press his title. Perhaps he had discharged the slave, perhaps he had treated him cruelly; and all this would have appeared had he gone before the magistrate. He therefore abstained from so inconvenient a course, assured in his own mind that, on his return to Baroda, a short application to the British authority there would set all to rights, and restore him the slave in spite of all resistance.

15. In conclusion, I am directed to inform you, that government leave it to your discretion to communicate so much of the views of government on this subject to the party concerned as you may deem expedient, intimating to him at the same time that he possesses no method of recovering his alleged slave but by regularly proving his claim before the local magistrate.

No. 22. FROM Mr. *James Erskine*, Political Agent in Kattewar, to Mr. *J. P. Willoughby*, Secretary to Government of Bombay, dated 31st December 1837.

1. I HAVE the honour to solicit the instructions of the Right honourable the Governor in Council in the case of an African slave, who escaped from his master, a Scindian of Wagur, and who has sought my protection, but is now claimed by his owner.

2. 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 on the matter.

No. 23.

RAJCOTE, dated 15th September 1837.

No. 1.

DEPOSITION of Seedee Moobaruck (does not know his father's name), of the Moobaruck caste, originally inhabitant of Africa, lately that of a ness of Scindians about four miles from Shikarpoor, in the Cutch jurisdiction, aged about 17 years, taken before James Erskine, Esq., political agent in Kattewar.

I was first brought from my country to Muscat. I can't recollect when, but remained there for many years. After this I was brought to Mandwee from Arabia by an Arab named Daibman, about five years ago, who sold me to a Scindian named Munnace (I don't know for how much), who kept me for about three days, and then sold me to another Scindian named Kessar, of the ness above-mentioned; I have no knowledge for how much.

Cross-questioned.

Cross-questioned.—I was brought to Mandwee with nine other African slaves, six males, and three females. My comrades were sold to different people in Mandwee. I served my late master with fidelity, but was ill-treated, starved and severely beaten; and therefore, being unable to suffer such bad treatment, I effected my escape, and came to Rajcote. I am quite comfortable where I am, and would not like to go anywhere until I am turned off.

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No. 2.

An African lad, of about 16 or 17 years of age, was brought to me about three or four days before I started to Ballachree. He was in rags, and bruised all over his body, as he had been severely beaten by his owner, a Scindian of Hukarpoor, who had bought him at Mandwee about four years ago. Seeing the poor boy in such a state, I was moved with compassion, and gave him clothes and food, and cured him by applying ointment, &c.; at the same time I assured him that he was entirely at liberty and in a state of freedom, and that he should consider himself emancipated since he fell under the protection of the political agent at Rajcote.

(signed) *Lootfallee Khan, Moonshee.*

(A true translation and copy.)

Political Agent's Office.

(signed) *James Erskine, Political Agent.*

MINUTE by the Right honourable the Governor of Bombay, dated 26th January 1838.

No. 24.

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.

MINUTE by the Honourable Mr. *Farish*, dated 27th January 1838.

No. 25.

IT would not, I submit, be lawful to surrender him, nor to permit him to be seized as a slave within our jurisdiction. Would it not therefore be sufficient for the political agent fully to explain to the owner what are our laws against slavery in this respect, and to express regret that it would be a breach of those laws to comply with his application? And this course might have some effect in preventing the ill-treatment of their slaves by Scindians, which might be aggravated by a well-known case of full price obtained for an unruly slave, by his fleeing from his master's cruelty.

MINUTE by the Right honourable the Governor of Bombay, dated 2d February 1838.

No. 26.

SLAVERY within the dominion of British India is not unlawful, though the sale of slaves is so.

Still less can we say that our laws will not allow of our recognizing the existence of slavery in Katteewar.

We have very lately been compelled to admit the right of the Rao of Cutch to import slaves into his own dominions.

I dare say Mr. Erskine will take the opportunity to express to the Scindian slave-master his opinion of the great evil of treating his slave with cruelty.

On the whole, therefore, I would submit that we should act on my former minute.

MINUTE by the Honourable Mr. *Farish*, dated 3d February 1838.

No. 27.

IN reporting the amount stated to be the purchase-money of this slave, perhaps the political agent should also state whether that amount seems what would be reckoned a fair price for such a slave.

I should be much obliged to the secretary to point out the regulation (if there be any) under which, within the jurisdiction of our courts, a magistrate may interfere to punish a runaway slave, or to compel him to return to his master; or if there be not such regulation, and a master in using force to compel the return of such slave should do him a bodily injury, the regulation (if there be any such) under which such master would be relieved from the penalties of an unjustifiable assault.

I beg to apologize for giving this trouble, but I have not been able to trace any provisions on the subject.

FROM the Secretary to Government of Bombay to the First Assistant Political Agent in charge, Katteewar, dated 10th February 1838.

No. 28.

I AM directed to acknowledge the receipt of Mr. Erskine's letter, dated the 31st December last, with enclosure, soliciting instructions in the case of an African slave, who escaped from

Appendix XVII. from his master, a Scindian of Wagur, and sought the protection of the British Government, but now claimed by his owner.

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2. In reply, I am instructed to acquaint you, that the Governor in Council is of opinion, that 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 any sum, you will be pleased, without informing the owner of this intention, to ascertain from him what was the amount of the purchase, and to state whether that amount seems what would be reckoned a fair price for such a slave.

No. 29. FROM Mr. *James Erskine*, Political Agent, Katteewar, to the Secretary to Government of Bombay, dated 24th March 1838.

1. WITH reference to the 2d paragraph of your letter to my first assistant, No. 258, of the 10th ultimo, I have the honour herewith to transmit, for the information of the Right honourable the Governor in Council, copy of a correspondence between that officer and the resident in Cutch, from which it appears that the Seedee slave in question was obtained by his owner in exchange for a buffalo and milch cow, valuing 250 Kutch cories, or Company's rupees 65-15-5. This sum, Colonel Pottinger states, is not considered a high price for a slave, in which opinion I perfectly agree, since I find that the average price of a grown-up Seedee in this province has seldom or never fallen below 100 sicca rupees.

No. 30. FROM the First Assistant Political Agent in charge, Dhorajee, to Colonel *Pottinger*, Resident in Cutch, Bhooj, dated 26th February 1838.

I HAVE the honour to annex copy of a letter from Mr. Secretary Willoughby, of the 10th instant; and as the Seedee slave therein alluded to formerly belonged to Scindee Keshur, who is said to reside in a ness near Shikarpoor in Wagur, I shall feel obliged by your either procuring for me the information required in the second paragraph of the government letter, or sending that individual to me here. The Seedee slave further states that Scindee Keshur purchased him from an old man in Mandwee, of the name of Munace, to whom he was sold by the Arab dealer. He is not aware of the price paid by either of these parties, and it would therefore appear advisable to ascertain, if possible, from Scindee Munace likewise, the price for which he sold him. Moobaruck is the name of the Seedee, and he states that he was sold about five years ago at Mandwee, by Arab Dulliman, and transferred a few days afterwards to his late owner.

No. 31. FROM the Resident in Cutch, Bhooj, to Captain *Lang*, Assistant Political Agent in charge, Rajcote, dated 19th March 1838.

I HAVE the honour to acknowledge the receipt of your letter of the 26th ultimo, with its accompanying copy of one from Mr. Secretary Willoughby, and to acquaint you, that the Scindee Keshur states, that he gave a buffalo and a milch cow (which had been previously appraised by competent judges at 250 cories) for the Seedee boy, Moobaruck, to Munnae Toork of Dribbh, near Mandwee. I also find that 250 cories, or Company's rupees 65-15-5, is not considered a high price for a slave.

No. 32. FROM the Secretary to the Government of Bombay to the Political Agent, Katteewar, dated 9th June 1838.

I AM directed to acknowledge the receipt of your letter, dated the 24th March last, with its enclosure, regarding an African slave who escaped from his master and sought the protection of the British Government, and to acquaint you, that the Right honourable the Governor in Council is pleased, as a special case, to authorize your paying to the owner of the slave in question rupees 65-15-5 as compensation, and to set the slave at liberty.

No. 33. FROM the Secretary to the Government of Bombay to the Accountant-General, dated 9th June 1838.

I AM directed by the Right honourable the Governor in Council to transmit for your information copy of my letter of this date to the political agent at Katteewar, authorizing him to disburse the sum of rupees 65-15-5, on account of a slave who has been set at liberty by order of government.

No. 34. FROM the Officiating Secretary to the Government, Judicial Department, to the Secretary to the Government of Bengal, dated 24th September 1838.

I AM directed by the Honourable the President in Council to forward to you the accompanying copy of an extract from the proceedings of the supreme government, in the political department, dated the 12th instant; and to request that you will, with the permission of the Honourable the Deputy-governor of Bengal, call upon the Sudder Dewanny Adawlut at the presidency, for a report of the nature therein alluded to.

FROM

FROM Register Sudder Dewanny and Nizamut Adawlut to the Secretary to Government of Bengal, in the Judicial Department, dated 9th November 1838.

I AM directed by the court to acknowledge the receipt of your letter, No. 1,916, dated the 2d ultimo, with enclosures, requesting that the court will state the practice of the criminal courts under their control in regard to cases of a similar nature to that in which his highness the guicowar demanded, through the resident of Baroda, that the magistrate of Nassick should deliver up two female slaves belonging to his daughter, who had left her on her arrival at that place from Poonah.

2. In reply, I am desired to state, for the information of his Honor the Deputy-governor, 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 has done; that is, refuse to deliver up the slaves, and refer the question for the decision of government.

3. The court directs me to observe, that on a former occasion the government authorized the payment of the value of certain slaves claimed under somewhat similar circumstances. At the same time, however, it was remarked, that, "whatever reasons 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 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 originated." The principle involved in this extract from the secretary's letter the court apprehend is applicable to the case of a slave seeking the protection of the Company's courts, though brought within their jurisdiction by the foreign proprietor himself.

4. The enclosures of your letter are herewith returned.

No. 35.
Nizamut Adawlut :
PRESENT :
R. H. Rattray, W.
Braddon and W.
Money, Esquires,
Judges; and J. F.
M. Reid, Esq., Offi-
ciating Judge.

See Mr. Secretary
Dowdeswell's Let-
ter to the Register
S. D. A., 6th June
1810.

FROM the Acting Chief Secretary to the Government of Bombay to the Secretary to the Right honourable the Governor General of India, Camp, dated 12th September 1838.

No. 36.

I AM directed by the Right honourable the Governor in Council to transmit to you, for the purpose of being submitted to the Right honourable the Governor-general of India, copies of the accompanying two communications from the joint magistrate of Nassick and the political commissioner for Guzerat, dated the 8th March and 2d May last, regarding an application preferred by his highness the guicowar, for the surrender of two female slaves who had left the service of his daughter, and taken refuge at Nassick, on the plea of ill-treatment.

2. To put the Right honourable the Governor-general in possession of the sentiments of the several members of this government on the above subject, I am directed to transmit also copies of the minutes enumerated below,* from which his Lordship will perceive that the Right honourable the Governor and the Honourable Mr. Farish were of opinion that the slaves in question should be redeemed by the British Government, instead of their being surrendered to his highness the guicowar or his daughter, and that the Honourable Mr. Anderson much doubted the expediency of either course.

3. The Governor in Council is therefore desirous of being informed how such a case would be dealt with by the magistrates 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.

4. With reference to the case adverted to in Mr. Farish's minute,† No. 2, of the 10th April, and that alluded to in the third paragraph of Mr. Anderson's minute,‡ No. 8, of the 3d May, I am further instructed to transmit, for the information of his Lordship, the enclosed extracts from the proceedings of this government, showing the grounds on which they acted in those two cases. The one relates to a slave who took refuge at Poonah, and the other to a runaway slave in Katteewar.

* 1. Minute by the Governor, dated 8th April 1838 (No. 5 of this Appendix); 2. Minute by Mr. Farish, dated 10th April 1838 (No. 6 of this Appendix); 3. Minute by Mr. Anderson, dated 11th April 1838 (No. 7 of this Appendix); 4. Minute by the Governor, dated 16th April 1838 (No. 8 of this Appendix); No. 5. Minute by Mr. Anderson, dated 17th April 1838 (No. 9 of this Appendix); 6. Minute by the Governor, dated 1st May 1838 (No. 10 of this Appendix); 7. Minute by Mr. Farish, dated 2d May 1838 (No. 11 of this Appendix); 8. Minute by Mr. Anderson, dated 3d May 1838 (No. 12 of this Appendix).

† See No. 6 of this Appendix.

‡ See No. 12 of this Appendix.

APPENDIX XVIII.

SLAVES carried and imported by Sea.

1. Report of the Special Commission, Bombay, dated 5th May 1837, to Secretary to Government.
2. From Mr. Advocate General A. S. Le Messurier, Bombay, dated 29th April 1837, to the Superintendent of the Indian Navy.
3. Regulation to be observed by all Arab Boats and Vessels arriving at or departing from Bombay who do not take Pilots, enclosed in above.
4. Extract of a Letter from the Chief Secretary to Government of Bombay to the Advocate General, dated 7th June 1837.
5. Extract of a Letter from the Advocate General to the Secretary to Government of Bombay, dated 27th June 1837.
6. Extract of a Letter from the Chief Secretary to Government of Bombay, dated 7th August 1837, to the Advocate General, in reply to the above.
7. From the Chief Secretary to the Government of Bombay, dated — August 1837, to the Acting Resident in the Persian Gulf.
8. From the Superintendent of the Indian Navy to the President and Governor in Council of Bombay, dated 3d April 1837.
9. From Acting Commander F. Rogers, of the Honourable Company's brig of war, Euphrates, to the Superintendent of the Indian Navy, Bombay, dated 10th March 1837.
10. The Statement of Salim, a boy taken out of the Futtel Kurreeem.
11. The Statement of Singar, a boy taken out of the Futtel Kurreeem.
12. The Statement of Commise, a boy taken out of the Francis Warden.
13. From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 29th April 1837.
14. From the Secretary to Government of Bombay to the Senior Magistrate of Police, dated 29th April 1837.
15. From the Superintendent of the Indian Navy to the President and Governor in Council, dated 9th May 1837.
16. From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 22d May 1837.
17. From the Acting Senior Magistrate of Police to the Secretary to Government, dated 27th May 1837.
18. From the Chief Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 12th June 1837.
19. From the Superintendent of the Indian Navy to the President and Governor in Council, dated 16th June 1837.
20. Memorandum by the Chief Secretary, dated 17th June 1837, approved by the Board.
21. From the Chief Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 17th July 1837.
22. From the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 17th July 1837.
23. From the Acting Senior Magistrate of Police to the Chief Secretary to Government, dated 21st July 1837.
24. From the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 9th August 1837.
25. From the Chief Secretary to Government of Bombay to the Advocate General, dated 9th August 1837.
26. From Mr. A. S. Le Messurier, Advocate General, Bombay, dated 16th August 1837, to the Chief Secretary to the Government of Bombay.
27. From the Chief Secretary to Government of Bombay to the Acting Assistant in charge of the Bushire Residency, dated 30th October 1837.
28. From the Chief Secretary to Government of Bombay to the Secretary to the Government of India, Fort William, dated 30th October 1837.
29. From the Superintendent of the Indian Navy to the President and Governor in Council, dated 30th September 1837.
30. From the Acting Commander Honourable Company's sloop of war, Amherst, to the Superintendent of the Indian Navy, dated 29th September 1837.
31. From the Chief Secretary to Government of Bombay to the Advocate General, dated 8th November 1837.
32. From Mr. Advocate General A. S. Le Messurier to the Secretary to Government of Bombay, dated 21st November 1837.
33. Minute by the Right honourable the Governor, subscribed to by the Honourable Mr. Farish.
34. From the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 8th December 1837.

35. From the Secretary to the Government of Bombay to the Secretary to the Governor General of India, dated 26th December 1837.
36. From the Secretary to the Government of India to Mr. J. P. Willoughby, Secretary to Government of Bombay, dated 24th January 1838.
37. From the Secretary to Government of Bombay to the Secretary to Government of India, For William, dated 28th February 1838.
38. Letter from Mr. G. L. Elliot, Agent for the Governor of Bombay, at Surat, to the Secretary to the Government of Bombay, dated 4th December 1840, containing Report on the Slaves imported into the Portuguese Ports of Demau and Dieu, such Report being called for by the Order of Government, dated 15th October 1840.
39. Letter from the Secretary to Government of Bombay to the Secretary to Government of India, dated 31st December 1840, forwarding above.

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No. 1.

REPORT of the Special Commission, Bombay, dated 5th May 1837, to Secretary to Government.

WE have the honour to acknowledge the receipt of your letter of the 30th March last, appointing us a committee for the purpose of amending the rules framed in 1820, for the guidance of Arab boats and vessels entering or quitting the harbour of Bombay, with direction to include such arrangements as may in our opinion tend to a more efficient suppression of the slave trade, and intimating that one of the reasons of associating together the officers composing this committee arises from a hope that effectual arrangements may be devised, by means of existing establishments, without any additional expense being entailed upon government.

2. In reply, we have the honour to acquaint you, for the information of the Right honourable the Governor in Council, that in pursuance of these objects our first step was to address a letter to the advocate general,* to ascertain from that officer what the law is in regard to those foreign powers with whom we have no treaties for the suppression of the slave trade, as it appeared to us that severe penalties against all individuals in any way concerned in this detestable traffic, together with high rewards to informers, both being promulgated to the utmost, were the only means which promised to put an effectual stop to it; it will be seen, therefore, from his reply, which we have the honour to hand up in original, that these two preventives are already amply provided by the Act, 3 George 4, chap. 113, in regard to all foreign as well as British vessels and subjects within the limits of the British territories, since it enacts that all persons importing, &c. slaves shall be guilty of felony, punishable with transportation for a term not exceeding 14 years, or imprisonment with hard labour for a term not exceeding five nor less than three years, and shall forfeit 100*l.* for every slave imported, a moiety whereof shall go to the informer, and all property in the slave forfeited, and the vessel and her tackling, &c., and all goods belonging to the owner also forfeited; British subjects, or any persons on shore, purchasing or having such slaves in their possession with a criminal intent, for the purpose either of trade, or of their being used or dealt with as slaves, being likewise punishable as felons, with transportation or imprisonment, at the discretion of the court before which the offender shall be tried.

