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SLAVE TRADE.

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DESPATCHES

WITH RESPECT TO THE

PRACTICE OF THE SLAVE TRADE

BY THE

SUBJECTS OF THE NATIVE PRINCES OF INDIA.

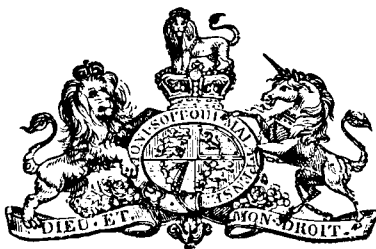
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Presented to both Houses of Parliament by Command of Her Majesty.

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PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

FOR HER MAJESTY'S STATIONERY OFFICE.

1876.

[C.—1546.] *Price 2d.*

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## SLAVE TRADE.

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### DESPATCHES.

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Judicial and Legislative, No. 33.

To His Excellency The Right Honourable The Governor General of India  
in Council.

MY LORD,

India Office, London, 16th September 1872.

Para. 1. I desire to invite the serious attention of your Lordship in Council to the statements contained in the Despatches addressed by Dr. Livingstone, Her Majesty's Consul, Inner Africa, to the Secretary of State for Foreign Affairs, which have lately been presented to both Houses of Parliament.

2. You will observe in what strong terms and with what repeated allegation Dr. Livingstone asserts that the machinery by which the slave trade in Eastern Africa is chiefly carried on is under the control and management of British subjects, or natives of protected states of India. "It is well known," he says, speaking of one whom he terms the richest Banian in Zanzibar, "that the slave trade in this country "is carried on almost entirely with his money and that of other British subjects. "The Banians advance the food required, and the Arabs proceed inland as their "agents, commit the man stealing, or rather murdering, and when slaves and ivory "are brought to the coast, the Arabs sell the slaves, the Banians pocketing the "price." I presume that here and in other passages Dr. Livingstone employs the name of Banian in the popular sense which it bears in Western India,—an Indian merchant, settled either as agent or principal in any of the chief places of traffic in the Persian Gulf, or Red Sea, or on the coast of Africa. "The Manyema can- "nibals," he says elsewhere, "are innocents compared with our protected Banian "fellow subjects. By their Arab agents they compass the destruction of more "human lives in one year than the Manyema do in ten; and could the Indian "gentlemen who oppose the anti-slave trade policy of the Foreign Office but witness "the horrid deeds done by the Banian agents, they would be foremost in decreeing "that every Cutchee found guilty of direct or indirect slaving should forthwith "be shipped back to India or to the Andaman Islands."

3. Such averments, made by one who has spent a large part of his life among those very African tribes of which he here depicts the sufferings, and corroborated as they are by general report and belief, throw no inconsiderable liability on the Imperial Government, and on the Government of India as more immediately affected, either to refute them if possible, or to take seriously in hand the duty which devolves on them. That duty is to prevent Her Majesty's Indian subjects from being agents in the monstrous abuses which are thus disclosed, and to inflict the severest punishments which the law allows upon those who lend themselves, directly or indirectly, to the prosecution of the slave trade.

4. Her Majesty has already announced to Parliament that the subject is one which will seriously occupy the attention of her Ministers during the recess. It embraces several distinct matters,—the disposal of our naval force for the purpose which it has so long and so zealously served, of repressing the slave trade itself; the consideration and revision of the treaty obligations which now bind us with African and other potentates; the question, whether any such measures as are suggested by Dr. Livingstone, for the formation of establishments on the east coast of Africa, would be practicable or beneficial.

5. On all these your opinion will be duly invited, or full information given you of the views which may be adopted by Her Majesty's Government. My present purpose is to impress upon you, as already stated, the duty of endeavouring to suppress this slave trade, if it exists at its alleged Indian source, by bringing to justice those who really nourish and maintain it by finding funds and agents for its purposes.

6. It is scarcely necessary that I should remind you that the British law against slave trading, chiefly contained in the two Acts, 5 Geo. 4, c. 113, known as "Brougham's Act," and 6 & 7 Vict., c. 98, which extends the provisions of the former is as stringent and sweeping in its provisions as possible. Not only the act of carrying away and removing slaves, or persons intended to be dealt with as slaves, is rendered unlawful, but to contract for their removal, or for their shipping, transshipping, removing, and so forth, is equally unlawful; that all persons who engage in such traffic, either directly or indirectly, by so contracting as aforesaid, or who fit out slave ships, or who advance money to be employed in slave trading, or who guarantee slaving adventures, or ship goods to be employed in the slave trade, are guilty of felony. Some of these enactments, indeed, apply specially to the case of slave trading by sea, which was chiefly in the contemplation of the Legislature, but others are more general, and I apprehend that, if any British subject were engaged, either personally or indirectly, in an adventure for the transfer of slaves, or persons intended to be dealt with as slaves, from one part of the African continent to another, he would be as fully within these provisions as if he committed similar offences at sea or in relation to sea adventure.

