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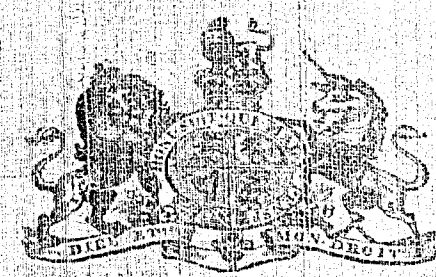
ROYAL COMMISSIONERS

APPOINTED TO ENQUIRE INTO

THE TREATMENT OF IMMIGRANTS

MAURITIUS.

Presented to both Houses of Parliament by Command of Her Majesty  
6th February, 1875.



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1875.

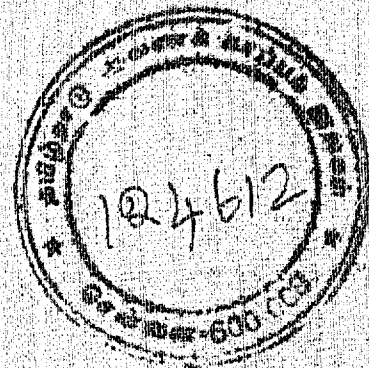
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கொளியெட்டி நாள் 2/12/95

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# MAURITIUS.

## ERRATA ET CORRIGENDA.

- age 323, paragraph 1910, for "\$2,580,901.72," read "\$2,580,902.72."
- " 323. " 1910, for "\$10,068.59," read "\$10,086.59."
- " 336. " 1993, for "50,000," read "40,000."
- " 396, Table B. In column "Indian Population of Port Louis, Millesimé" for "34.630," read "37.49."
- " 478, paragraph 2894, for "12 sheep," read "13."
- " 487. " 2989, for "1772," read "1872."
- " 536. " 3288 for "417," read "506;" and for "38 per cent., per cent."

DRAFT OF A COMMISSION passed under the Royal Sign Manual and Signet, appointing William Edward Frere and Victor Alexander Williamson, Esquires, to enquire into certain statements made in a pamphlet published by Monsieur Adolphe de Plevitz, as to the condition of the Indian labourers in the Island of Mauritius, and into the condition generally of such labourers in the said island.

Dated 17th February 1872. VICTORIA R.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain, and Ireland, Queen, Defender of the Faith: To Our trusty and well-beloved William Edward Frere and Victor Alexander Williamson, Esquires, Barristers-at-law, greeting:

Whereas it is alleged that, in a pamphlet recently printed and published in Our said island by Monsieur Adolphe de Plevitz, certain accusations have been brought against the Government of Our said island, and against the Magistrates and planters thereof, in respect to the treatment of Indian labourers in Our said island:

And whereas We have been prayed to name a competent Commission to enquire fairly and fully into all the circumstances, and it greatly concerns Us that such full and impartial enquiry should be made as well into the allegations set forth in the aforesaid pamphlet as into the condition generally of the Indian labourers employed in the sugar cultivation of Our said island:

Now Know Ye that We, reposing especial trust and confidence in the loyalty and fidelity of you the said William Edward Frere and Victor Alexander Williamson, have constituted and appointed you to be Our Commissioners for the purpose of making a full, searching, and impartial enquiry into all the statements made in the aforesaid pamphlet, and into all matters to which such statements in any way relate, and into the condition generally of the Indian labourers employed in the sugar cultivation of Our said island. And We do hereby authorise and require you, with all convenient despatch, and by all lawful ways and means to enter upon such enquiry and, jointly or severally, to collect evidence in Our said island respecting the subject-matter of such enquiry; and We do require you to communicate to Us, through one of Our Principal Secretaries of State, as well the said evidence as any opinions which you may think fit to express thereupon. And We do further require that you do in all things conform to such instructions as shall be addressed to you by Us through one of our Principal Secretaries of State: And We do strictly charge and command all Our officers, civil and military, and all Our faithful subjects, and all others inhabiting the said island and its dependencies, that in their several places and according to their respective powers and opportunities, they be aiding to you in the execution of this Our Commission.

And for so doing, this shall be your warrant.

Given at Our Court at Osborne House, Isle of Wight, this 17th day of February 1872, in the thirty-fifth year of Our Reign.

By Her Majesty's command,  
KIMBERLEY.

DRAFT OF A COMMISSION passed under the Royal Sign Manual and Signet, appointing Nicholas Darnell Davis, Esquire, to be Secretary to the Commissioners for enquiring into certain statements made in a pamphlet published by Monsieur Adolphe de Plevitz, as to the condition of the Indian labourers in the Island of Mauritius, and into the condition generally of such labourers in the said island.

Dated 17th February 1872. VICTORIA R.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To Our trusty and well-beloved Nicholas Darnell Davis, Esquire, greeting:

Whereas by a Commission under Our Sign Manual and Signet, bearing date at Osborne House, Isle of Wight, this 17th day of February 1872, in the thirty-fifth year of

Our Reign, We have constituted and appointed Our trusty and well-beloved William Edward Frere and Victor Alexander Williamson, Esquires, Barristers-at-law, to be Our Commissioners to enquire into all the statements made in a certain pamphlet recently printed and published in Our Island of Mauritius by Monsieur Adolphe de Plevitz, and into all matters to which the statements in the said pamphlet in any way relate, and into the condition generally of the Indian labourers employed in the sugar cultivation of Our said island. Now know you that We, reposing especial trust and confidence in the loyalty and fidelity of you the said Nicholas Darnell Davis, have constituted and appointed you to be the Secretary to the said William Edward Frere and Victor Alexander Williamson in such their capacity as aforesaid.