3. All that seems chiefly wanted is to make this highly penal statute sufficiently known throughout the British territories on this side of India and in Arabia,† and we would accordingly recommend, that the accompanying draft of a proclamation, embodying its provisions, be translated into the Persian, Arabic and vernacular languages of this presidency, and published from time to time in the Government Gazette; that copies of it be furnished to the *nacodahs*, or commanders, of all Arab vessels frequenting our ports; and that the other measures described in the paragraph of Mr. Le Messurier's letter, with respect to Regulation I. of 1813, to give it further publicity, and, as is therein stated, to prevent those who are the subjects of it incurring its penalties from ignorance of its enactments, be also resorted to.

4. Although placing our principal reliance upon rewards to informers as a measure of detecting violations of the statute in question, since the whole community are as it were led to watch and report the proceedings of offenders, we would not recommend that the whole of the existing rules in regard to Arab vessels entering or quitting the harbour of Bombay be set aside, as is proposed in the letter to government of the senior magistrate of police, dated the 30th November last, a copy of which he has laid before us; but that the 4th and 5th rules only be abrogated. Since we are of opinion that the other three rules, in conjunction with those which we have added, will be useful auxiliaries, should they have no other good effect than making known the state of the law to those (and there may be some) who, in spite of the measures we have adverted to for disseminating a knowledge of its penalties, may nevertheless visit this port in ignorance of them, and although they would not of course, under such circumstances, prevent Arab vessels having slaves on board, they may still have a salutary effect in deterring the owners from disposing of them by sale within the Honourable Company's territories.

5. A draft

* See No. 2, *infra*.† See No. 3, *infra*.

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5. A draft of the rules which we propose to substitute for those prepared in 1820 is herewith transmitted.

6. Although, also, laying no great stress upon the efficacy as a check of boarding such vessels on their entering and quitting the harbour, since the parties who are implicated in such practices will then of course be on their guard, and their victims restored to silence, still, as some good may possibly arise from it, we would further propose, that they be made liable to such inspection, not however as suggested by the senior magistrate of the police, in the letter we have already noticed, by means of a bunder boat to be attached to the police department, under other arrangements therein specified (since, besides the expense of such a boat, it would involve that of a large floating establishment besides, under the control of the superintendent Indian navy, to give proper effect to it), but by the custom department; as we learn from the collector of customs that his floating establishment must, when the new custom tariff, shortly looked for, is introduced, be strengthened at all events, and will then be fully competent to undertake this duty.

No. 2. FROM Mr. Advocate General *A. S. Le Messurier*, Bombay, dated 29th April 1837, to the Superintendent of the Indian Navy.

I HAVE the honour to acknowledge the receipt of your letter of the 4th instant, written as president of committee appointed by government to inquire into the best means for the prevention of the slave trade at this presidency, and requesting my opinion on certain points referred to in your letter.

The law as regards foreign vessels bringing slaves into a British port in India is the same as is applicable to British vessels importing them; and it makes no difference whether the foreign vessels belong to nations with whom we have slave treaties, or are vessels under Arab colours, or sailing under the flag of independent native chiefs, not bound by any slave treaties. All are liable to the penalties of the Slave Abolition Act, the 5th George 4, chapter 113, a statute so universal in its language as to comprehend all persons whatsoever, foreigners as well as our own subjects; the jurisdiction over the former attaching from the locality of the offence, from the crime being committed by them within the local limits of the British territories, and within the local jurisdiction of the British laws.

So far back as the year 1789, long before the abolition of the African slave trade by the British Parliament, a Dane, Captain Hornbow, was tried and convicted by the supreme court of Calcutta for kidnapping a number of slaves, males and females, and transporting them from Chandernagore, a French settlement, to the Island of Ceylon, then under the Dutch, and there selling them, the slaves being originally intended for the Mauritius. The jurisdiction of the court was objected to on behalf of Captain Hornbow, not only on account of his being a foreigner, but from its "appearing that the slaves had been purchased at Chandernagore, that they were taken from thence without stopping at all in Calcutta, but went down on the opposite side of the river until they came near the new fort, where, on account of a sandbank, they were obliged to cross to the Calcutta side. It was contended, therefore, that the offence was not committed any where but at Chandernagore, and upon subjects of the French king, owing no allegiance to the king of Great Britain, and that therefore the court had no jurisdiction in the case." Sir Robert Chambers, the presiding judge, was of opinion, "that Captain Hornbow was subject to the jurisdiction of the court (as well by the peculiar ground stated by him, which made him, though a foreigner, amenable to the court, as) from the offence being actually committed in Calcutta, from the Budgerow," in which the natives were confined, having come within the limits of the jurisdiction of the court; and he was accordingly sentenced to be imprisoned for three months, to pay a fine of 500 rupees, and to give security for his future good behaviour for three years, himself in a bond of 10,000 rupees, and two securities in 500 rupees each. (E. I. Parliamentary Papers.)

This was a strong case, as there had been no intention originally of importing the slaves into Calcutta; but the Budgerow in its transit down the river, was from necessity, on account of the sandbank, obliged to enter the Calcutta limits.

In 1812, Sir John Newbolt, the recorder of Bombay at this time, in an address to the grand jury, in alluding to the Act which had then just come out, by which the slave trade was made punishable as a felony (the 51st George 3, chapter 23, passed in May 1811), commonly called the Felony Slave Trade Act (which, though repealed, yet its provisions are re-enacted in the latter Act of 5th George 4, c. 113, in stronger and more comprehensive terms), expressed his opinion of the application of the Act to foreigners as well as to British subjects. I have not been able to find a report of this address in any other Bombay publications than the Bombay Courier newspaper of 17th October 1812; but the address is noticed by the advocate-general of Madras, who was afterwards recorder of Bombay, Sir Alexander Anstruther, in an official correspondence with the Madras government. His attention having been called to it as published in the Government Gazette there, he remarked he had not ascertained its authenticity, that being immaterial to the present object, and proceeded to observe, "There seems to me to be no doubt of the correctness of the observation contained in the above publication, that under the strict interpretation of the statute of 1811 (the Slave Trade Felony Act), the commander of an Arab or other foreign Asiatic vessel carrying slaves for sale, or only even navigating partly by the slaves of the owner or commander, and entering any British port in India, becomes liable to the penalties of felony." (Letter dated 17th November 1812.)

His Majesty's attorney and solicitor-general in England, upon their opinions being required whether the Felony Slave Trade Act was to be considered applicable to Java and its dependencies,

dependencies, which at the time of the passing of it (May 1811) were not actually in the possession of the British authority, those crown officers, referring to the Act, by which they observed, that the carrying on the slave trade was prohibited under severe penalties by any person residing or living within any of the islands, colonies, dominions, &c. now or hereafter belonging to the United Kingdom, or being in his Majesty's occupation or possession, or under the government of the East India Company, the Act to be in force in the East India Seas, &c. the 1st January 1812, went on to remark, "that under these words, so much of the Island of Java as was in the occupation or possession of his Majesty would be comprehended, and the slave trade therein prohibited, unless there was any thing in the terms of the capitulation to produce a different result; such parts, however, of the island and its vicinities, the waters and seas adjoining, which were not in his Majesty's occupation or possession, and which did not belong to his Majesty or the East India Company, but to independent princes, were not affected by this or any other Act of the British Parliament, nor could their trade be restrained thereby, unless it was carried on in British vessels or by British subjects or persons resident or living in a British settlement." (Letter of Sir T. Plumer, Attorney-general, and Sir William Garrow, Solicitor-general, to Lord Bathurst, 3d March 1813, East India Parliamentary Papers.)

In the supreme court of Bombay, at the sessions, July 1835, a native of Scinde, who had merely come to Bombay for a few days, was tried and convicted for having caused some children to be exported as slaves from Bombay, and was sentenced to the house of correction for three years for the offence.

These authorities are sufficient to show the jurisdiction of our slave laws over foreigners carrying on the trade within our ports and territories.

With regard to the carrying on the trade without the limits of our ports and territories, the doing so on the high seas is an offence which, by the 5th George 4, is made piracy (thus being classed amongst the offences against the law of nations); though long before the year 1824, when this Act was passed, the practice had been declared in the British Parliament (in 1807) contrary to humanity and universal justice. But though made piracy, still the jurisdiction of our law over this offence—this particular kind of piracy—is not, as regards the offender, as extensive as in the ordinary cases of piracy, of depredations by sea-rovers, the universal enemies of the whole world, "*hostes humani generis*," enacting universal terror, whose hand is against every man, and every man's hand, therefore, against them, and whom the strong arm of the law of every country has a right to punish. But, to render a foreigner (as distinct from a British subject) liable to British jurisdiction as a slave pirate (under statute 10th of 5th George 4), he must be a person either "residing, being within any of the dominions, forts, settlements, fortresses or territories now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possessions, or under the government of the East India Company."

Foreign vessels carrying on the slave trade without entering our ports and without the limits of our dominions, vessels of foreign independent states which allow their subjects to carry on the trade, are not amenable to our laws for so doing.

The *Diana*, a Swedish vessel, bound with a cargo of slaves from the coast of Africa to St. Bartholomew, a Swedish island, was seized by his Majesty's ship *Crocodile*, Captain Columbine, and by the vice-admiralty court at Sierra Leone was condemned; but the sentence on appeal was reversed, Sweden at the time of the capture (1810) not having abolished the slave trade. Sir William Scott, in reversing it, observed, that our own country claimed no right of enforcing the prohibition of the slave trade against the subjects of those states which had not adopted the same opinion with respect to the injustice and inhumanity of it. (Dodson's Admiralty Reports.)

In the case of the *Amedie*, however, an American vessel, which was condemned by the vice-admiralty court of Tortola, for carrying slaves from the coast of Africa to a Spanish colony, the condemnation on appeal was affirmed, America at the time having prohibited its own subjects from engaging in the traffic. Sir William Grant, in delivering the judgment of the supreme court, observed, "that our Legislature has pronounced the slave trade to be contrary to the principles of justice and humanity, and we can now assert that this trade cannot, abstractedly speaking, have a legitimate existence. When I say abstractedly speaking, I mean that this country has no right to control any foreign legislature that may think fit to dissent from this doctrine, and to permit to its own subjects the prosecution of this trade; but we have now a right to affirm that *primâ facie* the trade is illegal, and thus to throw on claimants the burthen of proof that, in respect of them, by the authority of their own laws, it is otherwise. As the case now stands, we think we are entitled to say, that a claimant can have no right, upon principles of universal law, to claim the restitution, in a prize court, of human beings carried as his slaves. He must show some rights that have been violated by the capture, some property of which he has been dispossessed, and to which he ought to be restored. In this case the laws of the claimant's country allow of no right of property such as he claims. There can therefore be no right to restitution. The consequence is, that the judgment must be affirmed." (Actor's Report, cited also in 1 Dods.)

This case of the *Amedie* has been the leading authority for subsequent decisions, and Sir William Scott, in noticing it in the above case of the Swedish vessel *Diana*, made the following remarks: "The principle laid down by the supreme court in the case of the *Amedie* was, that where the municipal laws of the country to which the parties belonged have prohibited the trade, the tribunals of this country will hold it to be illegal, upon the general principles of justice and humanity, and refuse restitution to the property. But, on the other hand, though they consider the trade to be contrary to the general principles of justice and humanity,

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humanity, where not tolerated by the laws of the country, they will respect the property of persons engaged in it under the sanction of the laws of their own country. The lords of appeal did not mean to set themselves up as legislators for the whole world, or presume in any measure to interfere with the commercial regulations of other states, or to lay down general principles that were to overthrow their legislative provisions with respect to the conduct of their own subjects. It is highly fit that the judge of the court below should be corrected in the view which he has taken of this matter, since the doctrine laid down by him in this sentence, 'that the slave trade, from motives of humanity, hath been abolished by most civilized nations, and is not, at the present time, legally authorized by any,' is inconsistent with the peace of this country and the rights of other states." (See also the cases of the *Fortuna* and *Donna Maria*, decided by Sir William Scott, Dodson's Admiralty Reports, on the authority of the *Amedie*.)

In the above-mentioned case of the *Diana*, the indorsement upon the pass signed by the Swedish governor (of St. Bartholomew) that the vessel was "bound to the coast of Guinea for slaves," was held by Sir William Scott to be sufficient proof that Sweden permitted the trade. It was not necessary, he said, that there should be an immediate act of the Swedish government itself on board, declaring what the precise state of the law may be.

There is one more case I would refer to, as it was determined, not by a prize court under the law of nations, but before our own municipal jurisdictions, and so late as 1820, in which the principles in the above cases were recognized. It was the case of *Madrigo versus Willis*, which was an action brought by the plaintiff, a Spanish merchant, against the defendant, Captain Willis of the royal navy, to recover damages for his having seized a Spanish brig, the property of the plaintiff, bound from the coast of Africa to Havannah, in the Island of Cuba, with a cargo of 300 slaves on board, and for which the jury gave him 21,180*l.* damages, being 3,000*l.* for the deterioration of the ship's stores and goods, and 18,120*l.* for the supposed profit of the cargo of slaves. It was, at first, thought, at the trial, that the plaintiff could not recover the value of the slaves in an English court of justice, but upon the question being brought into the King's Bench, the four judges held that he could, Spain not having prohibited her subjects from carrying on the slave trade. Sir William D. Best, in delivering his judgment, said, "The declaration of the British Legislature, that the slave trade is contrary to justice and humanity, cannot affect the subjects of other countries, or prevent them from carrying on this trade out of the limits of the British dominions." (*Barnewall and Alderson's Reports*, 358.)

With reference to those paragraphs of your letter requiring to know the punishment for the particular act of the slave-dealing specified in your letter: as the provisions of the Act in regard to them and for every kind and species of slave-dealing are so severe and in the highest degree penal, I beg to refer you to the Act itself (the 5th George 4, chapter 113), and will here only generally state, that the Act declares all persons importing, &c. slaves, shall be guilty of felony, punishable with transportation for a term not exceeding fourteen years, or imprisonment with hard labour for a term not exceeding five, nor less than three years (sec. 10), and shall forfeit 100*l.* for every slave imported, a moiety whereof shall go to the informer, and all property in the slave forfeited (sec. 3), and the vessel and her tackling, &c. and all goods on board belonging to the owner also forfeited. British subjects, or any persons on shore, purchasing or having such slaves in their possession with a criminal intent for the purpose either of trade or of their being used or dealt with as slaves, are punishable as felons, under the 10th section of the Act, with transportation or imprisonment, at the discretion of the court before which the offender shall be tried.

The same law, with its penalties, extends to the West Indies, where now it is well known not only the traffic has ceased, but under the twenty millions grant (3 & 4 W. 4, c. 73), slavery no longer in any shape exists; nor in any part of the British dominions except in India, where it is recognized and sanctioned by law; but which, by the late Charter Act, section 88, is to be extinguished as soon as practicable and safe.

Slavery in India has engaged the attention of the Indian Government from the time of Mr. Hastings, the first Governor-general; and in 1828 a volume of papers was ordered by the House of Commons to be printed, containing all the correspondence between the Court of Directors and the Indian Government on the state of slavery in India, with all orders and regulations that had been made in regard thereto from 1772 up to May 1827, a volume which, if the committee have not referred to on their present inquiries, I would beg to draw their attention to, as affording information of the measures which have from time to time been taken by the supreme government of India for the suppression of the slave trade throughout India and the Indian seas.

In 1811 the supreme government passed a regulation, intituled, "A Regulation for preventing the importation of Slaves from Foreign Countries, and the sale of such Slaves in the Territories immediately dependent on the Presidency of Fort William." I notice this regulation, as it was directed to be made, and was made the model of the Bombay Regulation I. of 1813, intituled, "A Regulation for the preventing the importation of Slaves from Foreign Countries, and the sale of such Slaves in the Territories immediately dependent on the Presidency of Bombay," differing from the Bengal one in a very slight degree; and which were passed with a view principally of preventing the importation of slaves by land into the Company's territories; the Act of the 51 Geo. 3 being generally supposed to be confined to the importation by sea.

The volume I have referred to will likewise show the measures adopted by the supreme government, consequent on the passing of the Felony Slave Act, for carrying its provisions into effect, and the publicity that was given to it to prevent those who were the objects of it

it incurring its penalties from ignorance of its enactments, copies being distributed not only to magistrates and all the British authorities under the Company's government, but furnished likewise to political agents and residents, for the information of foreign states, and copies or extracts of the Act, with translation in the Arabic and Persian languages, forwarded to all the Arab merchants and other persons connected with Arab shipping, informing them at the same time that the magistrates would use their utmost vigilance in directing and bringing to public justice all offenders against the statute, and desiring them to take every opportunity of making known to their correspondents in the Red Sea, Persian Gulf, &c. the purport of such communication.

Appendix XVIII.

Importation of Slaves.

REGULATION to be observed by all Arab Boats and Vessels arriving at or departing from Bombay, who do not take Pilots, enclosed in above.

No. 3.