7. It is true, of course, that the British Government cannot interfere, except through the provision of treaties, with the removal of slaves from one part of an independent country, in which slavery is lawful, to another, and it is true also that by the existing arrangement with Zanzibar, which is now chiefly under our consideration, the Sultan reserves the right to transport slaves from one part of his dominions to another within certain geographical limits. But it by no means follows that a British subject assisting in a transport which, as regards Zanzibar subjects, is lawful, may not be himself guilty of slave trading within the provisions of the Act, the only exception noticed by the older Act is where the British subject is or was concerned in the removal of slaves from one part of a British colony in which slavery was then lawful to another. No such exception is made as regards foreign States or Colonies in which it was equally lawful; and for any intermeddling with such transfer on the mainland or on other points of the coast, British subjects are, beyond all doubt, punishable under the Statute.

8. I may add, that if any legal difficulty is experienced in applying these laws to Indian subjects, arising out of peculiarities of Indian jurisprudence, the Act 32 & 33 Vict. c. 98, to define the power of the Governor General in Council in certain cases, appears to give Legislative powers amply sufficient to meet any such difficulty.

9. It is to be observed that ever since the slave trade began to incur the hostile notice of our laws, the invention of the evil-doer concerned in it has been taxed to invent devices under which it may be carried on with an apparent attention to legality. I interpret in this way a passage in Dr. Livingstone's despatches, in which he says that the gangs which are dragged coastwards to enrich the Banians are usually not slaves, but captive free people.

10. But courts of justice are armed with ample powers to follow out the iniquitous traffic under all its disguises, if proof of fact can be brought home to the parties charged with it.

11. And I need hardly add, that offences against this law may be committed in any part of the world, although not subject to British jurisdiction, and that the legal manner of dealing with them, wherever committed is fully provided.

12. If, therefore, the most active agency of this evil is to be found in India, and its originators are British subjects, it is difficult to conceive but that, with determination and energy on the part of your internal Government, its detection and punishment may be secured in a sufficient number of instances to effect the main object of deterring from the offence.

13. Persons, to be punishable under it, must, no doubt, be British subjects, that is, not necessarily by birth or naturalization, but persons of whatever nationality domiciled among us. But Natives of Indian protected States, not domiciled among us, are, no doubt, not within the penalties of the Act for things done out of our territory. And I have noticed that, in one passage, Dr. Livingstone terms these slave traders "Kutcheen," as if this appellation, indicating that they are subjects of a native potentate, either belonged to them in popular language, or was assumed by them.

14. With this branch of the subject I must leave you to deal, but cannot but suppose that you would have no serious difficulty in obtaining from those Native Rulers, whose subjects are supposed to be concerned in the business, engagements

which should place such subjects, as regards the slave trade, on precisely the same footing as British.

15. I should recommend you consulting your law adviser as to the best mode of carrying into effect inquiry, followed, if necessary, by legal proceedings against individuals on a subject which Her Majesty's Government have so much at heart, and on which they are certain that their endeavours will be appreciated, and the success of those endeavours desired throughout the civilized world.

I have, &c.

(Signed) ARGYLL.

No. 58. of 1873.

GOVERNMENT OF INDIA. FOREIGN DEPARTMENT.—SECRET.

To His Grace the Duke of Argyll, K.T., Her Majesty's Secretary of State for India.

MY LORD DUKE,

Simla, the 16th June 1873.

IN forwarding, for the consideration of Her Majesty's Government, the correspondence noted in the accompanying Abstract of Contents, we have the honour to submit our views and suggestions on the subject of your Grace's despatch, No. 33, dated 16th September 1872, regarding the connection of Her Majesty's Indian subjects with the East African slave trade.

2. We communicated a copy of that despatch to the government of Bombay, and to Colonel Pelly, for their observations, and transmit the replies which we have received. We have also taken the opinion of the Advocate General at Calcutta upon the legal aspect of the questions raised in your Grace's despatch.

3. We have since received a copy of the elaborate opinion\* of Sir Bartle Frere on the subject, as expressed in his memorandum regarding Banians or Natives of India in East Africa, together with the views of Kazee Shahab-ood-deen.

4. It appears that the trade of the East Coast of Africa, and especially that of Zanzibar, is now for the most part necessarily associated, directly or indirectly, with the traffic in slaves. That trade is to a very considerable extent carried on with the capital of Her Majesty's Indian subjects and other natives of India, and therefore there can be no doubt that Her Majesty's Indian subjects, in common with all those who engage in traffic with that country, are necessarily more or less involved in the slave trade. We are, however, gratified to learn that the merchants whose business connects them with this traffic have expressed to Sir Bartle Frere their anxious desire to disconnect themselves from it,—a desire which Sir Bartle Frere considers to be genuine.

5. Such being the facts of the case, we have carefully considered the manner in which we can best prevent the continued connection of Her Majesty's subjects and other natives of India with the slave trade and the existing state of the law as affecting such transactions.

6. The first question for consideration is whether the Indian law against slavery is as comprehensive as the English law in respect to the acts which are declared to be penal offences. On this subject your Grace will perceive that the Advocate General in Calcutta and the Advocate General in Bombay concur in thinking that the Indian Penal Code embraces at least as wide a range of offences as the English statutes. Indeed, the Advocate General of Bombay considers the range of the Indian law to be somewhat wider. With the exception of the offences mentioned in the latter part of section 11. of 5 Geo. IV. c. 113. all the offences under the English law are either acts of actually dealing in slaves, or acts of knowingly taking a part directly or indirectly in promoting and abetting dealing in slaves. The first of these two classes of offences can be effectually dealt with under sections 367, 370, and 371, of the Indian Penal Code, and the others under the sections relating to abetment, while the sections of the Penal Code which relate to forgery and cheating sufficiently cover the acts referred to at the end of section 11. of the statute.

7. With reference to paragraphs 6 and 7 of your Grace's despatch, however, the Advocate General of Bombay seems to be of opinion that, under certain decisions to which he refers, traffic in slaves carried on in a country where slavery is lawful is not a crime by English law, and that the English statutes do not apply to a slave trade carried on by land. These are questions we do not feel ourselves called upon to examine, and which we must leave to your Grace to decide in communication with the legal advisers of the Crown. But we would point out that if Mr. Scoble's view be correct, very few of the acts described in Sir B. Frere's memorandum, on the connection of British subjects with the slave trade in Zanzibar, would be offences punishable under the English statutes; and, moreover, we apprehend that it would be extremely difficult, so long as the treaties with Zanzibar which recognize the slave trade within certain limits are in force, to secure a conviction under the Indian Penal Code for trading within those limits. Her Majesty's Government will decide whether, with reference to Mr. Scoble's opinion, legislation is necessary; but in any case we consider it of paramount importance that in no treaty to which the British Government is a party should any clause be allowed to remain giving countenance to the slave trade directly or indirectly within any sphere however restricted.

8. It will be observed that the Advocate General of Bombay suggests that the mere holding of a person as a slave should be made penal by striking out of section 370. of the Penal Code the words "*against his will.*" This, however, would erect into crimes a great number of acts which both English and Indian law have abstained from touching. By the joint operation of Act V. of 1843 and the Penal Code Indian law has deprived slavery of all its legal incidents and has placed the slave in such a position that he may be free if he chooses to exert his will. Under these legal provisions slavery must die out in course of time. But there are still a great number of cases in which people are living together on the relation recognized by both sides of master and slave, and in which it would be not only a harsh thing but probably prejudicial to the slaves themselves to interfere by law. This would be so even in India, where the legal incidents of slavery have been destroyed for 30 years, the idea itself decreasing in strength during at least that period of time. Much more would it be so in the countries where we are now endeavouring to stop the slave trade, to which the idea of service without slavery must be to a great extent strange. We think that our existing Penal Code must be judiciously worked in order to avoid cases of hardship in its extension to new tracts of territory. And we would not willingly at the same time extend its scope so as to enlarge the number of criminal acts beyond the existing range of either English or Indian law.

9. The next matter for consideration is the persons who are, or are to be made, subject to the law and the Courts by which they are to be tried. There are three classes upon whom the law should be brought to bear: (1) Native Indian subjects of Her Majesty; (2) European British subjects; (3) Natives of Indian States under British protection.

10. As regards the first class there is no difficulty. Act XI. of 1872 applies to the whole of British India and to all native subjects of Her Majesty without and beyond British India; it extends the Indian criminal law to them wherever they may be, and subject to certain provisos enacts that within British India they may be dealt with, in respect of offences wheresoever committed, as if such offences had been committed in any place within British India in which they may be or may be found. If, therefore, such persons commit any of the acts forbidden by the Indian Penal Code, wherever they may be, they offend against the Indian criminal law, and if arrested in British India may be tried by the ordinary Courts. If arrested elsewhere they may be tried according to the jurisdiction which the British Government exercises in that place by treaty, capitulation, agreement, grant, usage, sufferance, or other lawful means. Such jurisdiction we already exercise at Zanzibar and Muscat by treaty or usage; we possess it also in the territories of the petty Arab Chiefs on the shores of the Persian Gulf; and under the provisions of Act XI. of 1872 the offender can, if necessary, be committed for trial before the High Court at Bombay.

11. Under Act XI. of 1872 European British subjects are amenable to our Courts for offences committed against the Indian criminal law within the dominions of Princes and States in India in alliance with Her Majesty in the same way as native British subjects are amenable for offences committed anywhere. But under

28 Vict. cap. 17, section 1, the Governor General in Council has no power to legislate for European British subjects beyond British India except within the dominions of Princes and States in India in alliance with Her Majesty. Such persons, therefore, are not amenable to Indian laws for offences committed at Zanzibar, Muscat, and similar places. Under the English Foreign Jurisdiction Act jurisdiction over European British subjects has been conferred on the Consuls at Zanzibar and Muscat by the orders of Her Majesty in Council noted in the

\* Order, dated 4th November 1867.

† No. 7, dated 10th January 1873.

No. 20, dated 24th January 1873.