1st. IMMEDIATELY after the arrival of any such vessels, the noquedah or chief person on board is to proceed to the office of the inspector of the port, and there give a true account of the port he belongs to, of all persons on board, and of the armament of his vessel, which is to be noted down in that officer's book and signed by the noquedah, or chief attending.

2d. A transcript of the account so given is to be made out by the inspector of the port's office, which is also to be signed by the noquedah, or chief, countersigned by the inspector of the port, who is to send the noquedah with the transcript to the senior magistrate of police, and that officer is then to cause the noquedah to attest the same upon oath, and keep it in his possession, strictly enjoining the noquedah not to discharge from his vessel or receive on board any person whatever, without the senior magistrate's particular permission.*

3d. Two days previous to the vessel's departure, the noquedah, or chief, is to proceed to the police office, where he is to state, upon oath, every casualty that has occurred during the vessel's stay in port.

4th. Every such Arab boat and vessel, shall, on entering or quitting the harbour of Bombay, or any port subordinate thereto be liable to be boarded by the boat or boats belonging to the custom department and department of the inspector of the port, and if any slaves be found therein they are to be taken out and the vessel seized, in order that the necessary measures may be taken for the offenders being prosecuted according to law.

5th. Copies of the annexed proclamation translated into the Persian, Arabic and other native languages, shall be kept at the offices of the senior magistrate of police and of the inspector of the port, and if at a subordinate port, the custom-house and every noquedah, or commander of the aforesaid vessel, on coming there for the purpose specified in rule 2d of the existing regulations, shall be furnished with one.

“ PROCLAMATION.†

“ With a view to the more effectual suppression of slavery, which there is reason to believe is carried on to a considerable extent by Arab boats and vessels frequenting the port of Bombay, and the several ports subordinate to this presidency, it is hereby notified, for general information, and that no person may incur its severe penalties through ignorance, that by the Act 5 Geo. 4, c. 113, ‘ All persons, whether foreigners or British subjects, importing slaves from foreign countries into any British port, or disposing of such slaves by sale within the British territories, are punishable as felons, with transportation for a term not exceeding 14 years, or imprisonment with hard labour for a term not exceeding five nor less than three years, and shall besides forfeit 100*l.* for every slave imported, a moiety whereof shall go to the informers, and shall further forfeit all property in the slave, and of the vessel and her tackling. British subjects or any persons on shore purchasing or having such slaves in their possession, with a criminal intent, or for the purpose either of trade or of their being used or dealt with as slaves, are moreover also punishable as felons, with transportation or imprisonment, at the discretion of the court before which the offender shall be tried.’

(signed) “ C. Malcolm.
“ D. Ross.
“ W. C. Bruce.”

EXTRACT of a Letter from the Chief Secretary to Government of Bombay, to the Advocate General, dated 7th June 1837.

No. 4.

4. WITH respect to the proclamation submitted by the committee, the Governor in Council is of opinion that in one respect it is better than that proposed by government, and approved of in your letter of the 4th April last, namely, that it provides the penalty of 100 *l.* for each slave imported, and that a moiety thereof should go to the informer.

5. Before

* To this paragraph was added this clause not pertinent to slavery. The correspondence to which it gave rise is omitted as irrelevant: “ Apprizing him at the same time that none of the people belonging to the vessel (except himself and his servants) can be on shore after sunset each day, without subjecting themselves to imprisonment and other punishment.”

† See No. 1, *supra*.

Appendix XVIII.
 Importation of
 Slaves.

5. Before adopting the committee's proclamation, however, the Governor in Council is desirous of being favoured with your opinion as to how government will be authorized to deal with persons importing slaves into ports out of the jurisdiction of the supreme court.

No. 5.

EXTRACT of a Letter from the Advocate General, dated 27th June 1837.

4. WITH respect to the proclamation submitted by the committee, I think the one proposed by government, and approved of by me, preferable, and would recommend, therefore, that the latter be adopted, with an additional clause, however, for rewards to informers. As to the reward of a moiety of the penalty held out by 5 George 4, of 100 *l.* for each slave, that reward, I would observe, cannot be realized to the informer without his suing and prosecuting for the same; and supposing him to succeed in obtaining a judgment for the penalty, the party so condemned to pay it might, perhaps, be an insolvent person, and the informer would thus be disappointed of his reward. The expense, too, of litigation to recover the moiety of the penalty might deter that class of persons to which informers generally belong from coming forward and informing; and as rewards to informers are the principal means to be relied on, as the committee say, for detecting violations of the statute, I beg to suggest for the consideration of government the propriety and expediency of the proclamation (besides the reward held out by the Act) containing also an offer of a reward by government of 50 rupees (or any other sum) for every slave discovered to have been imported in violation of the Act; and as all fines and forfeitures to the Crown are granted and belong to the Company, the reward might come out of such fines. If this suggestion should meet with the approbation of government, I shall be happy to add the necessary clause to the proclamation.

5. Besides copies of it being published, as proposed by the 2d regulation of the committee, I would advise the regulation being extended to include extracts from those parts of the Act (5th George 4) more peculiarly applicable to the *nacodahs* and commanders of the Arab vessels, who, on being furnished with copies of the proclamation, might also be informed of the substance and purport of the Act, and the severe penalties attached to a violation of it.

6. With reference to the last paragraph of your letter, I beg to observe that all persons importing slaves into ports out of the jurisdiction of the supreme court must be dealt with in the same manner as those importing them within such jurisdiction, both agreeable to the enactments of the 5th George 4, and by which the local courts must be guided as well as the supreme court. The regulations of the Bombay code do not provide, as far as I see, for the seizure of slave vessels at subordinate ports, and seem to contemplate the import and export of slaves by land only, and not by sea; but in furtherance of the design of suppressing the slave trade entirely and every where within the Company's jurisdiction, it would be most advisable certainly were the powers of seizing slaves and vessels for a breach of the slave abolition laws more clearly defined.

No. 6.

EXTRACT from a Letter written by the Chief Secretary to Government of Bombay, dated 7th August 1837, to the Advocate General, in reply to the above.

3. GOVERNMENT are inclined to greatly doubt if they would be authorized in putting in motion the powers which Admiral Sir Charles Malcolm may, as a King's officer, possess, of seizing any vessel or vessels with slaves on board. A special enactment will therefore be applied for from the supreme government as recommended by you.

4. The Governor in Council approves of the suggestion contained in the latter part of your 4th paragraph relative to the expediency of the proclamation, in addition to the reward held out by the Act, containing the promise of a further reward from government for every slave discovered to have been imported in violation thereof, and requests that you will be pleased to add a clause to that effect to the proclamation submitted for your opinion on the 31st March last.

5. With regard to the remarks in your 5th paragraph, I am desired to request that you will have the goodness to add to the regulations proposed by the committee, such extracts of the Act 5 George 4, as you may deem expedient, prolixity, however, being as much as possible avoided, a point government consider highly important. The Governor in Council quite approves of your suggestion of the *noquedahs* and commanders of Arab vessels being distinctly apprized, on their being furnished with copies of the proclamation, of the substance and purport of the Act, and the severe penalties incurred by its violation.

6. Adverting to the last paragraph of your letter, stating your opinion as to the course which should be observed towards persons importing slaves into ports out of the jurisdiction of the supreme court of Bombay, I am directed to request that you will favour government, at as early a period as may be conveniently practicable, with a concise draft of the regulations you would recommend, in order that the same may be submitted for the sentiments of the Right honourable the Governor-general of India in Council.

7. As connected with this subject, I am directed to transmit to you the accompanying draft of a letter to the acting resident in the Persian Gulf (which embraces some points of law) and to request the favour of your making any alteration which may in your opinion be deemed necessary.

FROM

FROM the Chief Secretary to the Government of Bombay, dated August 1837, to the Acting Resident in the Persian Gulf.

No. 7.

1. IT having been brought to the notice of government, that a practice of dealing in slaves is carried on by certain Arab merchants trading from Mocha to Bombay, I am directed by the Right honourable the Governor in Council to transmit to you, for the purpose of being widely circulated in the Persian Gulf, 50 copies of a proclamation in the English, Persian and Arabic languages, denouncing this traffic in human beings as illegal and punishable under severe penalties.

2. The Governor in Council requests that you will take the earliest and most efficacious means of making known to the merchants and authorities connected with the port at which you reside, both the nature of these penalties, and the firm intention of the British Government to use its most strenuous endeavours in discovering where they may be incurred, and to enforce them on such discovery with unsparing rigour.

3. I am directed on this occasion to transmit to you copy of the treaty concluded by Captain Moresby of his Majesty's ship *Menai*, with his highness the imaum of Muscat, on the 29th August 1822, prohibiting within certain limits the slave trade.

4. In forwarding this document, the Right honourable the Governor in Council instructs me to request that you will endeavour to prevail on his highness to extend the above treaty so as to include in its provisions the provinces of Cutch and Kuttaywar. At present vessels engaged in the slave trade are only liable to seizure if found to the eastward of a line drawn from "Cape Delgado, passing east of Socotra, and on the Diu Head, the western point of the Gulf of Cambay."

5. The Governor in Council does not, however, think this sufficient. It might, he is of opinion, be very difficult for the British power to assume generally the right of detaining and searching on the high seas vessels which there is reason to suspect of being engaged in the slave trade; but there can be no objection, he conceives, to the exercise of this right over the vessels of foreign powers, where it is conceded by treaty. You are, therefore, requested to endeavour to obtain from the imaum the right of searching any vessels fitted out from his ports, and open to the suspicion above mentioned.

6. Government are also desirous that the same privilege should be obtained from other Arabian potentates to whom we have access; and accordingly desires me to instruct you to take every opportunity for that purpose.

7. The Governor in Council is not inclined to confine you to any particular instructions for the attainment of the object in view; but is rather disposed to leave the supplying of the requisite details to your own good sense and activity.

FROM the Superintendent of the Indian Navy to the President and Governor in Council of Bombay, dated 3d April 1837.

No. 8.

I HAVE the honour to lay before your right honourable board the accompanying letter from Acting Commander Rogers, of the Honourable Company's brig of war *Euphrates*, under date the 10th ultimo, reporting his having taken three slave-boys out of the vessels which he found lying in Juddah harbour, under English colours, the one named the *Francis Warden*, the other the *Futtel Kurreem*.

2. I have also to forward the deposition of the three slave-boys, with a copy of the registry of the ship *Futtel Kurreem*, which Commander Rogers reports has been since sold, but to whom he does not mention.

3. As it clearly appears that these vessels were found sailing under British colours with British registers, I trust that Acting Commander Rogers has acted correctly, and in conformity to law, in taking the slaves from on board, and sending them to Bombay. They have been brought by the Hugh Lindsay, and are still on board; I have therefore to request to be made acquainted with the pleasure of your right honourable board regarding their future disposal.

FROM Acting Commander *F. Rogers* to the Superintendent of the Indian Navy, Bombay, dated 10th March 1837.

No. 9.

I HAVE the honour to inform you that, having received information that there were slaves on board a ship, named the *Francis Warden*, lying in this harbour, which sails under British colours, is British registered, and is owned by Sheik Dyebin Ain, a resident in Bombay, I proceeded on board of the said ship, and there found an African boy, named Com-mise, who, on my asking him the question, told me he was a slave; but afterwards, in the presence of his master, the nakodah, Sheik Hawad, denied it. Conceiving his denying what he had before voluntarily stated to be the effect of restraint, I took him on board the *Euphrates*. The gunner of the vessel had pointed him out the day before to Lieutenant Porter as a slave; and on my desiring the nakodah to send his crew aft on the quarter-deck, all were sent but this boy, who was kept in the galley out of sight. This boy subsequently made the accompanying statement on board the Honourable Company's brig *Euphrates*, in the presence of the Rev. Mr. Wolff, R. Goff, Esq., and myself.

After this I visited the *Futtel Kurreem*, where I found two boys, one named Singar, the other Salim, who told me they were slaves, on which I sent them to the *Euphrates*.

I examined the other two British registered ships, but they had no slaves on board.

Appendix XVIII.
—
Importation of
Slaves.

You will perceive by the accompanying statements that one of these boys was lately taken on board at Mocha, and according to his own account was to be sold at any place where a purchaser could be found.

I have not interfered in any way with the ships on board which these slaves were found further than taking the boys out. I was informed by the government agent at Mocha, Sheik Lyel, that many ships from India, under English colours, particularly those from the Malayan peninsula, brought slaves to the ports of the Red Sea.

I have been induced to seize these slave-boys, because the captains of the above named vessels have acted contrary to almost every section of the 5th George 4, chap. 113; but I have not seized the vessels, as I am not aware how far government might wish the matter prosecuted.

The Francis Warden, I am informed, sails from this to the Persian Gulf. The Futtel Kurreem returns to Penang; but I do not think either ship will quit this before the end of May.

With the permission of Commander Rowland, I have sent the three boys, Commise, Singar and Salim, to Bombay.

I beg leave to enclose the statements made by the boys, and also a copy of the pass of the Futtel Kurreem.

P. S.—I have since learnt that the ship Futtel Kurreem, out of which I took the boys Singar and Salim, has been sold.

No. 10.

THE Statement of *Salim*, a Boy taken out of the Futtel Kurreem.

"I AM a slave. I was brought from Sanar and Snakin, from thence to Mocha, and there sold to Hoorsie Joseph, who sent me on board the Futtel Kurreem, to be sold at this or any other place. I did not come with my own consent."

The above statement was made in our presence by the above-named boy, 2d March 1837.

(signed) *T. E. Rogers*, Acting Commander.
Joseph Wolff, Missionary.
Robert Goff.

No. 11.

THE Statement of *Singar*, a Boy taken out of the Futtel Kurreem.

"I AM a slave. My master, the nakodah, bought me at Mutra. I was taken to Java, Acheen, and Penang, but never allowed to quit the ship. I receive no wages. I did not come with my own consent. I was told to go with my master. I was originally from another country. People came and spread dates and fat; I was hungry, and took some to eat. Then they carried me away. I have neither father nor mother. I was sold for five dollars."

The above statement was made in our presence by the above-named boy, 2d March 1837.

(signed) *T. E. Rogers*, Acting Commander.
Joseph Wolff, Missionary.
Robert Goff.

No. 12.

THE Statement of *Commise*, a Boy taken out of the Francis Warden.

"I AM a slave. I was purchased by my master, the nakodah, out of the ship at Shaar. I was taken to Bombay and Bengal, and brought to this place. I do not get any wages, and I expect to be sold whenever my master wishes to part with me. I have neither father nor mother."

The above statement was made in our presence by the above-named boy, 2d March 1837.

(signed) *T. E. Rogers*, Acting Commander.
Joseph Wolff, Missionary.
Robert Goff.

No. 13.

FROM the Secretary to the Government of Bombay to the Superintendent of the Indian Navy, dated 29th April 1837.

I AM directed by the Right honourable the Governor in Council to acknowledge the receipt of your letter, dated the 3d instant, with its enclosures, regarding the three slave-boys taken out of two vessels at Juddah, under English colours, named the Francis Warden and Futtel Kurreem, by Acting Commander Rogers of the Honourable Company's brig of war Euphrates, and to request that you will make over the above children to the senior magistrate of police.

FROM the Secretary to the Government of Bombay to the Senior Magistrate of Police, No. 14.
dated 29th April 1837.

I AM directed by the Right honourable the Governor in Council to inform you, that the superintendent of the Indian navy has been requested to make over to your charge three slave-boys taken out of the ships Francis Warden and Futtel Kurreem, sailing under English colours, by the acting commander of the Honourable Company's brig of war Euphrates, at Juddah, and to request you will send to government a register of these children, stating at the same time how they can be disposed of.

FROM the Superintendent of the Indian Navy to the President and Governor in Council, No. 15.
dated 9th May 1837.

WITH reference to Mr. Secretary Willoughby's letter of the 29th ultimo, No. 767, I have the honour to report that the three slave children therein alluded to were at their own request, on their arrival from the Red Sea, permitted to remain on board the Hugh Lindsay, and that, in the hurry of despatching that vessel to the Persian Gulf, their removal was forgotten. They will, however, immediately on the return of the steamer, be made over to the senior magistrate of police, as directed by your right honourable board.

FROM the Secretary to Government of Bombay to the Superintendent of the Indian Navy, No. 16.
dated 22d May 1837.

I AM directed by the Right honourable the Governor in Council to acknowledge the receipt of your letter dated the 9th instant, and to inform you, that with their own free will the three boys therein alluded to may be entered as volunteers on board the Hugh Lindsay, on the usual pay and allowances.

FROM the Acting Senior Magistrate of Police to the Secretary to Government, No. 17.
dated 27th May 1837.

I HAVE the honour to acknowledge the receipt of your letter, No. 768, dated 29th of last month, and to acquaint you, for the information of his Excellency in Council, that, on my constable going to the marine-office to receive charge of the African children taken out of the ships Francis Warden and Futtel Kurreem, he was informed that they had been detained on board the Hugh Lindsay to form a part of her crew, and that the superintendent of the Indian navy had written to government, requesting to be permitted to retain them.

FROM the Chief Secretary to Government, Bombay, to the Superintendent, Indian Navy, No. 18.
dated 12th June 1837.

I AM directed by the Right honourable the Governor in Council to transmit to you copy of a letter from the acting senior magistrate of police, dated the 27th ultimo, and to request that you will state whether the African boys therein alluded to have of their own free will entered the service of government.

FROM the Superintendent of the Indian Navy to the President and Governor in Council, No. 19.
dated 16th June 1837.

IN acknowledging the receipt of Mr. Chief Secretary Wathen's letter, No. 1,148, of the 12th instant, with enclosure, I have the honour to state, that on the return of the Hugh Lindsay, finding the three slave-boys were not willing to remain longer on board, although the offer of pay was made to them, they were transferred to the charge of the senior magistrate of police, agreeably to the original instructions of your right honourable board, communicated in Mr. Secretary Willoughby's letter, No. 767, of the 29th April last.