No. 79, dated 2nd June 1873.

margin\*. It is exercised also in a certain degree by the Political Resident in the Persian Gulf, and if the proposals made in our despatches noted in the margin† be approved, some of the existing difficulties in regard to jurisdiction over European British subjects in the countries bordering the Persian Gulf will be removed. Still the law to which they are subject is not the law of India, and we are of opinion that if control is to be efficiently exercised over the connection of Her Majesty's subjects with the slave trade, it is very desirable that all classes of Her Majesty's subjects in those countries should be amenable to one law and to one tribunal. We, therefore, suggest for the consideration of Her Majesty's Government, the expediency of enlarging the powers conferred upon us by 28 Vict. cap. 17. so as to place European British subjects in countries adjacent to India under the provisions of Indian law, and the forms of procedure and legislation, past and future, connected therewith. These countries should include the Coast of Beloochistan, the shores of the Persian Gulf and the Arabian Coast as far as Aden, and the African Coast from some point opposite Aden to about Delagoa Bay, with the islands adjacent to those coasts. We have the less hesitation in recommending this, as many European British subjects differ in no respect, and still more differ very slightly, from natives of India, and owe the distinction to accident and the locality in which they or one or both of their parents or grand-parents happened to be born. Moreover, the Order of Her Majesty in Council already referred to makes the Bombay High Court the paramount Court of Justice.

12. We have spoken of European British subjects because they are far the most important class of persons for whom we cannot already make laws. But there may be others engaged in criminal acts who are not Europeans, but Asiatics. If our proposal with respect to European British subjects is acceptable it will follow that we should receive power to make laws in the designated territories for all British subjects without distinction.

13. The position of the subjects of protected Indian States remains to be considered. By article 4. of the treaty concluded by His Excellency Sir Bartle Frere with the Sultan of Muscat, "Her Britannic Majesty engages that natives of Indian States under British protection shall, from and after a date to be hereafter fixed, be prohibited from possessing slaves, and in the meanwhile from acquiring fresh slaves." Your Grace is aware that the native States of India, either under treaty engagements or by custom and usage, do not possess the power of holding diplomatic relations either with each other or with foreign powers. The external sovereignty is vested in the British Government, and the native States can hold no communications with foreign powers except with the knowledge and sanction and through the medium of the Government of India. Consequently, the native States are unable to afford their subjects abroad, who are engaged in commerce or other pursuits, the protection which they require; and that duty devolves upon the British Government. It has, therefore, been the practice at Zanzibar, Muscat, in the Persian Gulf and elsewhere, to treat as British subjects all persons belonging to the protected States of India, who register themselves at the office of the Political Agent or the Consul. At the same time this practice has not been formally recognised by the Legislature. The liability of such persons to Indian law, and the jurisdiction of Indian Courts might, therefore, be contested, and our power to legislate for such persons is defective just as it was defective in the case of our own native subjects until the defect was removed by 32 & 33 Vict. cap. 98. We, therefore, suggest that in order to prevent the practice being called in question in our own Courts which might disclaim jurisdiction, provision should be made by Act of Parliament to meet the case.

14. We have now specified the cases as to which it appears to us to be necessary that alterations should be made in the Imperial law in order to carry out effectually the punishment of Her Majesty's subjects and the subjects of protected States



who may render themselves liable to the penalties attached by the Indian Penal Code to dealings with the slave trade. A draft of the clauses which in our opinion might suitably be enacted will be found enclosed in this despatch. It remains, however, to consider how far the law as amended can be applied to those who will come under its provisions but who are resident in foreign territory. This appears to us to depend upon treaty engagements or usage. We have pointed out in paragraph 10. that at Zanzibar, at Muscat, and on the shores of the Persian Gulf the British Political Agent and Consul possess jurisdiction over British subjects. As regards the subjects of protected Indian States in those places we have explained in paragraph 13. that the same jurisdiction has been exercised; but on this subject it appears to us to be desirable that no doubt should exist, and we have, therefore, thought it advisable, as your Grace was informed in our Despatch, No. 87, dated the 9th instant, to instruct the Political Agent to obtain from the Sultan of Muscat, a formal recognition of it. In regard to Zanzibar a similar stipulation should form one of the cardinal points to be borne in mind in any measures adopted in consequence of the Sultan's refusal to enter into fresh negotiations. And in all future slave trade treaties provision should be made for the exercise of our jurisdiction over both British subjects and the subjects of the protected States of India where this right has not been already secured by treaty or usage.

15. We do not think it necessary to enter into any separate engagements with the native States of India on this subject, although we shall give all publicity to proclamations such as that issued by the Rao of Kutch, and forwarded to your Grace in our Despatch, No. 22, dated 31st January last.

16. With regard to the action to be immediately taken for the purpose of dealing with breaches of the law against the slave trade, the Government of Bombay has informed the public prosecutor and the Commissioner of Police of the desire of Government that all persons offending against the slave laws should be rigorously prosecuted. We have further issued a proclamation which will be republished annually in Arabic and Guzerati, warning all persons concerned in the slave trade of the penalties to which they render themselves liable; and it will be our pleasure in any other practical way that may occur or be suggested to us heartily to co-operate with Her Majesty's Government to the full extent of our power in the suppression of this infamous traffic.

We have, &c.

(Signed)	NORTHBROOK.
„	NAPIER OF MAGDALA.
„	B. H. ELLIS.
„	H. W. NORMAN.
„	A. HOBHOUSE.
„	E. C. BAYLEY.

Enclosure No. 15. to above Despatch No. 58.

A BILL for the further enlargement of the powers of the Governor-General of India in Council at Legislative Meetings.

WHEREAS under an Act passed in the session holden in the 32nd and 33rd years in the reign of Her present Majesty the Governor-General of India in Council is empowered to make laws for native Indian subjects of Her Majesty without and beyond British India: And whereas it is expedient for the purpose of more effectually punishing offences against the law relating to the slave trade and for other purposes to enlarge the said power in manner herein-after appearing: Be it enacted, &c.,—

1. The Governor-General of India in Council shall have power, at meetings for the purpose of making laws and regulations, to make laws and regulations for all subjects of Her Majesty, without distinction of race, residing or being in the following places; (that is to say,)

(a) The territories of the Khan of Khelat and of the Sultan of Muscat in Mekran and Arabia;

- (b) The coasts of Beloochistan and of the Bunder Abbass districts and the shores of the Persian Gulf ;
- (c) The coast of Arabia from Ras Mussendom to Cape Bab-el-Mundeb ;
- (d) The territories of the following tribes near Aden, namely,
- |               |             |
|---------------|-------------|
| The Abdali.   | The Amir.   |
| The Kudli.    | The Subahi. |
| The Akrabi.   | The Yafai.  |
| The Howshabi. | The Oulaki. |
| The Alawi.    |             |
- (e) The coast of Africa from Ras Sejarne to Delagoa Bay ;
- (f) The territories of the Sultan of Zanzibar ;
- (g) The seas and islands within ten degrees of latitude or longitude from such coasts and shores respectively.

2. And whereas under treaties and arrangements between the British Government and the several princes and states in India in alliance with Her Majesty such princes and states are bound to have no conventions or engagements or communications with foreign powers, and have, in fact, no such conventions or engagements or communications : And whereas the subjects of such princes and states are, when residing or being in places without and beyond India, entitled to the protection of the British Government, and do, in fact, receive such protection equally with the native Indian subjects of Her Majesty. It is hereby further enacted as follows :

The Governor-General of India in Council shall also have power at meetings for the purpose of making laws and regulations to make laws and regulations for all subjects of such princes and states residing or being in places without or beyond India :

And the Governor-General of India in Council may exercise over such subjects equally with the native Indian subjects of Her Majesty all such powers and jurisdictions as by treaty, capitulation, agreement, grant, usage, sufferance, or other lawful means the Governor-General of India in Council has or can exercise in any such place.

3. The preceding sections shall be read with and taken as part of section 22 of the Indian Councils Act, 1861.

No. 63, dated Zanzibar, 17th September 1873.

FROM POLITICAL AGENT and HER MAJESTY'S CONSUL-GENERAL, ZANZIBAR, to  
SECRETARY to the GOVERNMENT OF INDIA, FOREIGN DEPARTMENT.

I HAVE the honour to report, for the information of the Right Honourable the Governor-General in Council, having committed for trial before the High Court at Bombay Kanjee Laljee of Cutch domiciled in Zanzibar.

2. The enclosures (as per Schedule) to this letter will clearly show the nature of the offence, and the various steps taken in order to prepare the case for transmission to Bombay.

3. The slight discrepancies between the depositions of the slaves and the voluntary admissions of Kanjee Laljee are, it will be seen, immaterial to the evident fact of this particular case, and the only defence likely to be raised will be that the accused has through long residence denationalized himself and become to all intents and purposes a Zanzibar subject, and in support of this it may be adduced that by failing to enrol his name on the list of British protected subjects, as required by clause 30 of the Order of Her Majesty in Council, dated 9th August 1866, he is *de facto* outside British protection, and as a consequence without British jurisdiction.

4. I am not aware that it is the intention of Kanjee Laljee to adopt the above line of defence, which in the hands of a clever pleader might be used to some purpose.

5. But under the circumstances of this case, and the probability of such an argument, I venture to think it my evident duty to point out with all due respect, for the information of the Right Honourable the Governor-General in Council, the fact that up to the present the Law Officers of the Crown have not communicated any decision as to the working of the British Naturalization Laws

with regard to natives of protected Indian States in the dominions of the Sultan of Zanzibar.

6. With a certain local knowledge and the fact that the working of such Naturalization Laws must in an independent country depend upon the wording of Treaties concluded between Great Britain and such country, I however am of opinion that a strong bar may be opposed to Zanzibar jurisdiction in this matter by the reading of clause IV. of the late Treaty.

33 Vict. cap. 14., and 33 & 34 Vict. cap. 102.

Treaty between Her Majesty the Queen and His Highness Syud Burgash, dated 5th June 1873.

7. This clause, which Her Majesty the Queen engages to carry out, provides that natives of Indian protected States shall be prohibited from possessing slaves, and His Highness by being a contracting party to such clause is clearly bound to relinquish any right likely to interfere with its proper working.

8. Hence no subject of a protected Indian State can claim the benefit of the operation of any Naturalization Acts which might imperil the due fulfilment of His Highness' obligation to the British Government.

9. The question of jurisdiction of the Court overcome, the accused will be unable to plead a general issue, which he might have done had he declared any slaves he held in February 1869, when our policy being changed those Indians (who had previously been allowed, with the cognizance of Government and under sanction of Colonel Pelly, and subsequently Colonel Playfair, to hold slaves) were called on to register their slaves at the Agency, who, on such registration, were allowed to retain on condition of neither transferring or selling.

10. By public proclamation from February 1869 any slave held by any native of India not so registered was held illegally, even in the case where such native of India claimed the protection of the Sultan and failed to enrol himself at the Agency as a British subject.