MEMORANDUM by the Chief Secretary, dated 17th June 1837, approved by the Board. No. 20.

1. As the three slave boys alluded to in the letter from the superintendent of the Indian navy, dated the 16th instant, were not willing to remain on board ship, Sir Charles Malcolm did right to make them over to the police magistrate, as originally ordered by government.

2. Mr. Elliot should now be called upon to send in a register of these boys, as required in Mr. Secretary Willoughby's letter of the 29th April last, and to report how they can be disposed of.

3. When the above information is obtained, the advocate-general should (as before suggested by the Right honourable the Governor) be requested "to advise how government should act" in this case.

- No. 21. FROM the Chief Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 17th July 1837.

I AM directed to acknowledge the receipt of your letter, dated the 16th ultimo, reporting that the three slave boys taken out of the ships Francis Warden and Futtel Kurreem have refused to remain any longer on board ship, and that you have in consequence made them over to the senior magistrate of police, and to inform you that the Right honourable the Governor in Council approves of your proceedings on the occasion.

- No. 22. FROM the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 17th July 1837.

WITH reference to your letter, dated 27th May last, relative to the three African boys taken out of the ships Francis Warden and Futtel Kurreem, I am directed by the Right honourable the Governor in Council to request that you will forward a register of these boys as required in Mr. Secretary Willoughby's letter of the 9th April last, and to report how they can be disposed of.

- No. 23. FROM the Acting Senior Magistrate of Police to the Chief Secretary to Government, dated 21st July 1837.

I HAVE the honour to acknowledge the receipt of your letter, No. 1,332, of the 17th inst., and to enclose the register roll of the African boys therein called for.

They objected strongly to go into Christian families, and I therefore made over charge of them to two respectable Mussulmans, Fuzhydur Bare Maya and Hyder Ali Cassimjee, who each entered into an agreement to protect, feed and clothe them, and to assign them suitable wages for their labour.

REGISTER OF AFRICAN CHILDREN taken from the Ships Francis Warden and Futtel Kurreem.

No.	Names.	Age.	Sex.	Country.	To whom delivered.
1	Singar -	10	Male -	Dauzibar - - -	Fuzhydur Bare Maya.
2	Salim -	13	ditto -	ditto - - -	Hyder Ali Cassimjee.
3	Commise -	12	ditto -	ditto - - -	- - ditto.

- No. 24. FROM the Chief Secretary to Government of Bombay to the Acting Senior Magistrate of Police, dated 9th August 1837.

I AM directed to acknowledge the receipt of your letter, dated the 12th ultimo, forwarding a register roll of the three African boys taken out from the ships Francis Warden and Futtel Kurreem, and stating that, in consequence of their refusing to go into Christian families, you have given them over to two respectable Mussulmans, who have entered into an agreement to protect, feed and clothe them, as also to assign suitable wages for their labour, and to inform you that, under the peculiar circumstances stated, the Right honourable the Governor in Council approves of the arrangement.

- No. 25. FROM the Chief Secretary to the Government of Bombay to the Advocate General, dated 9th August 1837.

I AM directed by the Right honourable the Governor in Council to transmit to you the accompanying copy of a letter from the superintendent of the Indian navy, dated the 3d April last, and of its enclosure, regarding three African children taken out of two vessels at Juddah, under English colours, named Francis Warden and Futtel Kurreem, by Acting Commander Rogers of the Honourable Company's brig of war Euphrates, and to request that you will be pleased to inform government what course, in your opinion, should be pursued in this case.

- No. 26. FROM Mr. A. S. *Le Messurier*, Advocate General, Bombay, dated 16th August 1837, to the Chief Secretary to the Government.

I HAVE the honour of acknowledging the receipt of your letter of the 7th instant,* communicating the sentiments of government on the rules and proclamations relating to the trade in slaves carried on in Arab boats and vessels therein alluded to, and also the receipt of your letter of the 9th instant,† regarding the three African children taken out of the Francis

* No. 6 of this Appendix.

† No. 25, *supra*.

Francis Warden and Futteel Kurreem, at Juddah, by Commander Rogers of the Honourable Company's brig of war Euphrates.

The two letters relating to the same subject, I will answer them together.

With reference to the 3d paragraph of the letter of the first date, I have herewith forwarded, for the approval of government, the draft of an Act to empower others than those mentioned in the 5 Geo. 4, c. 113, s. 43, to make seizures of vessels for a breach of the slave laws.

The draft proposes to give this power to the commander of the vessels of the Indian navy, which, if they possessed it, would do more, I think, to put an end to the traffic than any measures that have yet hitherto been adopted for the purpose. All vessels sailing under the British flag (though armed and navigated by foreigners), and which now are liable to seizure as being clothed with the British character, enjoying the privileges and benefit of British protection, and consequently subject to the inconveniences and penalties attaching to a breach of the British laws, would then, under the proposed enactment, be within the reach and power of the Company's vessels; and with the conjoint efforts of the imaum of Muscat, and of the other chiefs in the Red Sea and Persian Gulf, co-operating in the measure, the ports and shores of those countries would in a very short time, I should think, be cleared of all its slaves.

With this power Captain Rogers might have seized the Francis Warden and Futtel Kurreem for piratically carrying slaves on the high seas, and have brought them to Bombay, and had them condemned in the vice-admiralty court.

From the omission in the Act, as the law now stands, if an Arab vessel were to come into Bombay harbour with a cargo of slaves for sale, the magistrate, it is true, might arrest the individuals on board for the crime of slave-dealing, with a view to their ultimate prosecution and punishment; but, unless there was a King's vessel here, there would be no authority in the place to seize and prosecute the vessel for the purpose of condemning her and her slaves.

The draft Act proposes to supply the defects of the Acts, and, besides the commanders of the Company's vessels, to invest every officer of customs in the service of the East India Company, and every person who may be deputed by government, with the power of making seizures, which will therefore enable seizures to be made at all subordinate ports and places, which now cannot be done by any local authority there.

Agreeably to the 4th paragraph of your letter of the 7th, I have altered the proclamation, and I have likewise inserted a clause (subject to the approval of government) to notify the seizure and condemnation that would take place of all vessels found engaged in the trade, — a notification calculated to alarm the slave merchants (from the prospect of a certain and immediate loss of property) more than the terrors of a distant prosecution and punishment of their persons, which in practice would be found could reach only to a very few.

With reference to the 5th paragraph of your letter of the 7th, it appears to me that, until the proposed Act is passed by the supreme government, the promulgation of any port regulations to be useful will be premature. They, as well as the proclamation, as far as regards the announcement of seizures, would be nugatory, and mere empty sounds and threats. I would therefore propose that the framing of any regulations should be delayed till after the passing of the Act, when a complete set may then be drawn up.

With respect to the 6th paragraph of your letter of the 7th, being of opinion, as already expressed in my last letter on this subject, that the local courts must be guided by the Act of Parliament in all cases of importation and exportation of slaves to and from the subordinate ports out of the jurisdiction of the supreme court, any regulations for their further guidance seem to me to be unnecessary. For slavery in the interior, within the zillahs, the regulations provide; but for the importation of slaves by sea into their ports, the local courts must adopt the provisions and regulations of the Act of Parliament, and punish according thereto. They cannot try the offences under the 10th sec. of the 5th Geo. 4, chap. 113 (slave piracies), for want of an admiralty jurisdiction; nor do I think they need ever try any case; for as there never can be an importation of slaves by sea into the subordinate ports without involving in it also the previous carrying off slaves on the high seas, no case could occur, as far as it strikes me, which the local courts could take cognizance of which could not be tried in Bombay in the supreme court under the admiralty jurisdiction for the higher offence of slave piracy. So that in practice the jurisdiction of the local courts might not be found necessary to be called into exercise, the minor offence, too, merging in the higher.

The power of seizing vessels and slaves at subordinate ports the local authorities do not possess, as already intimated; but the power, if given, proposed by the Act, will be the only really effectual method of suppressing the traffic; and that without the power all other attempts, I conceive, will be vain. Regulations and proclamations can only notify and make public the penalties incidental to it, and prosecutions reach and alarm only a few; but the seizing the property itself embarked in it will be cutting up the trade entirely.

With these observations, I would recommend that the letter to the address of the resident in the Persian Gulf, which has been sent for my perusal, and alteration if necessary, should not be forwarded till it is seen whether the proposed Act will be passed by the supreme government, when, in the event of its being passed, the letter (should it then be deemed requisite) may be sent to me for revision.

Adverting to your letter of the 9th date, requesting my opinion as to the course to be pursued with regard to the three African children brought to Juddah, had the vessels out of which these children were taken been seized under lawful authority, the course, conformably to the Act of Parliament, would in such case have been the condemnation of the vessels, and

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and three slave children as forfeitures of the Crown, and their enlistment either in the military or sea service, or their being bound out as apprentices. But the only course now I think is for government to employ them in such ways as shall be thought most beneficial for the children, without they are returned to their country. Being now on British ground they are free. I am not informed of their ages, but, if old enough, their consent will be necessary to any service in which it may be proposed to employ them.

DRAFT of a proposed Act, referred to in the preceding Letter, enclosed in above.

“BE it enacted, that all ships, vessels, boats, slaves, or persons treated, dealt with, carried, kept, or detained as slaves, and all goods and effects that may become forfeited under the Act of 5 Geo. 4, chap. 113, intituled, “An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade,” shall and may, within the limits of the East India Company’s charter, be seized by any officer of customs in the service of the said Company, or by the commanders or officers of any of the ships or vessels belonging to the said Company’s Indian navy; and moreover it shall and may be lawful for all governors of any of the territories, settlements, forts, or factories in the East Indies, belonging to or under the government of the said Company, and for all persons deputed and authorized by any such governor, to seize and prosecute all ships, vessels, boats, slaves, or persons treated, dealt with, carried, kept or detained as slaves, and all goods and effects whatsoever that shall or may become forfeited for any offence under the said Act.

“And be it further enacted, that all persons authorized to make seizures under this Act shall, in making and prosecuting such seizures, have the like benefit and protection as are given by the said 5 Geo. 4 to all persons authorized to make seizures under that Act.”

PROCLAMATION, enclosed in above.

“THE Governor in Council of Bombay, having reason to believe that the traffic in slaves is carried on to a considerable extent by persons in Arab boats and vessels, from the ports in the Red Sea and Persian Gulf, and other parts importing slaves of both sexes, and of various ages, into the port of Bombay, and other ports and places subordinate to the presidency of Bombay, and having determined to use every exertion to suppress the nefarious traffic so disgraceful to humanity, hereby notifies and proclaims, that all persons found guilty of such practices, or in any other manner offending against the laws for the abolition of the slave trade, shall be apprehended and prosecuted with the utmost rigour, and severely punished, as the law directs. And the boats or vessels employed in the trade, together with the slaves, and all the goods and property that may be found on board, shall be seized, and immediate steps taken for their condemnation and forfeiture, and the liberation of the slaves themselves. And to encourage the discovery of offenders, a reward is held out by the Act of Parliament of a moiety of the penalty of 100 l. sterling for each slave, to any person who shall inform and sue and prosecute for the same. But as a further encouragement to discovery, the Governor in Council of Bombay hereby notifies and proclaims, that a reward of rupees shall be paid by government to all persons who shall give information which shall lead to the apprehension and conviction of any offender, or to the seizure and condemnation of any vessel engaged in the trade.”

No. 27. FROM the Chief Secretary to Government of Bombay to the Acting Assistant in charge of the Bushire Residency, dated 30th October 1837.

I AM directed by the Right honourable the Governor in Council to transmit to you copy of the treaty concluded by Captain Moresby, of his Majesty’s ship Menai, with his highness the imaum of Muscat, on the 29th August 1832, prohibiting within certain limits the slave trade.

2. In forwarding this document, the Governor in Council instructs me to request that you will endeavour to prevail on his highness to extend the above treaty, so as to include in its provision the provinces of Cutch and Kattywar. At present vessels engaged in the slave trade are only liable to seizure if found “to the eastward of a line drawn from Cape Delgado, passing east of Socotra, and on to Diu Head, the western point of the Gulf of Cambay.”

3. The Governor in Council does not, however, think this sufficient. It might, he is of opinion, be very difficult for the British power to assume generally the right of detaining and searching on the high seas vessels which there is reason to suspect of being engaged in the slave trade; but there can be no objection, he conceives, to the exercise of this right over the vessels of foreign powers when it is conceded by treaty. You are therefore requested to endeavour to obtain from the imaum the right of searching any vessels fitted out from his ports, and open to the suspicion above mentioned.

4. Government are also desirous that the same privilege should be obtained from other Arabian potentates, to whom we have access, and accordingly direct me to instruct you to take every opportunity for that purpose.

5. The

5. The Governor in Council is not inclined to confine you to any particular instructions for the attainment of the object in view, but is rather disposed to leave the supplying of the requisite details to your own good sense and activity.

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FROM the Chief Secretary to Government of Bombay to the Secretary to the Government of India, Fort William, dated 30th October 1837.

No. 28.

I AM directed by the Right honourable the Governor in Council to transmit to you, for the purpose of being laid before the Right honourable the Governor-general of India in Council, copy of the correspondence enumerated below,* relating to the traffic in slaves, supposed to be carried on to a considerable extent by persons in Arab boats and vessels from the ports in the Red Sea, Persian Gulf and other parts, importing slaves of both sexes, and of various ages, into Bombay and other ports and places subordinate thereto.

In submitting the above documents, I am instructed to express the hope of government that some Act, to the effect of the draft accompanying the advocate-general's letter of the 16th August last, will meet the concurrence of his Lordship in Council, and be passed into a law by the Government of India.

With reference to the proposed draft of a letter to the acting resident in the Persian Gulf, forwarded for the opinion of the advocate-general, with my communication of the 17th August last,† I am instructed to state, for the information of his Lordship in Council, that a letter, omitting the two first paragraphs, has been transmitted to that officer, a copy of which is enclosed.

In conclusion, I am directed to add, that the Right honourable the Governor in Council concurs in the opinion expressed by the advocate-general of withholding the promulgation of any proclamation until this government is advised of the nature of the Act which the supreme government may be pleased to pass into a law.

FROM the Superintendent of the Indian Navy to the President and Governor in Council, dated 30th September 1837.

No. 29.

I BEG to forward a letter from Acting Commander Rogers; and as I do not exactly understand the import of the letter of the advocate-general which accompanied Mr. Chief Secretary Wathen's letter under date the 28th of August last, I would beg to be informed how the commander of a vessel of war should act on falling in with ships under English colours which may have slaves on board.

FROM the Acting Commander Honourable Company's sloop of war Amherst to the Superintendent of the Indian Navy, dated 29th September 1837.

No. 30.

As the Honourable Company's sloop of war Amherst, under my command, is fitting out for the Persian Gulf, where she is likely to fall in with English vessels having persons on board similarly situated to those I thought it my duty to take out of the ships Francis Warden and Futtel Kurreem, and send to the presidency, whilst those vessels were lying in Juddah harbour, on the 28th of February last, as stated in my letter to your address, dated Juddah, March 10th, 1837, I respectfully solicit you will be pleased to inform me in what way I am to act should I again meet with vessels similarly situated to those named above.

FROM the Chief Secretary to the Government of Bombay to the Advocate General, dated 8th November 1837.

No. 31.

I AM directed by the Right honourable the Governor in Council to transmit to you copy of a letter from the superintendent of the Indian navy, dated the 30th September last, forwarding one from Acting Commander Rogers, and to request that you will favour government with your opinion as to how the commander of a vessel of war should act on falling in with ships under English colours which may have slaves on board.

FROM Mr. Advocate General *A. S. Le Messurier* to the Secretary to Government of Bombay, dated 21st November 1837.

No. 32.

I HAVE the honour to acknowledge the receipt of your letter of the 8th instant, with its enclosures, requesting my opinion as to how the commander of a vessel of war (of the Company's

* 1. From the Committee, dated 5th May, with three enclosures (*see* No. 1, *supra*); 2. Reply to, dated 7th June (not printed); 3. To the Advocate-general (*see* No. 4, *supra*); 4. From the Committee, 13th June (not printed); 5. To the Advocate-general, 20th June (not printed); 6. From ditto, 27th June (*see* No. 5, *supra*); 7. To ditto, with three enclosures, 7th August (*see* No. 6, *supra*); 8. From ditto, with ditto, 16th August (*see* No. 26, *supra*).
† *See* No. 26, *supra*.

pany's navy I presume) should act on falling in with ships under English colours which may have slaves on board.

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Referring to the opinion I formerly gave (letter dated 16th August last,)* on the subject of seizing slave vessels, I would observe, that if the supreme government pass the Act proposed for empowering the vessels of the Company's navy to make seizure of ships for a breach of the slave laws, no very long period can elapse before the power will be possessed, but that should it refuse to do so, it will, I conceive, be a virtual declaration on the part of the Government of India that the Company's vessels should not interfere in the matter; and I therefore would recommend, in the mean time, the commander of any of the Company's vessels not to act at all in the business. The British Legislature, by omitting to give the power of seizure to authorities in India under the Company, seems to have proceeded on some grounds of policy in so doing, especially as by the late Charter Act it has expressly recognized and sanctioned the existence and continuance of slavery within the British territories in India.

No. 33. MINUTE by the Right honourable the Governor, subscribed to by the Honourable Mr. Farish.

SIR CHARLES MALCOLM should be instructed agreeably to the advocate-general's opinion. I must, however, observe, though not for communication, that I do not concur in Mr. Le Messurier's concluding argument.