11. However, Kanjee Laljee's name does not appear as a proprietor of slaves on this exempted list of February 1869.

12. This matter of jurisdiction would appear settled by the Sultan's evident adoption of my reading of clause IV., which appears from the most conciliatory and humble manner in which in letter annexed he begs the release of the accused who claimed to be his subject for many years, and is still further evidenced by the fact that His Highness has made no reply to my answer which was written with the evident purpose of the question at issue.

His Highness the Sultan to Ali bin Saleh.

Dr. Kirk to His Highness the Sultan.

13. The arrest and committal of Kanjee Laljee has had a most salutary effect, and the more so as he is a quiet and respectable person. Had he been a confirmed dealer in slaves, or a man of questionable character, the matter would have only caused a momentary sensation instead of shaking, as it has done, the last hope clung to by many Indians, *viz.*, that they might yet hold slaves by leaving British protection and enrolling themselves as Zanzibar subjects, a line of action which formerly was unfortunately not only permitted but sanctioned.

14. I may here confidently state that should this case end, as it can hardly fail to, in a conviction of the accused before the High Court of Bombay, I do not foresee that it will be probable any more cases of a similar nature need be sent on from Zanzibar.

15. Still I should not conceal from the Right Honourable the Governor-General in Council that cases of far greater gravity must be inevitably brought to light when the Indians resident on the long Zanzibar Coast line are brought under the Agency and Consular discipline in fulfilment of the Treaty, cases which will comprise not only slave-holding, but slave trafficking, the buying and selling of slaves for gain.

16. Her Majesty's vessels on the station have so many and important duties to perform and are so cramped as to time by the movements of their detached boat parties, that I have as yet found it utterly impossible to carry out that thorough examination of the towns and villages on the coast, which it is my duty to do, and it is for that purpose and for the yet more important purpose of actually asserting authority over many hundred British Indian subjects, that I have before urged the importance of a steamer being provided for the Political Agent at Zanzibar, as at Aden.

## SCHEDULE.

1. Enclosure. Political Agent to C. GONNE, Esq., Secretary to Government of Bombay.
2. " *Précis.*
3. " His Highness Syud Burgash to Ali bin Saleh.
4. " Political Agent to Sultan.

No. 29, dated Zanzibar, 11th September 1873.

FROM HER MAJESTY'S POLITICAL AGENT and CONSUL-GENERAL, ZANZIBAR, to  
SECRETARY to the GOVERNMENT OF BOMBAY.

I HAVE the honour to report, for information of His Excellency the Governor in Council, the steps taken by me to bring one Kanjee Laljee of Cutch, residing in Zanzibar, to trial before the High Court of Bombay charged with slave-holding.

2. I have adopted this course in accordance with the instructions of Earl Granville, with a copy of which you have been already furnished by the Secretary to the Government of India, No. 1289P., dated 13th June 1873.

3. I herewith transmit under flying seal, for information of Government, and to be forwarded without delay to the various departments to which they are respectively addressed, all the documents having reference to this case, which is the first of a criminal nature that has been transferred from Zanzibar to the jurisdiction of the High Court.

Registrar, High Court; Government  
Pleaser; and Chief Commissioner,  
Police.

4. On the conclusion of this case in the High Court I would urge the expediency, in the event of a sentence of conviction being obtained, that the fullest publicity may be given thereto in the local, especially the Native, newspapers, which are regularly received by the Native community in Zanzibar, and I would further beg to be furnished with any observations regarding the mode in which this present case has been forwarded for trial to enable me in future to remedy any defects of procedure and any technical flaws that might in a more difficult case defeat the ends of justice.

5. I particularly urge the necessity of being furnished with clear instructions in what way local evidence here taken should be transmitted so as to be admissible in the High Court, where the witness himself cannot be produced. This I do in consequence of it having been found necessary in prosecuting indictments for offences committed under 5 George IV. cap. 113., to pass the Acts 6 and 7 Vict. cap. 98.

## SCHEDULE.

*Queen v. Kanjee Laljee.*

Transmitted under flying seal to Chief Secretary to Government, Bombay, Political Dept,

## I.

To be given to the Registrar to High Court of Bombay or other competent officer in the Original Criminal Jurisdiction of that Court—

- A. Affidavit of accuser.
- B. Warrant of arrest of accused.
- C. Certificate of execution of warrant.
- D. Minute of Court on receipt of prisoner.
- E. Affidavit of officer executing warrant.
- F. Deposition of Zabuni.
- G. " Ouledi.
- H. " Majoni.
- I. " Zafarani.
- J. " Amao.
- K. Voluntary statement of accused.
- L. The charge.
- M. Certificate that accused is not in exempted list.
- N. Copy of warrant of detention on board ship.

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II.

A. A. To Government pleader.

III.

A. A. A. Warrant to Chief Commissioner of Police to place accused in Bombay Jail.

*Note.*—For Précis of above documents and case, see Précis annexed.

Précis of Proceedings in Her Britannic Majesty's Agency and Consular Court, and detailed Memorandum of documents forwarded under flying seal to Secretary to Government of Bombay concerning the case of the Queen *versus* Kanjee Laljee sent forward for trial before the High Court of Bombay.

A.