"Slavery" and a "trade in slaves" are two very distinct things, and the toleration which (for a season) the Charter Act extends to the two former, implies no sanction whatever of the latter.

I believe we have already pressed on the Government of India the passing of an Act to authorize the seizure of slave-trading vessels on the high seas.

MEMORANDUM of the Political Secretary, dated 7th December.

I RESPECTFULLY suggest that copy of the further proceedings on this subject be forwarded Government of India for consideration.

(signed) J. P. Willoughby, Sec. to Govt.

No. 34. FROM the Secretary to Government of Bombay to the Superintendent of the Indian Navy, dated 8th December 1837.

IN reply to your letter of the 30th September last,† with its enclosure, soliciting information as to how the commander of a Company's vessel of war should act on falling in with ships under English colours, which may have slaves on board, I am directed by the Right honourable the Governor in Council to transmit to you the accompanying copy of a communication from the advocate-general, dated the 21st ultimo, submitting his sentiments on the subject, and to request that you will be pleased forthwith to issue instructions in conformity with the opinion expressed by that officer.

No. 35. FROM the Secretary to Government of Bombay to the Secretary of the Governor General of India, dated 26th December 1837.

WITH reference to Mr. Chief Secretary Wathen's letter, dated 30th October last, relating to the traffic in slaves supposed to be carried on to a considerable extent by persons in Arab boats and vessels from the ports in the Red Sea and the Persian Gulf, I am directed by the Right honourable the Governor in Council to transmit to you, for the purpose of being submitted for the consideration of the Right honourable the Governor-general of India, extracts from the proceedings of this government regarding three slave-boys taken out of two vessels at Juddah under English colours, namely, the Francis Warden and Futtel Kurree, by Acting Commander Rogers of the Honourable Company's brig of war Euphrates.

No. 36. FROM the Secretary to the Government of India, Fort William, to Mr. J. P. Willoughby, Secretary to Government of Bombay, dated 24th Jaarynu 1838.

THE Honourable the President in Council having observed in the duplicate copy of a communication made to the Governor-general, under date the 26th ultimo, No. 2,422, that three slave-boys, taken from ships sailing under British colours, were made over to Mahomedan families, under an engagement that they should be provided with food and clothing, I am directed to request information as to the nature of these engagements. The draft of Act forwarded from Bombay connected with this subject being now under consideration in the legislative council, it appears to be of importance that the government should be informed

* See No. 26 of this Appendix.

† See No. 29, *idem*.

formed of the means of providing for persons redeemed from slavery that may be available, and the manner of using them.

2. The President in Council particularly desires to know whether there is any fixed limit to the period of the apprenticeship in which these boys have been bound, and what means have been taken to secure their freedom after its expiration, or when the boys may come of age.

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FROM the Secretary to Government of Bombay to the Secretary to the Government of India, Fort William, dated 28th February 1838.

No. 37.

I AM directed by the Right honourable the Governor in Council to acknowledge the receipt of your letter, dated the 24th ultimo, requesting information as to the nature of engagement under which the three slave-boys taken out of the ships Francis Warden and Futtel Kurreem, sailing under British colours, were made over to Mahomedan families, and to transmit to you, for the purpose of being laid before the Honourable the President in Council, copies of the agreements entered into by the parties to whose charge the boys in question were made over.

FROM Mr. G. L. Elliot, Agent to the Governor of Bombay at Surat, to the Secretary to the Government of Bombay, dated 4th December 1840.

No. 38.

I HAVE the honour to acknowledge the receipt of Mr. Chief Secretary Reid's letter, No. 2,244, dated the 15th of October last, requesting me to forward a statement showing the number of slaves imported into Demaun and Dieu during the last three years, and the average progressive increase or decrease in number during each year.

2. In reply, I beg to report, for the information of the Honourable the Governor in Council, that I have used my utmost endeavours to obtain the required information. Such as I have received I fear cannot be depended upon for its accuracy, and even if we were to apply to the Portuguese authorities, I very much doubt whether they would afford an account that could be implicitly relied upon.

3. The following information I have collected from an individual well acquainted with the resources of Demaun and Dieu, that for the last two or three years there have been very few slaves imported into these places (which is to be attributed in a great measure to the vigilance of the British Government), though in former years the number of slaves imported into the three Portuguese settlements of Goa, Demaun and Dieu averaged from 250 to 300 per annum.

4. There were some vessels last year, the property of one Momajee Wullejee, which were bringing slaves from Mozambique to Demaun and other Portuguese ports, but which were intercepted by Her Majesty's ships.

5. During this year no ship has arrived at Demaun from Mozambique. It appears that the number of slaves imported in the years 1837, 1838, 1839, into Demaun, were as follow:— In 1837, from 10 to 15; in 1838, from 8 to 10, and in 1839, from 5 to 7. Into Goa and Dieu during these years, from 15 to 20.

6. In reference to the 2d para. of the communication now under reply, I am not prepared to propose any measures beyond those already in operation for preventing the importation of slaves into the Portuguese territories.

FROM the Secretary to the Government of Bombay to the Secretary to the Government of India, Political Department, dated 31st December 1840.

No. 39.

WITH reference to Mr. Chief Secretary Reid's letter, dated the 15th October last, regarding the measures adopted by this government for the suppression of the slave trade, I am directed to transmit to you, for the information of the Right honourable the Governor-general of India in Council, copy of a communication from the agent for the Governor at Surat, dated the 4th instant, reporting the number of slaves imported into the Portuguese settlements in India during the last three years.

2. In forwarding this communication, I am desired to observe, that although the Honourable the Governor in Council is not of opinion that the information therein contained can be entirely relied upon, still it is satisfactory to observe, that the number of slaves supposed to have been recently imported into the Portuguese settlements in India is considerably diminished.

APPENDIX XIX.

GULF SLAVERY.

1. LETTER (dated 24th September 1837) from Captain Hennell, Officiating Resident, Persian Gulf, to the Secretary to the Government, Bombay, enclosing Statement of Abdullah ben Iwuz, alleging an extensive Abduction of Females from the Barbarah Coast by the Joasmee Arabs.
2. Statement of Abdullah ben Iwuz, enclosed in the above.
3. Letter (dated the 9th of December 1837) from the Secretary Bombay Government to the Officiating Resident of the Persian Gulf.
4. Letter (dated the 10th of January 1838) from the Officiating Resident to the Secretary of the Bombay Government.
5. Letter (dated 6th of March 1838) from the Secretary to the Bombay Government to the Officiating Resident.
6. Letter (dated 28th February 1838) from Mr. T. Mackenzie, Acting Agent in charge of the Residency in the Persian Gulf.
7. Extract from a translated Letter of the Agent at Muscat to the Acting Assistant, enclosed in the above.
8. Extract from a translated Letter from the Agent at Shagur to the Acting Assistant, enclosed in No. 6.
9. Extract from a Letter from the Agent at Muscat to the same, enclosed in the same.
10. Letter (dated 16th April 1838) from the Secretary to Government to the Officiating Resident.
11. Letter (dated 28th April 1838) from the Officiating Resident to the Secretary to the Bombay Government.
12. Copy of a Treaty with Sheikh Sultan ben Suggur, enclosed in the above.
13. Letter (dated 11th July 1838) from the Secretary Bombay Government to the Officiating Resident.
14. Letter (dated 3d September 1838) from the Resident (Captain Hennell) to Secretary Bombay Government.
15. Letter (dated 12th December 1838) from the Secretary Bombay Government to the Resident.
16. Letter (dated 19th July 1839) from the Resident to the Secretary Bombay Government, enclosing Copy of Agreement entered into by the Arab Chiefs.
17. Letter (dated 21st October 1839) from the Secretary Bombay Government to the Resident.

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FROM Captain *S. Hennell*, Officiating Resident in the Persian Gulf, to the Secretary to Government, Bombay, dated 24th September 1837.

No. 1.

ENCLOSED I have the honour to forward, for the information of the Right honourable the Governor in Council, the copy of a statement made to me by an individual named Abdullah ben Iwuz, who professes to be a person of some rank, from the African coast, regarding the alleged outrageous proceedings of the crews of some Joasmee boats, in having carried off from Barbarah 233 young girls, under the pretence of marriage, and subsequently disposing of them as slaves, upon the return of their vessels to the gulf.

2. Upon receiving this declaration I sent for Mahomed ben Iwuz, the agent of Sheik Sultan ben Suggur, and having brought to his notice the 9th article of our treaty with the pacificated Arabs, inquired whether he could afford any explanation upon the subject of Sheik Abdullah's complaint. In reply, he denounced the whole statement, both with reference to the abduction of the girls and the robbery of the complainant on his voyage to Rasel Khy-mah, as an unqualified falsehood. He said he did not deny the fact of slaves having been brought up from the coast of Barbarah, but he declared that they had been regularly purchased from two tribes in that neighbourhood, at war with each other, who were in the habit of selling all the prisoners that fell into their hands. He concluded by saying that Abdullah ben Iwuz was an impostor, without any letters or credentials, and that had Sheik Sultan been willing to make him a small present, he would have taken his departure back to Muscat, and said nothing further upon the subject. He (the agent) was, however, quite sure that if the complainant's statement could be proved to be founded on fact, that his superior, the Joasmee chief, would do any thing that was just.

3. Although I do not think that the subjects and dependents of the Sheik of Rasel Khymah are likely to be very scrupulous as to the means by which they obtain their slaves, still the statement of Abdullah ben Iwuz appears to me in some respects exceedingly improbable. I am inclined to suspect that the unfortunate individuals mentioned in the 1st paragraph were made prisoners by one of the belligerent tribes before adverted to, and actually sold by the victors to the Joasmees; and that Abdullah ben Iwuz, being in some way connected with the defeated party, had been instructed by the friends of the captives to obtain, if possible, their liberation from bondage. This, however, is mere conjecture; but, upon receipt of replies to the communications I have addressed to the agent at Shargah and Muscat, I trust that the real facts of the case may eventually be elicited. In the meanwhile, I have informed Abdul-lah

Iah ben Iwuz that his statement would be laid before the government, and that in the event of the robbery alleged to have been committed by the crew of the boat which conveyed him from Muscat being satisfactorily traced to any of the subjects of Sheik Sultan ben Suggur, steps would be taken to obtain either the restitution of his property or the payment of its value.

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STATEMENT of Sheik Abdullah ben Iwuz, calling himself a Native of the Coast of Barbarah, made to the Officiating Resident in the Persian Gulf, 23d September 1837.

No. 2.

THAT about four months ago, while he was on a visit to Muscat, for the arrangement of some commercial affairs between his people and the imaum's subjects, he received letters from Barbarah complaining that the Joasmees had carried off from that place 233 unmarried girls, and having brought them up the gulf, had there disposed of them as slaves. These communications further directed him to proceed to Rasel Khymah, and in the event of Sheik Sultan ben Suggur not liberating the captives, he was to go on to Bushire, and lay the whole of the circumstances before the resident; that, in pursuance of these instructions, he had embarked in a Zaab boat, with a crew of seven men, commanded by a man named Khumees, said to be bound for Rasel Khymah. In the course of the voyage questions were put to him as to his object in visiting the Joasmees sheik, which he was imprudent enough to detail at length; the consequence was, that the crew at first proposed to put him to death, but at the recommendation of the nacodah they contented themselves with stripping him of his property and letters, and then putting him on shore in the neighbourhood of Ras Jebbl. The articles taken from him consisted of those mentioned below.* The deponent continued his statement by saying, that having procured a passage to Lingah, he proceeded over from that port to Rasel Khymah, and made his complaint to Sheik Sultan ben Suggur, who told him to have patience, and he would afford him redress. In the meanwhile two individuals belonging to Rasel Khymah and Shargah shipped off the greater part of the girls, who had been kidnapped on board a bugla and bateel, and sent them to Koweet, Bushire and Bussorah for sale; on this being reported to their chief, he immediately ordered a list to be made out of the individuals in whose possession these unfortunate persons had been, and, under the pretence of affording compensation for the irregular conduct of his people, he made them pay him a fine of ten dollars upon each slave, which he said was to be given to the complainant. This money, however, had no sooner been collected than the sheik offered the complainant 200 crowns to say nothing further on the subject, which offer was refused. The deponent further states, that not the slightest attention was paid to his complaint regarding the treatment he had experienced from the people of the boat from the Joasmees chief; at last, finding he could get no redress from Sheik Sultan, he proceeded on to Shargah, and laid his case before Moollah Hoossein, the agent there, who promised to write to the resident upon the subject.

Upon a cross-examination, the deponent at once acknowledged that the Joasmees had not carried off the girls from Barbarah by force, but that, having persuaded them to come on board under a promise of making them their wives, they had on their arrival in the gulf disposed of them as slaves. The deponent further stated, that the Joasmees had bribed a native of Barbarah, named Mutter, to write a letter to Sheik Sultan ben Suggur, to the effect that the girls carried away were all regularly purchased; but that when the inhabitants of the place found out that they had been deceived, and their relations made slaves, this person was immediately put to death by them for his treachery. The deponent concluded his statement by requesting that the resident would take measures for obtaining the liberation of the individuals who had been carried away from their native country in this treacherous and shameful manner

FROM the Secretary to Government of Bombay to Captain *S. Hennell*, Acting Resident in the Persian Gulf, Bushire, dated 9th December 1837.

No. 3.

WITH reference to your letter, dated the 24th September last, No. 84, with enclosure, regarding the abduction of a number of girls from the coast of Barbarah by the Joasmees, and of their having been sold as slaves, I am directed to acquaint you, that the Right honourable the Governor in Council will await your further report on the subject. In the meantime, however, the Governor in Council requests that you will favour government with your opinion as to the practicability or otherwise of inducing his highness the imaum of Muscat and Arab chiefs in the gulf to prohibit the traffic in slaves altogether.

FROM Captain *S. Hennell*, Acting Resident in the Persian Gulf, to the Secretary to Government of Bombay, dated 10th January 1838.

No. 4.

I HAVE the honour to acknowledge the receipt of your letter, No. 2,303,† in this department, under date the 9th ultimo, upon the subject of the alleged abduction of a number of girls from the coast of Barbarah by the Joasmees (as reported by me in a former communication), and at the same time conveying the desire of the Right honourable the Governor in Council that I should submit my opinion as to the practicability or otherwise of inducing

* Matchlock, sword, dagger, one pistol, and a basket of clothes.
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† Vide No. 3, *supra*.

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inducing his highness the imaum of Muscat and the Arab chiefs in the gulf to prohibit the traffic in slaves altogether.

2. In reply, I have the honour to report, for the information of the Right honourable the Governor in Council, that not having yet received any answers to the inquiries I directed to be instituted by the agents at Shargah and Muscat into the truth or falsehood of the allegations made by Mahomed ben Iwuz (the professed Barbarah agent), regarding the proceedings of the Joasmees on the African coast, it is not in my power at present to afford the government satisfactory information upon that point. I trust, however, that upon my arrival at Muscat, when returning to Bushire, I shall be enabled to make a full report upon the subject.

3. With reference to the latter part of your communication, it is with much diffidence I state, for the information of the Right honourable the Governor in Council, that after much and deliberate consideration of the question, I am reluctantly led to the conclusion that, in the first place, it would be impracticable to induce his highness the imaum of Muscat and the Arab chiefs in the gulf to put an end to the traffic in slaves without such a large pecuniary sacrifice being made on the part of the British Government as would most likely be considered altogether inexpedient; and, in the second place, that, were such a sacrifice made, the humane and philanthropic objects of the Right honourable the Governor in Council would still be defeated by further impediments and difficulties, for which I fear no remedy could be found.

4. Of the chiefs in the Persian Gulf, with whom (unless as a matter of expediency alone) we could assume to ourselves any right to interfere directly in the question of the slave trade, the only ones are those who are members of the general treaty negotiated in 1820 by Major-general Sir W. G. Keir, namely, the Joasmees Bemyas and Uttoobee Sheiks. The ninth article in the document declares "the carrying off (literally, plundering) of slaves, men, women and children, from the coasts of Africa or elsewhere, and the transporting (literally, embarking) them in vessels, is plunder and piracy, and the friendly Arabs shall do nothing of this nature (literally, shall not agree to this thing)." This declaration, however strongly the English translation may appear expressed, was considered so ambiguous, that it was not acted upon by the British officer who was appointed to the superintendence of our political relations in the gulf, shortly after the treaty had been signed by the respective chiefs before referred to. Since that date, a period of 17 years has passed over without the question having been agitated, and thus the several parties concerned have acquired a sort of prescriptive right to consider that the ninth article was inserted solely with the view of guarding against the forcible carrying away of individuals for the purpose of selling them as slaves, and not meant to prohibit altogether a traffic which is not only in accordance with the letter and spirit of their religion, but which long continuance and custom have rendered almost indispensable to their domestic comfort.

5. Assuming, however, that the ninth article of the document before referred to bears the interpretation best suited to our views and policy, and that our right to act upon it, although allowed to lie so long in abeyance, is nevertheless liable to be called into operation whenever we may consider it expedient to do so, still it must be borne in recollection, that, even on the Arabian side of the Persian Gulf alone, neither his highness the imaum nor the chiefs of Sohar Kateef or Kowlet are parties to this treaty, and therefore their consent to a total prohibition of the traffic in our fellow-creatures could only be obtained by means of negotiation, and the offer of such advantages as would, in their estimation, compensate for the loss they sustained in the surrender of a practice uniting both profit and convenience. I believe myself that a great proportion of the income of his highness the imaum is drawn from this source; and I understand he has declared, that, in consequence of his having allowed himself to enter into the agreement with Captain Moresby, of the royal navy, engaging to prohibit the slave trade with European powers within certain limits, he has sustained a diminution in his revenues to the extent of 100,000 crowns, and that he is resolute in his determination not to afford any further concessions upon this point. But even admitting that, either through our influence or the payment of an annual pecuniary compensation, the parties alluded to consented to enter into an engagement for the total suppression of the slave trade, I fear that the attainment of the humane objects contemplated by the government would be still as distant as before. My reason for entertaining this opinion is, that the effect of the prohibition, if it could be enforced in the ports on the Arabian side of the gulf, would be to throw the whole of this nefarious traffic into the hands of the inhabitants of Bussorah and Muhumrah (subjects of the Ottoman Porte), and those of Bushire, Congoon, Aseeloo and Singah, the principal seaports of Persia. It is unnecessary to observe, that, in the present state of our relations with both these governments, no interdiction of the traffic in question could be carried into effect, unless under the express sanction of their respective authorities. Taking, however, into consideration that the sale and purchase of slaves is not only permitted by the tenets of their faith, but that the discontinuance would greatly abridge what habit and custom have led their subjects to value as a domestic convenience, I venture to think that, for some time, at least, it is hopeless to look for such a sanction being afforded. In addition to these impediments, I may also advert to the probability, that, were the inhabitants in the gulf to relinquish the traffic at present carried on in slaves, the place of their vessels would be immediately occupied by those from the Red Sea, the coasts of Mekran, Scinde, &c. It may at the same time be reasonably anticipated, that even those powers, whose consent to our views may be exacted or purchased, will exhibit little more than a nominal adherence to their engagements, unless compelled to do so by our own maritime force. This, however, would involve the necessity of greatly augmenting the number of vessels of war employed in those seas, and, in all probability,

probability, be attended with the constant risk of entangling us in disputes with the local governments dependent upon Persia, Turkey and Egypt.

6. I cannot conclude my observations without adverting to the opinions held upon this subject by the late Captain Macleod, when resident in the Persian Gulf; and as these are in a great measure corroborative of my own views, I now respectfully submit an extract from a despatch addressed by that officer to the government, dated the 27th February 1823. After alluding to the wording of the ninth article of our treaty with the pacificated Arabs, Captain Macleod continues as follows:—

“But in whatever sense the words of the treaty may be understood by either party, I am convinced that our utmost endeavours to abolish the slave trade among the parties to the treaty will be ineffectual, as long as the other powers of the gulf persist in it. We may, perhaps, put a stop to the carrying off of slaves, but their purchase and transport we can never prevent. The slaves will be disguised and concealed in a thousand ways, so that it will be impossible for us to detect them: and I doubt whether more harm than good might not be done to the cause of humanity by stopping boats and searching them for slaves, because it would in all cases occasion such disgust and offence as would involve a great risk of a renewal of hostilities.

“I do not believe that any of the parties to the treaty do carry off slaves, all those* they possess being purchased at Muscat and other places. But, at all events, it would be difficult even in the former case to detect them, in the latter next to impossible: and with all our efforts we shall find it impracticable to put a stop to a traffic which is sanctioned by their religion and by immemorial custom, unless it were relinquished by the common consent of the whole of the chiefs of the gulf.

“Convinced as I am of the inefficacy of this article of the treaty, which has not yet been acted upon, and of the dangers of attempting to carry it into effect, I am compelled with much reluctance to recommend that it should not be enforced except in very glaring cases, or at least that its sense should be considered as confined to the carrying off of slaves, and not including their purchase or transport.

“It is gratifying to humanity to know, that slaves are not only extremely well treated and protected by their Arab masters, but that they even enjoy a very considerable degree of power and influence.† I remarked that they were every where the stoutest and best fed men, and that they seemed happy and comfortable. I must not, however, omit to mention an exception which occurred at Bahrein, where two slaves sought refuge on board the Ternate, from the cruelty, as they said, of their master. They were not, however, received, and we had no means of ascertaining the merits of the case. Much as it is to be desired that this horrid traffic should be abandoned throughout the world, we must, I fear, confess that the cruel treatment of slaves has been the reproach rather of European than of eastern nations.”

FROM the Secretary to Government of Bombay to the Resident in the Persian Gulf, dated 6th March 1838.

No. 5.

I AM directed to acknowledge the receipt of your letter, dated the 10th ultimo, on the subject of the alleged abduction of a number of girls from the coast of Barbarah by the Joasmees, and stating your sentiments as to the practicability of inducing his highness the imaum of Muscat and the Arab chiefs in the gulf to prohibit the traffic in slaves altogether, and to communicate to you the following observations and instructions thereon:—

2. Although the Governor in Council entertains little hope of putting an end to this execrable traffic in the gulf, yet he desires me to request that you will, as far as may be in your power, oppose any case of enormity that falls within your notice, and that you will on all occasions express to the Arab chiefs the detestation with which the British Government behold, in the slave trade, the unoffending inhabitants of any country forcibly taken from their homes, and separated for ever from parents, connexions and people, and carried off to be sold as slaves to strangers in a distant land.

3. The Governor in Council will await your further report on the subject, as stated in my letter of the 9th December last.

FROM the Acting Assistant in charge of the Residency in the Persian Gulf, to the Secretary to the Government of Bombay, dated 28th February 1838.

No. 6.

IN advertence to Captain Hennell's letter, dated 24th September, No. 84 of 1837, in this department, relative to a complaint by a person named Abdullah ben Iwuz, of a number of young women having been carried away from the coast of Barbarah by traders to that quarter of the Joasmee tribe, and of his having been robbed and maltreated himself while proceeding to recover, if possible, those unfortunate individuals, I have the honour to forward, for the information of the Right honourable the Governor in Council, the accompanying translated extracts of letters from the government agents at Muscat and Shargah.

2. The

* The slaves are frequently brought direct from the African coast.

† My own personal observation fully confirms this statement.—S. H.

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2. The accusation of Abdullah ben Iwuz is principally, if not entirely, directed against the Joasmees, both as regards the abduction of the young women and the mal-treatment of himself; but, as far as has yet been ascertained, that tribe either happens to be innocent of the offences with which it is charged, or means have been found of concealing the truth from the government agent.

3. From the documents now forwarded, however, it would appear evident that a disgraceful traffic in young females, probably both by stealth and purchase, is carried on from the Barbarah coast, not only to the territories of the Joasmees, but every port of consequence in the Persian Gulf.

4. In enclosure 3, evidence is adduced of an act, which, if its truth could be satisfactorily established, the 9th article of the treaty with the pacificated Arabs would, I conceive, warrant its being viewed and treated as an act of piracy. But the chief of Koweet, against whose subjects the information is furnished, is not a member of that treaty.

5. I am not well aware of the state of those unfortunate creatures previous to their becoming the subjects of this nefarious traffic; but the result of some inquiry inclines me to believe that the Soomalies, from whom a great part of the supply seems to be drawn, are a free people, and cannot become slaves without violence. Consequently those conveyed to the Persian Gulf must be either kidnapped or purchased while prisoners of war,—a practice to which, even in the eyes of the generality of Mahomedans, a degree of moral turpitude attaches, which, if insisted on, would tend considerably to diminish the evil; and I conceive that no means which can with propriety be used ought to be omitted of circumscribing, and, if possible, abolishing a traffic in itself most offensive, and probably rendered doubly grievous from its proving an incentive to war and all its concomitant miseries.

6. No communication has yet been addressed to any of the parties supposed to be implicated, as the subject appears to offer a favourable opportunity for introducing the question of abolishing all traffic in slaves on the part of the Arab chiefs, or those under their authority, as directed by Mr. Chief Secretary Wathen's letter of the 30th October last.

No. 7.

TRANSLATED Extract* of a Letter from the Agent at Muscat to the Acting Assistant in charge of the Residency in the Persian Gulf, dated 1st Shabon, or 30th November 1837.

RELATIVE to the acts of the Joasmees, in the direction of Sowahil, on the coast of Barbarah, I have made much inquiry; and I have heard that the Joasmees, the past season, brought some young girls, Abyssinian and Soomalee; but it is reported that they purchased them with money. I made inquiries from some men from Singah, and they said that they did bring four or five young girls from Soomal. On the 26th Rijib, a bugarah, from Shargah, arrived, on board of which were some friends, of whom I made inquiry. They replied that they did bring some of those young girls to Shargah, Rasel Khymah, and Ajman, but that they purchased them. Also the sons of Ali ben Atek went as passengers in the bugla of Salimal Aweid, and there are with them four or five young girls from Soomal; but they did not sell them on the Oman coast. They proceeded to Bussorah, there to dispose of them. The batil of Ben Faraj was also in their fleet. So far as I have been able to learn, this affair is not unfounded, but is not true to the extent stated of 233 young girls,—apparently only 20 or 30.

No. 8.

TRANSLATED Extract* of a Letter from the Agent of Shargah to the Acting Assistant in charge of the Residency in the Persian Gulf, dated 13th Ramazan, or 12th December 1837

HE states, that during the last three months he has been endeavouring to procure information relative to the circumstances complained of by the person from Barbarah (Abdullah ben Iwuz), but that as yet he has not been able to learn any thing of the matter; that he is not aware of any one of the name of Khamis, a subject of Sultan ben Suggur, who trades in the direction of Muscat; that there is a person named Salmeen ben Khamis, but that he is not a man who would be guilty of such an act (plundering Abdullah ben Iwuz, as stated by himself); he expresses his surprise that such a statement should have been made by Abdullah ben Iwuz at Bushire, as he (the agent) was at Rasel Khymah at the time of his arrival, and invited him to make known his complaints, but that he made no mention of the treatment he had been subjected to by Khamis, only stating that during the last three years the subjects of Sultan ben Suggur, and others beside, from Batinah, &c., have been in the habit of trading in the direction of Barbarah, and stealing women under the pretence of marriage, and conveying them to their own country for sale; that it is true they are brought from that quarter for sale at Bussorah, coast of the province of Fars, &c., but that those who do bring them assert that they are all Abyssinians; that it is difficult to distinguish between the two, as the colour of the Abyssinian and Soomal is the same; that women are purchased at Barbarah, which country is not like other countries having forts, doors, &c. The chiefs of that quarter also do not have custom-houses, &c., nor know what may be imported or exported. About half a farsakh intervenes between their places (towns), and most of them are thieves and mischief-makers. When traders visit that quarter they arrive at night, and land their goods at night, so that no one knows what is brought by them. When they leave, in like manner they take their departure at night, and no one knows what they

* See No. 6, *supra*.

they carry along with them. It is stated that two women from Barbarah are now in Shargah, and the remainder have been sent to Koit and Bussorah.

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TRANSLATED Extract * of a Letter from the Agent at Muscat, to the Acting Assistant in charge of the Residency in the Persian Gulf, dated 28th Showal, or 25th January 1838.

No. 9.

RELATIVE to Abdullah ben Iwuz Soomalie: he arrived on board of a Barhein bugla on the 20th instant. He waited on me, and reported the incidents that had befallen him. He came a second time, and stated that some of the young women he is in search of were in Muscat, and requested permission to go and find them, which I granted him. In the course of a couple of days he returned, and said that he had discovered one of the young women. I desired him to bring her, that I might make inquiry relative to the affair, which being done, she stated that she was a Soomalie, and that she was from Barbarah; that one of the people of Soor, called Alli ben Seid ben Isa, stole her; that he was the navigator on board a vessel belonging to Koit, commanded by an Abyssinian, called Mahabool, who gave them permission to seize whomsoever they could; that she with seven others were carried away, and conveyed first to Soor and afterwards to Muscat; that she was taken to the sons of Seid ben Isa and Amber Thalet, who discovered that she was a Soomalie, and did not want her; afterwards that she was kept for some time at Sidab (a place near Muscat); that another is in possession of Ahmed ben Seif ben Hausel of Muttra, and is married to one of his servants; that a third is in the hands of the sister of Jawie, in Muttra, who has been seen by Abul Nebbie Beloochie; where the remainder are she does not know. Abdullah ben Iwuz having made inquiry regarding the one who was with the sister of Jawie, was informed that she had been sold. The one in the hands of Ahmed ben Seif still remains with him. I recommended Abdullah ben Iwuz to remain in Muscat until the arrival of the resident; but he said that the season would be over, and that between him and Captain Hennell there was an agreement. I myself made inquiry of people from Koit, and they stated that that boat was the property of Yacoub ben Ghanun Kaitee, and that she was commanded by his slave. Of those eight young women four were sold between Soor and Sohar, and the remaining four went to Koit, where they (the crew of the bugla) were questioned about the affair, and they replied that they had purchased them with money.

FROM the Secretary to Government of Bombay to the Officiating Resident in the Persian Gulf, dated 16th April 1838.

No. 10.

I AM directed to acknowledge the receipt of Mr. Mackenzie's letter, dated the 28th February † last, on the subject of the slave trade carried on at the ports in the Persian Gulf, and to inform you, that the Right honourable the Governor in Council very much fears that little can be done to effect the suppression of this nefarious traffic, but that as long as a hope remains, government are unwilling to abandon it. You are therefore requested to submit your opinion in detail on the points adverted to in the communication now acknowledged, and at the same time suggest any measures which may occur to you as likely to mitigate the evil.

FROM Captain S. Hennell, Officiating Resident in the Persian Gulf, to the Secretary to the Government of Bombay, dated 28th April 1838.

No. 11.

WITH reference to my letters to your address, under date the 24th September 1837, ‡ and 10th January 1838, § both in this department, I have the honour to report, for the information of the Right honourable the Governor in Council, that the information which my inquiries have elicited during my recent visits to Muscat and the Arabian coast, touching the complaint of a person named Abdullah ben Iwuz of the abduction of a number of girls from the coast of Barbarah, all tends to confirm the opinion expressed by Mr. Mackenzie in the 2d, 3d, 4th and 5th paragraphs of his despatch, No. 6, Political Department, dated the 28th February 1838.

2. Although unable to bring any positive or direct proof against the subjects of Sheik Sultan ben Suggur, still I am inclined to concur in the general opinion entertained in the gulf, that instances of free persons being kidnapped and brought away for sale from the coast of Barbarah do sometimes occur among the Joasmees. I therefore considered it my duty to introduce the subject, on the occasion of the interview held with their chief on the 17th instant. After touching generally upon the complaint preferred against his subjects by Abdullah ben Iwuz last year, I expressed in the strongest possible terms the indignation felt by the government on learning that such an infamous and nefarious practice had been carried on, although so expressly forbidden by the 9th article of the treaty subscribed by the independent Arabian chieftains of the gulf. The sheik, after a general denial of the accusation, and affirming that the subjects of his highness the imaum and those of Koweet were the individuals principally concerned in this traffic, endeavoured to convince me that he was fully impressed with the wickedness and enormity of such proceedings, and went on to say that, to prevent the possibility of any of his people participating in them, he had despatched his confidential meerza to Zanzibar, for the purpose of entering into arrangements with

* See No. 6, *supra*.
262.

† See No. 6, *supra*.

‡ See No. 1, *supra*.

§ See No. 4, *supra*.

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with his highness the imaum of Muscat, to the effect that in future no vessels from the Joasmee ports should be permitted to visit the African coast without carrying a special written authority from himself; that upon the arrival of such vessels in any of the possessions of the imaum, his highness or his *locum tenens* should assign a fixed place for the residence of their crews during their stay; and further, that upon their return to the gulf, the nacodah of each boat would be required to produce a written document under the seal of his highness, certifying that his crew had conducted themselves with peace and quietness, and that none of his people had been guilty of stealing or surreptitiously carrying away slaves, either by force or fraud. The sheik added, that to enforce these propositions he had offered the imaum full authority to punish to the utmost extent every one of his subjects who might be guilty of their infraction. I replied, that this proof of the sincerity of his sentiments was satisfactory; and as it was now evident that we had both the same object in view, he could have no objection to afford his consent to any further arrangements which might tend to put an end to the atrocious practice complained of. I therefore recommended that he should concede to our cruisers the right of searching and detaining his vessels upon the high seas, in all cases, where their crews were open to the suspicion of being engaged in the kidnapping of slaves, and at the same time to admit the further right of seizing and confiscating them in case these suspicions proved to be well founded. Upon the sheik unhesitatingly expressing his acquiescence, I produced the agreement (of which the accompanying is a copy). After making his moonshee read it aloud, he affixed his seal to two copies, one of which he retained himself, and the other is now deposited in the records of the residency.

3. It will be observed by the Right honourable the Governor in Council, that the document above referred to does not in the slightest degree bind the government, or pledge it to any specific line of policy with reference to the slave trade, while it is something gained towards a check, and may at a future period form the basis of more general and comprehensive negotiations for the suppression of this detestable traffic.

4. In doing myself the honour to intimate that a similar agreement to the one above referred to has been signed by Sheik Rashid ben Humeed, Sheik Mukhtoom ben Butye, and Sheik Khuleefa ben Shackboot, the chiefs of Ejman, Debaye, and Aboothabee, and expressing a hope that the steps I have taken may be honoured by the approval of the Right honourable the Governor in Council, I have, &c.

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- No. 12. ARTICLE of Agreement entered into by *Sheik Sultan ben Suggur*, dated Shargah, the 22d Muhurum, A. H. 1254, or 17th April A. D. 1838.

IN the event of vessels connected with my ports, or belonging to my subjects, coming under the suspicion of being employed in the carrying off (literally, stealing), and embarkation of slaves, men, women or children, I, Sultan ben Suggur, Sheik of the Joasmee tribe, do hereby agree 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, that upon its being ascertained that the crews have carried off (literally, stolen), and embarked slaves, their vessels shall be liable to seizure and confiscation by the aforesaid cruisers.

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- No. 13. FROM the Acting Chief Secretary to Government to the Officiating Resident in the Persian Gulf, dated 11th July 1838.