*Affidavit of Accuser.*

On the 8th September 1873, Kambo, a negro, affirmed before Dr. Kirk that he was held as a slave by one Kanjee, an Indian, of the Khoja sect, residing at Bambi, Island of Zanzibar; that he took refuge at the Consulate in consequence of ill usage. Hitherto he had been forcibly prevented from complaining, now he claimed his release and protection. Kanjee held five other slaves.

\* \* \* \* \*

B.

*Warrant of arrest of accused.*

In consequence of above evidence Dr. Kirk issued on 8th September a warrant to Songoro (a peon of the Court) to arrest the said Kanjee Laljee (second name of accused is found to be Laljee) "on a charge of having illegally purchased and held slaves."

\* \* \* \* \*

C.

*Certificate of execution of Warrant.*

The warrant was executed on 9th September.

\* \* \* \* \*

D.

*Minute of Court on receipt of Prisoner.*

Behaving with contempt before the Court. Kanjee Laljee was on the same day committed to prison, to be produced on the 10th instant.

\* \* \* \* \*

E.

*Affidavit of Officer executing Warrant.*

Songoro (before mentioned) gave evidence before the Court on the 10th instant that he on the 8th proceeded to the plantation of Bambi in the Island of Zanzibar guided by Kambo. Kanjee had left for town. Kanjee's house was built of stone, and he had some property. A woman was there, who, as wife of the accused, endeavoured to stop five slaves found on the premises from of their own free will accompanying him (Songoro) on his return, although the neighbours asserted she had only married Kanjee within the last few days, and that these slaves had been held by Kanjee for some time. Songoro, on reaching town, arrested Kanjee and now produced him, together with the accused Kando and the five other slaves.

\* \* \* \* \*

F.

*Deposition of Zabuni.*

Zabuni, native of Kamanga, affirms—"I am a slave of Kanjee. I have been his slave for three years. He bid himself for one in the Zanzibar slave market. I had just then been brought as a raw slave from Kilwa, and appeared for the first time for sale in the slave market. I was sent at once to the plantation at Bambi, where I had to work the land and carry loads to Zanzibar. Kanjee had six slaves. Halima (his late wife), a half caste Indian, had two of her own apart from Kanjee's; they are at Mayaba."

\* \* \* \* \*

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G.

*Deposition of Ouledi.*

Ouledi, from Nyassa, states—"He was bought by Kanjee and his brother in the slave market at the same time as Zabuni."

\* \* \* \* \*

H.

*Deposition of Majoni.*

Majoni, from Nyassa, states—"Came with several others to the Shamba (plantation) of Kanjee about three years ago; I was bought in the slave market."

\* \* \* \* \*

I.

*Deposition of Zafarani.*

Zafarani, woman, from Nyassa, states—"Kanjee himself bid for her in the market two years ago."

\* \* \* \* \*

J.

*Deposition of Amao.*

Amao, woman, from M'Gindo, "was bought in the slave market six years ago; is slave of Kanjee; when the others came I was in the town; now I work on the plantation."

\* \* \* \* \*

K.

*Voluntary statement of accused.*

Made after being duly warned that he is not bound to reply to any question, and that what he states may be used against him. "My father is dead; my mother lives in town; I in the country; I am 30 years of age; my former wife, Halima, died five months ago. Half of the estate belonged to her for her life; at her death I inherited the whole. I bought two of these six slaves in the market at Zanzibar, four by private sale through agency but with my money. I confess I have committed a mistake in purchasing and holding slaves against the order of the English Government. I did not mean to sell any of them. I kept them as my children. I arrived in Zanzibar when I was two years of age. I accompanied my father. I was born at Kaira in Cutch."

\* \* \* \* \*

L.

*The charge.*

Consists of seven counts after preamble—

1st.—That he (Kanjee Laljee) on or about the 8th and 9th days of September 1873 at Zanzibar did detain against his will as a slave a negro, named Kambo, whom he had himself previously purchased, and that he has thereby committed an offence punishable under Section 370 of the Indian Penal Code and within the cognizance of the High Court of Bombay.

2nd. A similar charge with regard to Zabuni.

3rd. " " Ouledi.

4th. " " Majoni.

5th. " " Zafarani.

6th. " " Amao.

7th. That having in each of the above individual cases removed, bought, trafficked, and dealt in slaves, he has thereby committed the offence of habitually removing, buying, trafficking, and dealing in slaves punishable under Section 371 of the Indian Penal Code and within the cognizance of the High Court of Bombay.

\* \* \* \* \*

**M.**

*Certificate that accused is not in the exempted List.*

Certifies that accused is not on the list of February 1869, under which, by Bombay Government, Indians were permitted to register and hold slaves then in their possession on condition of their not being re-sold.

\* \* \* \* \*

**N.**

*Copy of Warrant.*

Warrant of detention of accused during voyage from Zanzibar to Bombay.

\* \* \* \* \*

**A. A.**

*Letter to Government Pleader at Bombay.*

Informs Government Pleader of committal for trial of accused.

\* \* \* \* \*

**A. A. A.**

*Warrant to Chief Commissioner of Police to place accused in Bombay Jail.*

Warrant to Chief Commissioner of Police to confine accused in Bombay Gaol.

*Note.*—Where not otherwise specified all the documents are dated 10th September 1873, and they are countersigned by me as Justice of the Peace under the High Court of Bombay.

(Sd.) JOHN KIRK,  
*H.M.'s Poltl. Agent & Consul-Genl., Zanzibar.*

## Enclosure 3.

Translation of a Letter from HIS HIGHNESS SYUD BURGASH to ALI BIN SALEH, Zanzibar, 12th September 1873.

AND then please inform the Political Agent that Burgash would not trouble him concerning the Indian, but his mother and all the Hindis come crying to me and say that he bought the slaves now many years ago. Ask the Agent please to be good enough to release him, for he is sorry for what he has done and let him free the slaves. Let him do this if possible, but let it be just as he pleases, for I would not solicit him on this matter.

## Enclosure 4.

Translation of a Letter from Political Agent and Consul-General, Zanzibar, to HIS HIGHNESS SYUD BURGASH, dated 11th September 1873.

ALI BIN SALEH has conveyed to me that it would please Your Highness were I to release the Indian Kanjee Laljee (committed for trial before the High Court of Bombay for illegally holding slaves) in consideration that he is penitent and that it is now some time since he purchased the slaves.

Your Highness will be good enough to bear in mind that, whilst by the terms of the late Treaty concluded for the suppression of the slave trade it is obligatory on Your Highness to use your utmost endeavours to prevent Arabs and all others from carrying slaves from place to place, so it is equally the duty of Her Majesty the Queen to see that natives of India residing here do not hold slaves, and I have received the most stringent orders to see that this is carried into effect, in order that no one may say that we look differently on the Indians under our rule and on the Arabs over whom we claim no authority.

Your Highness will know, in their own country Indians are not permitted to hold slaves, and if they buy slaves here it is simply to make money out of them, and this is quite different from the Arabs who have always possessed domestic slaves in their families.

But my orders from the Government are so stringent that to accede to Your Highness' request in this case is utterly impossible.

No. 2703, dated Bombay Castle, 16th May 1874.

FROM ACTING SECRETARY TO THE GOVERNMENT OF BOMBAY, TO SECRETARY TO THE  
GOVERNMENT OF INDIA, FOREIGN DEPARTMENT.

I AM directed to acknowledge the receipt of your letter dated the 1st ultimo, No. 771P., and, as requested in paragraph 3, to forward herewith, for submission to the Government of India, copy of Mr. Justice Gibb's judgment in the case of *Regina versus Kanjee Lalljee*.

2. The pith of the judgment appears to His Excellency in Council to be that a mere arrangement with His Highness the Rao of Kutch cannot confer jurisdiction on the High Court.

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REGINA *versus* KANJEE LALLJEE.

THIS case has been received from the Consul-General, Zanzibar, who is also a Justice of the Peace. The prisoner is charged on six different heads with having detained certain purchased slaves, male and female, against their will, under section 370 of the Indian Penal Code, and further with habitually trafficking, &c., in slaves, under section 371. The Court learns from the Clerk of the Crown that no witnesses have been sent up; and further, that none are under orders to appear as no recognizances have been received. The charge also sets forth that prisoner is a native of Kutch, and therefore not a British subject. The proceedings do not show that the depositions were taken in the prisoner's presence, or that he had any opportunity to cross-examine the witnesses. A perusal of the depositions shows that they are not sufficient to sustain the charges made against the prisoner; but if there were no other objection, this could be amended by adding additional heads to the charge under section 370, as the depositions show that prisoner purchased slaves. But this course would be useless, as in the first place the prisoner not being a British subject, and there being no Treaty with Kutch, much less any Order of Her Majesty in Council, which under such a Treaty might confer jurisdiction on this Court to try subjects of His Highness the Rao for offences committed in foreign parts, this Court has no jurisdiction. The proclamation of the Rao, dated 16th December 1872, in no way affects the question, as His Highness can give no jurisdiction to this Court. The Court considers, therefore, that the right course to adopt in this case is to make an entry on the charge under section 8 of Act XIII. of 1865, to the effect that it is clearly unsustainable, which will have the effect of *nolle prosequi*: and the prisoner will be discharged. The Court thinks it right to notice how it appears that the Consul-General at Zanzibar has been led into error in the course he has pursued in this case. The Order in Council of the 9th August 1866 is issued under the provisions of 6 and 7 Vict., chapter 28, and only applies to British subjects. The power to issue Commissions to take evidence in cases of offences against the slave trade is confined to the Court of Queen's Bench in England. This Court can, under that Act, take evidence under a Commission issued by the Court of Queen's Bench at Westminster, but has no power to issue a Commission to Zanzibar, much less to use depositions taken by the political agent there as evidence against a prisoner. The only other cause which may have misled that officer is section 330 of the new Criminal Procedure Code and Act XI. of 1872, section 10. But the latter section only applies to British subjects, which this prisoner, on the face of the political agent's proceedings is not, while section 330 of the Criminal Procedure Code only applies to the District Courts and to the High Court on its Appellate Side, but not to it in its ordinary original criminal jurisdiction. The Court has deemed it right to notice these points in making the order in the case, as they may lead to the subject being considered by the only authorities who can amend the law.

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L O N D O N :  
Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE,  
Printers to the Queen's most Excellent Majesty.  
For Her Majesty's Stationery Office.