I AM directed to acknowledge the receipt of your letter, dated the 28th April last,* No. 15, with its enclosure, on the subject of kidnapping slaves from the coast of Barbarah by the Joasmees, and to inform you that the Right honourable the Governor in Council highly approves of your having entered into an agreement with the chief of the tribe for permitting our cruisers to search and detain his vessels upon the high seas in all cases where their crews are open to the suspicion of being engaged in the kidnapping of slaves, and to confiscate such vessels in case such suspicions are proved to be well founded.

2. The Governor in Council further instructs me to request that you will still act according to the instructions of government conveyed to you in Mr. Secretary Willoughby's letter, dated the 16th of April last, on the subject of the slave trade carried on at the ports in the Persian Gulf.

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- No. 14. FROM Captain *S. Hennell*, Resident in the Persian Gulf, to the Secretary to the Government of Bombay, dated 3d September 1838.

I HAVE had the honour to receive your letter, No. 1,346, in this department, under date the 11th July 1838, approving of the agreement entered into with Sultan ben Suggur, prohibiting the kidnapping of slaves from the coast of Barbarah, and further directing me to act according to the instructions of the government, conveyed in your letter of the 18th April last.

2. The

* See No. 11, *supra*.

2. The instructions thus referred to, I conclude, are those directing me to submit my opinion in detail on the points adverted to in Mr. Mackenzie's communication, dated the 28th February 1838, and at the same time to suggest any measures which might occur to me as likely to mitigate the evil of the slave trade carried on in these quarters.

3. For the convenience of reference, I shall proceed to notice the several subjects alluded to by Mr. Mackenzie, by drawing them up in one column, and making such remarks as they may appear to call for on the opposite side.

1st. Mr. Mackenzie states, that with reference to the accusation of Abdullah ben Iwuz against the Joasmees, regarding the abduction of a number of his country-women and their mal-treatment of himself, it would appear, either the tribe were innocent of the charge, or had found means of concealing the truth from the government agent at Shargah.

2d. That it would appear that a disgraceful traffic in young females, probably both by stealth and purchase, is carried on, not only in the territories of the Joasmees, but every port of consequence in the Persian Gulf.

3d. That had the sheik of Koweet been a member of the general treaty entered into by Sir W. G. Keir, with the pacificated Arabs, the conduct of some of his subjects in kidnapping Somalees would, by the 9th article of that agreement, have come under the denomination of piracy.

4th. That the Somalees, from whom a great part of the supply seems to be drawn, are a free people, and as they cannot become slaves without violence, consequently those conveyed to the Persian Gulf must be either kidnapped or purchased while prisoners of war, and that to this practice a degree of moral turpitude attaches, which if insisted upon would tend considerably to diminish the evil.

On this point I have already reported to the government, that in the absence of direct proof against the subjects of Sheik Sultan ben Suggur, I was of opinion that instances of free persons being stolen and brought away for sale, had sometimes occurred among the Joasmees, and it was this belief which led me to enter into the agreement with the members of the general treaty, prohibiting the stealing for purposes of traffic, not merely of free persons, but those coming under the denomination of slaves, whether men, women or children.

Mr. Mackenzie is right in stating that this traffic in young women does exist in all the principal ports. But the greatest part of these females consists of negroes, with a few Abyssinians procured by purchase, and who are considered by the Mahomedan faith as legitimate bondswomen. Instances have, as stated before, taken place of Somalees being brought for sale, but they are rare; and, in some of the ports on the Persian coast, were the circumstance to come to the knowledge of the chief, they would be immediately set at liberty.

Unquestionably the proceedings of the subjects of the sheik of Koweet in stealing the seven Somalee girls from the coast of Barbarah, as reported by the native agent at Muscat, would come under the 9th article of the general treaty, and as such be considered as piracy. But the ruler of Koweet is not a member of the treaty in question, and moreover calls himself a dependent of the Turkish government. I propose, however, writing to him on the subject, and requesting him to exert his influence to put an end to such atrocities.

In making this observation, Mr. Mackenzie, I conclude, means, that a great part of the supply of those who were originally "hoor," or free, is taken from the Somalees, in contradistinction to the supply of negroes and Abyssinians who come under the denomination of "abeed," or bondsmen.

The proportion of the Somalee to the two latter is perhaps as 1 in 100, and these are, as Mr. M. observes, probably either kidnapped or purchased as prisoners of war. It is certainly true that, by the Mahomedan law, the sale of free persons as slaves is expressly forbidden; but I doubt whether, in actual fact, any great degree of moral guilt is considered to be incurred by Mussulmans who engage in this traffic. Those who profess to act up to the tenet of the Koran, will not purchase or sell an individual of this description; but the practice of disposing of prisoners of war as bondsmen is not confined to Africa. I am myself aware of two instances in this country in which Persian and Arab women and children, taken on the occasion of the capture of Bunder Dellum by the troops of the prince of Shiraz, and that of Mohumrah by the present pasha of Bagdad, were carried away and sold as slaves.

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5th. That the subject appears to offer a favourable opportunity for introducing the question of abolishing all traffic in slaves on the part of the Arabian chiefs, or those under their authority.

I have already, in my letter to government of the 10th of January last, fully recorded my opinion regarding the impracticability of abolishing the traffic in slaves on the part of the Arabian chiefs, without the payment of a large sum of money as an indemnification for the sacrifice made by them in surrendering a practice in no way opposed to their own faith, in compliance with the religious views and opinions of others. At the same time I expressed my belief, that, even were this indemnification afforded, causes beyond our control would prevent any benefit being derived from its payment.

4. The only measures I can suggest as likely to mitigate the evil of this nefarious traffic, independently of the agreement entered into this year by the Arabian chiefs, who are members of the general treaty, viz. that prohibiting the kidnapping of slaves under penalty of the seizure and confiscation of the vessels of those concerned, are, 1st, to endeavour to induce his highness the imaum to extend the treaty concluded by Captain Moresby of his Majesty's ship *Menai*, in 1822, so as to include in its provisions the provinces of Cutch and Kattywar,—an object which would be effected by extending the line without which his highness's vessels engaged in the slave trade are liable to seizure from Diu Head, its present limit, to Karachee; or, in the event of this not being attainable, to the mouths of the Indus: 2d, to obtain the consent of the Arabian chiefs, who are not subjects of Persia or Turkey, to the adoption of the same restrictive line: 3d, to have the right of search of all vessels found without the proscribed limits, and open to the suspicion of being engaged in the slave trade, conceded to us by treaty on the part of his highness the imaum, and the maritime Arabian chiefs: 4th, to endeavour to negotiate an agreement by which the purchase or sale of Somalees or such other inhabitants of the African coast as may come under the Mahomedan denomination of "loor," or free, shall be considered as equivalent to an act of piracy, and punished accordingly.

No. 15. FROM the Secretary to Government of Bombay to the Resident in the Persian Gulf, dated 12th December 1838.

I AM directed by the Honourable the Governor in Council to acknowledge the receipt of your letter, dated the 3d September last,* submitting your opinion upon certain points adverted to by Mr. Mackenzie in his communication of the 28th February 1838, regarding the abduction of young females from the coast of Barbarah, and suggesting measures likely to mitigate the evil of the slave trade in those quarters.

2. With reference to that part of the 3d para. of your communication, noticing Mr Mackenzie's remark, that a disgraceful traffic in young women is carried on in every port of consequence in the Persian Gulf, I am desired to observe, that it appears to government highly improbable that the protection secured to the negroes of the coast of Barbarah under the treaty with Sir W. Grant Keir excludes the Abyssinians, many of whom are Christians, and have the strongest claim to the protection of the British Government; but upon this point, however, you are requested to favour government with your opinion.

3. Adverting to the remedial measures suggested by you in your letter, dated the 10th† January last, I am directed to inform you, that the Governor in Council is not at all inclined in favour of making pecuniary compensation to the Arab chiefs in the gulf, to induce them to renounce all participation in this revolting trade.

4. With reference to the last paragraph of your report, I am desired to inform you, that, in regard to those states who have not come under compact to abandon the slave trade, measures only of a persuasive nature, and not those of a compulsory kind, should be resorted to; and the Governor in Council sees no reason why, in any new engagements which may be made, the ports on the coast of Muckram should not be included.

5. I am, on this occasion, desired to request that you will never cease to use your utmost exertions to advance the important object of restricting and suppressing this hateful traffic, on every opening that may offer; and if you are still of opinion that nothing further can be done at present, in mitigation of the evil, than as suggested in the 4th paragraph of your letter, the Governor in Council directs that the measures proposed in this communication be attempted as soon as possible, and which, it is hoped, you will succeed in carrying into effect.

6. The African children, however, must be held to be "free," and should be included in the engagement, unless any obstacle may exist, not now within the knowledge of government; and should any such obstacle appear to exist, you are requested to exert every endeavour on your part to remove the same.

7. In conclusion, I am desired to intimate to you, that the Honourable the Governor in Council approves of your intention to write to the ruler of Koweet regarding the proceeding of

* See No. 14, *supra*.

† See No. 4, *supra*.

of his subjects in stealing Somalee girls from the coast of Barbarah, and requesting him to exert his influence to put an end to such atrocities in future; but you are requested not to lose sight of the Abyssinians.

Appendix XIX.
Gulf Slavery.

FROM Captain S. Hennell, Resident in the Persian Gulf, to the Secretary to Government of Bombay, dated 19th July 1839.

No. 16.

I HAVE the honour to acknowledge your letter, No. 2,378,* in this department, under date the 12th December last, upon the subject of the slave trade carried on in the Gulf of Persia.

2. Adverting to the 2d paragraph of your communication, I beg respectfully to observe, that in noticing Mr. Mackenzie's remark regarding, "a disgraceful traffic in young women being carried on in every port of consequence in the Persian Gulf," I did not for a moment mean to imply that the protection secured to the negroes of the coast of Barbarah, under the treaty with Sir W. Grant Keir, excluded Abyssinia. The carrying away a native of Abyssinia by force is, by that treaty, equally an act of piracy as kidnapping a negro from Barbarah, and would, if proved, be treated as such.

3. The Honourable the Governor in Council may rely with confidence upon my gladly availing myself of every opening which may offer to use my utmost exertions in the restriction and suppression of a traffic so opposed to all the best feelings of humanity. A great advance would be made in this important object, if the imaum were persuaded to extend the line beyond which the vessels of his highness, engaged in the slave trade, are liable to seizure, from Diu Head to Cape Guadel on the coast of Mekran. I have long been looking for the return of his highness to Muscat, in order to have an opportunity of personally communicating with him upon the subject. But judging from the manner in which his return has been procrastinated, it would almost appear as if Syud Said were determined not to revisit his Arabian territories, although it is again currently reported he intends shortly to do so. I found, during my late visit to Muscat, that it was perfectly useless discussing any question of this nature with the regency of that place, as they always gave out that they could not act in any affair, excepting under the special authority and sanction of his highness the imaum.

4. With regard to the maritime Arabian chiefs, I have much satisfaction in enclosing the accompanying Arabic copies and a translation of engagements which have been entered into by Sheik Khuleefa of Aboothabee, Sheik Mukhtoom of Debay, Sheik Abdullah of Amulgaveen, and Sheik Sultan of Rasel Khymah. The first article of these engagements gives our vessels the right of search beyond a line drawn from Cape Delgado to Cape Guadel. The second renders any vessel belonging to the above chiefs, found with slaves on board, beyond the limits specified, liable to seizure and confiscation; the third makes the sale of Somalees an act of piracy.†

1 to 4.
Referring to copies of engagements entered into by Arabic chiefs regarding slave trade.

5. The restrictive line and other remedial measures suggested by me, in my letter of the 3d September 1838, have thus been agreed to by the principal Arabian chiefs of the gulf, and with these concessions I was obliged to remain satisfied for the present, as, with reference to the intrigues now carrying on among them by the emissaries of Khorshid Pasha, it appeared to me impolitic to press them further upon a subject they at all times approach with suspicion and reluctance.

FROM the Acting Secretary to Government of Bombay to the Resident in the Persian Gulf, dated 21st October 1839.

No. 17.

I AM directed by the Honourable the Governor in Council to acknowledge the receipt of your letter, with its enclosures, dated the 19th July last, No. 60, and to request that you will be pleased to embrace the first favourable opportunity of inducing his highness the imaum of Muscat to extend the line of prohibition of the slave trade by his subjects from Diu Head to Cape Guadel, on the coast of Mekran. ‡

2. The engagements entered into by the principal maritime Arabian chiefs regarding the slave trade are considered by the Governor in Council highly satisfactory, and he is pleased to approve the whole of your proceedings now reported.

3. The superintendent of the Indian navy has been requested to issue the necessary instructions to the officers commanding the Honourable Company's vessels of war, on the subject of the articles of the engagements above adverted to.

* No. 15, *supra*.

† The translated treaty with the Rasel Khymah chief, annexed to this letter, is omitted here, because printed *in extenso* in page 176 of the General Report.

‡ On the 17th December 1839, the imaum was induced to assent to the extension of the line. The agreement signed by him is printed *in extenso* in page 176 of the General Report.

APPENDIX XX.

CORRECTION OF SLAVES.

1. DESPATCH of the Honourable Court of Directors, dated 26th September 1838, suggesting the enactment of a law barring impunity of Masters, in virtue of dominical right, for acts against Slaves.
2. Extract paragraphs 2, 3, 4, and 5, from a Letter from the Officiating Secretary to the Government of India with the Governor-general, to the Secretary to the President in Council, dated 18th December 1838.
3. Extract paragraphs 2, 3 and 4, of a Letter, dated 7th January 1839, from the Officiating Secretary to the Government of India, Legislative Department, to Secretary to the Law Commission.
4. Letter No. 222, dated 27th May 1839, from the Officiating Secretary to the Government of India to the Indian Law Commissioners, in reply to above, with enclosures.
N. B.—In answer to this, on the 1st February 1839, the Law Commission addressed to the Supreme Government its first Report on the subject of Slavery in India. It is printed in a distinct form.
5. Letter No. 223, same date, from same to same, requesting a distinct Report on the present state of the law and practice relative to the Sale of Children, and in particular with reference to Crimes occasioned by such traffic.
6. Letter, dated 30th July 1839, from the Chief Secretary to the Madras Government to the Secretary to the Supreme Government of India. The despatch No. 1 had been referred to the Madras Government, which obtained and sent opinion of the Judges of the Madras Sudder Adawlut.
7. Letter of the Acting Register, Madras Sudder Adawlut, dated 17th of July, referred to and enclosed in above, containing opinion of the Sudder Adawlut.
8. Letter from the Chief Secretary to the Bombay Government to the Officiating Secretary to the Government of India, Legislative Department, dated 5th August 1839. The Bombay Government had also been referred to, and obtained and forwarded opinion of the Judges of the Bombay Sudder Adawlut.
9. Letter of the Register, Bombay Sudder Foudjary Adawlut, containing opinion of the Judges referred to and enclosed in the above.
10. Letter, dated 2d September, from the Secretary to the Supreme Government of India, Legislative Department, to the Chief Secretary to the Government of Bombay, in reply to the foregoing.
11. Letter, dated 14th May 1840, of the Secretary to the Government of India, Legislative Department, in answer to above. It enclosed the following from the Register Sudder Adawlut and Advocate General, to whom reference had been made by the Bombay Government.
12. Letter, dated 5th October 1839, to the Advocate General, referred to in above.
13. Letter, dated 5th May 1840, from Register, Sudder Foudjary Adawlut, referred to in idem.

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DESPATCH of the Honourable Court of Directors, dated 26th September 1838.

No. 1.

OUR attention has been drawn to the observations on the subject of slavery contained in note B., which is appended by the law commissioners to the penal code. In those observations it is recommended, "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." This recommendation has our entire concurrence; and we desire, accordingly, with reference to our despatch on this subject, under date the 29th of August last (No. 14), that you will lose no time in passing an enactment to the foregoing effect.

No. 2.

EXTRACT paragraphs 2, 3, 4 and 5, from a Letter from the Officiating Secretary to the Government of India with the Governor-general, to the Secretary to the President in Council, dated 18th December 1838.

2. THE Governor-general is impressed with the belief that the principle has been invariably acknowledged, and acted up to in all courts of justice in Bengal, such being the result of a minute inquiry entered into by the Sudder Dewanny Adawlut for the lower provinces, within the last four years, and to the records of which reference may be easily had for the purpose of verifying his Lordship's impression.

2. A similar equitable principle is believed to have been generally adhered to in the north-west provinces, in the very few instances in which persons have appeared before a criminal tribunal in the character of master and slave, the spirit of the regulations of government requiring that all persons should be dealt within our courts of justice on a footing of perfect equality.

4. It

4. It will remain for the Honourable the President in Council to determine whether, after a consideration of the question, reason might not be shown for deferring the immediate enactment of a law, which there might be some doubt for not considering specially requisite, with reference to the limited prevalence of slavery in the Bengal presidency the very mild character in which it exists, and the established principle in our courts of refusing to recognize any distinction of persons in respect of criminal proceedings.

5. His Lordship has directed me in this letter more especially to refer to the presidency of Bengal. But although he is less accurately informed of the law and practice in the other presidencies, he is led to believe that the same principle of general protection is also extended to them; but he would wish on this head to have further information.

EXTRACT paragraphs 2, 3 and 4, from a Letter, dated 7th January 1839, from the Officiating Secretary to the Government of India, Legislative Department, to the Secretary to the Law Commission.

No. 3.

2. THE President in Council, with advertence to what is said in note B. of the proposed penal code, upon the present state of the criminal law in respect to slaves, and to the observations made in the accompanying extract from the letter of the officiating secretary to the Right honourable the Governor-general, requests that the commissioners will be so good as to favour him with their opinion as to whether the law, as now actually in force over 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, in order that the intention of the Home Government may be carried into complete effect.

3. If the commissioners are of opinion that a special law is requisite with this view, they are requested to frame the draft of such a law for the consideration of the Council of India.

4. The subject of this despatch will of course find a place in the general report upon Slavery in India, which the commissioners are now preparing, but I am directed to request that this letter may be specially answered at the earliest convenience of the commissioners.

FROM the Officiating Secretary to the Government of India, Legislative Department, to the Indian Law Commissioners, dated 27th May 1839, No. 222.

No. 4.

WITH reference to your report on the present state of the criminal law in India relating to slaves, the Honourable the President in Council requests that you will collectively favour him with your opinions on the following points:—

2. First. Whether or not it is expedient now to pass any law to the effect of that directed by the Honourable Court of Directors in their despatch of the 26th September 1838, No. 15, whereof an extract accompanied my letter to your address of the 7th January last.

3. The President in Council remarks on this point, that, as will appear from the perusal of B. of the penal code, much variance in the practice of magistrates exists as to recognizing the right of moderate correction by a master of his slave, it is desirable that doubts upon this subject should be removed, if it can be done without the hazard of creating greater inconveniences.

4. Upon the expediency of formally abolishing the power of a master to correct his slave, in any case, it may be desirable to consider whether it would be regarded, with justice, or, in fact, by any considerable portion of the community, as an infringement of rights and a deterioration of property through the medium of the criminal law. It is also to be considered, 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, from whatever authority, and on whatever occasion.

5. It may deserve inquiry, whether an objection applies to any special law regulating the conduct of masters towards their slaves (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. It has been observed, that if government in this manner formally recognize the state of slavery, it will incur a great danger of directly defeating its own intentions, and of becoming parties to the maintenance of that state, by being led into different measures for the regulation of the rights and obligations incident to it. 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 must be likely to 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. As to this, it is to be observed, that the real operation of the law is much more limited than would at first sight appear from the terms of the provision suggested in note B. of the penal code, which provision, it must be recollected, was intended by the law commissioners to be applied to the whole criminal law, and not merely to supply a particular defect in the existing law. It was made to prohibit immoderate as well as moderate correction; the former of which is already provided against by the existing law. It may deserve consideration whether the operation

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of the law, in simply prohibiting moderate correction, will not, in fact, be still more limited by the general practice of magistrates upon complaints of the nature in question, which is, at present, to lean in favour of the slave. And regarding the effects of usage, the distance of tribunals, the difficulty of establishing a charge of moderate correction, the trifling nature of the punishment which could with justice be inflicted on a master for moderately correcting his slave (it being understood that, according to the existing law, the master would be punishable if he corrected his slave immoderately or even moderately, except for negligence, disobedience or disrespect), it may be proper to inquire whether the act would be likely to have any practical effect of a general or extensive nature.

6. Without entering into a discussion upon the degree to which, in the present condition of Indian society, all slavery is excluded from amongst the Mahomedans by the strict letter of their own law, or upon the degree to which the Mahomedan law and usage have superseded the Hindoo law of slavery, it must be sufficiently clear, 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 by uniform interpretations in favour of the slave.

7. Second. Whether, supposing a law of the nature proposed to 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 chance which such a law would effect in the value of a slave. Also, whether it would be indispensable, that, if the power of moderate correction be taken away, some provisions for enforcing obedience, in the nature of the regulations or by-laws for enforcing the obedience of servants, should be enacted.

8. Third. Supposing a law of the nature proposed to be passed, whether it would be expedient to pass it somewhat in the form of the appended draft Act (A.), which has been slightly altered from the draft prepared by the law commissioners, or in a more general form, as in the appended draft Act (B.), which follows more nearly the words of the honourable court's despatch. It has been objected to the draft (A.), that it attempts to define and to restrict too closely. On the other hand, as will be seen from the report of the law commissioners, the only legal effect of the law would be to take away the right of moderate chastisement for misconduct, such as may be exercised by a parent over his child, or a master over his apprentice. It may, therefore, deserve consideration, whether the Act in the more general form would import a great deal more than its real operation; and though its terms might be very proper in a code which embraced the whole criminal law, they would be inappropriate in an Act which contained only a very partial modification of the existing law. It might be observed that the use of such general terms would have the effect of representing the existing law as much more defective than it really is, and of introducing much greater changes in the usages and rights of the native community than is either intended or effected.

DRAFT Act (A.), enclosed in above.

"It is hereby declared and enacted, that whosoever assaults, imprisons or inflicts any bodily injury upon any person being a slave, either by way of punishment, or of compulsion, or in the prosecution of any purpose, or for any other cause, or under any other pretext whatsoever, under circumstances which would not have justified such assaulting, imprisoning or inflicting bodily injury upon such person, if such person had not been a slave, is liable to be punished by all courts of criminal jurisdiction within the territories subject to the government of the East India Company, as he would be liable to be punished by such courts if such person had not been a slave."

DRAFT Act (B.), enclosed in above.

"It is hereby declared and enacted, that no act which would be an offence if done against a free person shall be exempted from punishment because it is done against a slave."

No. 5. FROM Mr. J. P. Grant, Officiating Secretary to the Government of India, to the Indian Law Commissioners (No. 223), dated the 27th May 1839.

As bearing upon the general question of slavery in India, to which my letter to your address of this date, No. 222, relates, I am directed by the Honourable the President in Council to request that you will prepare and submit for the consideration of government a note of the present state of the law and practice in India relative to the sale of children.

2. It has been observed to the President in Council, that the subservience of a dancing-girl to her keeper is perhaps not greater in India than that of the young prostitute to the panders of Paris and of London; and no magistrate in these days would construe it to be slavery, or in any way sanction the right of control which is assumed. Yet the power over these girls is acquired by purchase; and it is suspected that the traffic in children for the supply of the zenana and the brothel is a source of extensive crime, upon the temptation to which gangs even of systematic murderers, as appears by the published report upon

upon the Megapana thugs, have been founded. All crimes, indeed, by which the possession of the child is obtained are already punishable by law, but it has been observed that such crimes are not easily detected, and that it seems probable that far too much of facility exists in the traffic which follows upon the possession.

The opinion and the 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 with reference to the question to which my separate letter of this date relates.

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FROM Mr. *H. Chamier*, Chief Secretary to Government, Fort St. George, to Mr. *J. P. Grant*,
Officiating Secretary to the Government of India, dated 30th July 1839.

No. 6.

WITH reference to your letter of the 27th May last, No. 346, I am directed by the Right honourable the Governor in Council to transmit for the information of the Honourable the President in Council, the accompanying copy of a letter from the acting register of the Sudder Adawlut, submitting the sentiments of that court on the several points referred to in your letter under reply on the subject of slavery in India, and to intimate that his Lordship in Council entirely concurs in the opinions expressed by the judges, and considers it will be preferable not to legislate at all in respect to slavery, until the whole question in all its bearings has been fully considered.

FROM Mr. *J. H. Davidson*, Acting Register, Sudder Adawlut, to the Chief Secretary to the
Government of Bombay, dated 17th July 1839.

No. 7.

I AM directed by the judges of the Sudder Adawlut to acknowledge the receipt of the extract from the minutes of consultation, under date the 2d July 1839, No. 530, forwarding copies of a letter dated the 27th May last, from the officiating secretary to the Government of India, and of the papers which accompanied that communication on the subject of slavery in India, with reference especially to a despatch from the Honourable the Court of Directors, desiring the Government of India to pass an act to the effect of a provision suggested in note B. of the penal code, and requiring the court of Sudder Adawlut to submit their sentiments on the several points therein referred to.

2. The first question on which the sentiments of this court are required by government is, whether or not it is expedient now to pass any special law to the effect of that of which a copy is annexed, declaring and enacting that any assault committed or personal injury inflicted on a slave shall be punishable in the same manner as if such assault had been committed or personal injury inflicted on a free person.

3. With reference to the observation in paragraph 5 of the letter from the officiating secretary to the Government of India, dated 27th May 1839, 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 of the Sudder Adawlut 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 judges required, under the provisions of section 7, Regulation X. of 1816, as illustrated by the circulated order of 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.

4. Regulations for the punishment of servants for breach of duty "or departure from proper demeanour" have been enacted in section 18, Regulation XII. of 1827, in the code of Bombay; but there are no such provisions in force under this presidency, where, therefore, the comparison between the condition of a servant and that of a slave exempted from correction by his master cannot be made.

5. In the note B. to the penal code, it appears to be argued that the masters of slaves in these territories exact service by the use of violence, and that the sense of reciprocal benefit is not brought into operation under the system of slavery there prevailing.

6. But the information contained in the official reports on this subject does not appear to warrant this conclusion. It is certain that the ill-treatment of slaves by their masters is not general, if indeed it exists at all to any great degree; and as a motive of the nature of that adverted to by the law commission as not existing is observable, that the slave is fed, housed and clothed by his master, the enactment of a penal code abrogating all reference to the Mahomedan law will set aside the rule above mentioned, and under the general provisions for the punishment of assaults, the masters of slaves will, by the operation of that "abhorrence of slavery" noticed in the letter from the officiating secretary to the Government of India, be deprived of any power which they may now exercise of enforcing obedience by personal correction.

7. Some interval must elapse before the promulgation of a penal code. The subordinate functionaries, whose opinions have been required upon that framed by the law commission, have not yet all sent in their opinions, and the judges of this court have yet to commence the laborious revision of this code imposed upon them, as well as to digest the opinions laid before them. The occupation of their time and attention by their proper judicial duties leaves little leisure for this arduous undertaking.

8. But it does not appear to the court of Sudder Adawlut that in the meantime any special enactment on the subject is required. The observations in the letter under consideration

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ation show that there are grave reasons for questioning the expediency of any special legislation on the point in question, and that any practical good commensurate with the danger of evil would result from enacting the proposed law cannot, in the opinion of the judges of the Sudder Adawlut, be expected.

9. With reference to the second question in paragraph 8, it appears to the judges that no satisfactory conclusion as to the claim for compensation could be formed, or estimate as to the quantum of compensation be made, without local inquiries, into which it would not be proper for this court to enter without the special authority of the government.

10. The provisions in the Bombay code for the punishment of servants would be nugatory in the case of slaves, from whom a fine could not consistently be levied, and to whom "ordinary imprisonment without labour" for 14 days would be rather a boon than a punishment.

11. If a law of the nature proposed shall be determined upon, there can, in the opinion of the judges of the Sudder Adawlut, be no doubt that the Draft Act (A.) would be preferable to (B.), for the reasons stated in para. 9 of Mr. Secretary Grant's letter.

12. The latter Act would, in the opinion of the Sudder Adawlut, be calculated to occasion serious misconception.

No. 8. FROM Mr. *L. R. Reid*, Acting Chief Secretary to Government, Judicial Department, Bombay, to the Officiating Secretary to the Government of India, in the Legislative Department, dated 5th August 1839.

IN acknowledging the receipt of your letter, dated the 27th of May last, No. 342, enclosing the draft of a proposed Act, providing that a personal injury or an assault committed on a slave shall be punishable in the same manner as if committed on a free person, I am directed by the Honourable the Governor in Council to transmit to you, to be laid before the Honourable the President in Council, copy of a letter from the register of the Sudder Foujdary Adawlut, dated the 20th ultimo, reporting the opinion of the judges of that court, that there is no necessity to pass a special law for the protection of slaves under this presidency, since the laws at present in force are applicable to them, and an offence which would be punishable when committed against a freeman would not be exempt from punishment if done against a slave.

No. 9. FROM Mr. *P. N. Le Geyt*, Register, Sudder Foujdary Adawlut, Bombay, to Mr. *J. P. Willoughby*, Secretary to the Government of Bombay, dated 20th July 1839.

I AM directed by the judges of the Sudder Foujdary Adawlut to acknowledge your letter, No. 1,675, dated the 3d instant, giving cover to a despatch from the officiating secretary to the Government of India on the subject of a proposed law relative to a personal injury or an assault committed on a slave, and requesting their opinion on the same.

2. In reply I am instructed to observe, that there does not appear to be any necessity to pass a special law for the protection of slaves throughout the zillahs of this presidency, as the law in force is as applicable to them as to freemen, and no offence done against a freeman is by the Bombay code exempted from punishment because it is done against a slave.

3. As the power of a master to correct his slave has never been admitted by our code, the general practice of the magistrates has been against it, although exceptions are quoted in the note B. to the penal code; and it is not considered that a strict enforcement of this rule would be looked upon by the community as an infringement of right, or a deterioration of property; for masters are also protected against the misconduct of their slaves, as the regulations for the punishment of servants, contained in section 18, Regulation XII. of 1827, have been ruled by this court, under date the 4th November 1830, to be applicable to slaves.

No. 10. FROM Mr. *J. P. Grant*, Officiating Secretary to the Government of India, Legislative Department, to the Acting Chief Secretary to the Government of Bombay, dated 2d September 1839.

I AM directed by the Honourable the President in Council to acknowledge the receipt of your letter, No. 2,037, under date the 5th ultimo, with its enclosure, and in reply to communicate the following observations:—

2. His Honor in Council is of opinion, that for the purpose of the report on slavery, as well as with respect to the particular Act under consideration, it will be desirable to inquire of the Company's advocate at Bombay, whether, in any proceedings for false imprisonment, the Bombay regulation would amount to a legal justification, the person imprisoned being a slave, and not under any specific contract of service.

3. It is desirable also to inquire of the judges of the Sudder Foujdary Adawlut, at Bombay, what is the number of cases in which the regulation has been put in force against slaves, and whether, under the Bombay regulations, a master punishing a servant (not being a slave), young or old, by moderate correction, for gross negligence or misconduct, would be punishable as for an assault.

4. With regard to the "general practice of magistrates," there is no doubt that, as regards immoderate correction, or even moderate correction without fault, every kind of law and the universal practice of magistrates throughout India, is in favour of the slave. What his Honor

Honor in Council particularly desires to know is, whether the Sudder Foujdary Adawlut mean that the general practice applies to moderate correction for negligence or misconduct. If such be the case, he is further desirous of being informed of the number of cases in which masters have been punished by magistrates for moderate correction of their slaves.

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FROM Mr. *W. R. Morris*, Secretary to Government, Judicial Department, Bombay, to Mr. *T. H. Maddock*, Secretary to the Government of India, in the Legislative Department, dated 14th May 1840.

No. 11.

I AM directed by the Honourable the Governor in Council to acknowledge the receipt of the officiating secretary's letter, dated the 2d of September last, No. 472, relative to a proposed law providing that a personal injury or assault committed on a slave shall be punished in the same manner as if committed on a free person; and in reply, to transmit to you for the purpose of being laid before the Right honourable the Governor-general of India in Council, copies of the documents noted below,* submitting the opinion of the judges of the Sudder Adawlut, and of the acting advocate-general, on the points noticed in the 2d, 3d and 4th paragraphs of Mr. Grant's letter.

FROM Mr. *Howard*, Acting Advocate General, to the Acting Chief Secretary to Government of Bombay, dated 5th October 1839.

No. 12.

I HAVE had the honour to receive your letter of the 3d of this month, with enclosures. With respect to the second paragraph of the letter from the officiating secretary to the Government of India, dated the 2d ultimo, there is no regulation or other law prevailing in Bombay authorizing slavery in any form. The English law, except in certain cases of contract and inheritance, extends over the whole island. I need scarcely add, therefore, that to an action or criminal prosecution for false imprisonment, it would be no defence to aver that the plaintiff or prosecutor was the slave of the defendant.

FROM Mr. *G. Grant*, Register, Sudder Foujdary Adawlut, to Mr. *W. R. Morris*, Secretary to Government, Judicial Department, Bombay, dated 5th May 1840.

No. 13.

WITH reference to Mr. Chief Secretary Reid's letter, dated 3d October 1839, No. 2,617, and its accompaniment, being copy of a letter from the secretary to the Government of India, dated 2d September 1839, on the subject of a proposed law for the protection of slaves in cases of personal injury or assault committed on them, I am directed by the judges to state for the information of the Government of India, that there are no cases on record of the regulation against slaves having been put in force in this presidency, save at Rutnagiree, where there are three instances of female slaves who had absconded having been restored to their masters.

2. With regard to the query "whether, under the Bombay regulations, a master punishing a servant (not being a slave) by moderate correction, for gross negligence or misconduct, would be punishable as for an assault," the judges are of opinion that the master would be obnoxious to penal consequence in point of law. So much, however, do the interests of master and servant reciprocate, that, in point of fact, the law, as in other parallel cases, is seldom appealed to; and when it is, its penal exercise must be entirely governed by the character of each individual case. For instance, the punishment of a master for correcting his servant would be graduated by the extenuating or aggravating features of the offence. The knowledge of this effect acts, I am desired to observe, as a very salutary restraint on the master, whilst it simultaneously checks improper conduct on the part of the servant, and that the mere knowledge of the existence of this law, combined with the reciprocal interests of master and servant above alluded to, effects what should be the aim of all penal law, namely, the prevention of necessity for its exercise.

3. In reply to the other points of reference, I am directed to state, that the only case in which the law has been enforced against a master for ill-treating a slave appears on the records of the Surat zillah, where a person was punished, in 1835, with a fine of five rupees, or five days' imprisonment, for putting his slave in the stocks; and in the following years, two persons were accused of a similar offence, and dismissed for want of proof. No other case appears to have occurred throughout the zillahs under this presidency.

* See Nos. 1, 12 and 13 of this Appendix.

(True extracts.)

East India House,
23 April 1841.

T. L. Peacock,
Examiner of Indian Correspondence.