Given at Our Court at Osborne House, Isle of Wight, this 17th day of February 1872, in the thirty-fifth year of Our Reign.

By Her Majesty's command,  
KIMBERLEY.

THE PETITION OF THE OLD IMMIGRANTS OF MAURITIUS.—(Presented on the 6th June 1871).—With observations.

To His Excellency the Honourable Sir ARTHUR HAMILTON GORDON K.C.M.G., Governor and Commander-in-Chief in and over the Island of Mauritius and its Dependencies.

The petition of the undersigned Indian immigrants humbly sheweth:

2. That your petitioners suffer many and great grievances from the existing laws by which they are deprived of that freedom which all other inhabitants of Mauritius enjoy.

3. Your petitioners are required to have and always carry with them a ticket with their photograph and a police pass. Though these are supplied to them free of charge on the expiration of their five years' term of engaged service, yet if they are lost, as frequently happens through being obliged always to carry them about, your petitioners are required immediately to apply for others, for which they must pay \$5 for the ticket, and for the photograph 2s., making together 22s., a sum nearly equal to two months' wages on an estate. To procure one of these papers some of your petitioners have had to wait many days, and to walk from 100 to 150 miles; when, at the Immigration Office, they have made the slightest remonstrance, they have been beaten with rattans. If found without either of the above papers they are taken to the police station and locked up until they can be brought before the Magistrate; if arrested on the Friday in a district where the Magistrate does not sit on Saturday, they are imprisoned until the following Monday morning. It may be that their wife or some friend brings them their papers which they had forgotten at home, but this will not procure their release until Monday.

4. Your petitioners cannot read their papers, which are written in English, and it often happens that on account of some error which they cannot verify they are lodged in prison just the same as if they had neglected to have their papers changed in time, or had had the misfortune to lose them. Some of your petitioners, who had their papers in order for the district in which they resided, have been committed to prison with hard labour because the police were mistaken as to the boundaries of the district in which they really lived, and supposed them to be living in another; others have been taken to prison because the estate on which they were tenants had changed hands, and a discrepancy had thus arisen in their police passes.

5. If one of your petitioners loses his papers, and has not sufficient money (22s.) to pay for others, he gets a pass from the Immigration Office authorising him to remain absent eight days; but he may not work as a day labourer, for which he would have to obtain a licence costing \$5; he must find some one who will employ him continuously: if unsuccessful at the expiration of the eight days, his pass may perhaps be extended, or he may be sent to work at the Vagrant Dépôt until an engagement is found for him; there he dare not venture to refuse to engage for whatever period and on whatever terms are proposed to him.

6. If one of your petitioners leaves his employ, he must present himself at the central police station of his district within eight days to have his pass put in order; he may be obliged to come two or three days in succession, and in the meantime the eight days may be exceeded, and he be afterwards arrested and sentenced to hard labour as a vagabond. A man has been lying sick with fever, and has therefore been unable to go

for his pass, and, in spite of evidence to this effect, when, on recovery, he went for his pass, has been condemned to imprisonment with hard labour as a vagabond.

7. When one of your petitioners wishes to go into any other district than the one for which he has a police pass, he must get his pass endorsed, which can be done only by the inspector of police, who is at the station only a small part of the day; your petitioners have friends and relatives in the island, and it may be that one of them hears that a brother, sister, or son is dangerously ill, and has sent for him, yet, if he goes into any other district without having his pass endorsed, he will probably be arrested and sentenced to hard labour as a vagabond.

8. Many of your petitioners are sellers of vegetables, and carry baskets of produce to the market every morning; they have their passes endorsed for the district of Port Louis for three months. They seldom get to town without being stopped by a policeman, and having their passes examined, perhaps, on an average, three times during the double journey; they must wait until the policeman chooses to give them back their passes, and frequently lose their market in consequence.

9. Your petitioners are thus at the mercy of the police, and the most honest and best conducted man amongst them cannot stir but by their sufferance. An old immigrant may be honestly maintaining his wife and family, sending his children to school, be possessed of some little property, and carefully endeavour to observe all the laws and ordinances, yet, if by some mischance he loses his papers, he may be, and often is, condemned indiscriminately with a number of others, all charged on the same sheet to imprisonment with hard labour as a vagabond.

10. The police can always arrest them; they do so by fifties at a time, and if it should prove to have been without any reason, they have no redress. They would beg your Excellency to consider what use a policeman, who was unscrupulous, would make of this power over them which the law gives him.

11. Your petitioners beg to append in illustration of the above the annexed sheet, numbered 1 to 18; which have been selected from many thousands.

12. Your petitioners implore your Excellency's humane protection, and humbly beg your Excellency to cause the laws which oppress them to be repealed; and they ask with the greater confidence, since it is shown by the instructions accompanying your Excellency's Commission that Her Most Gracious Majesty the Queen of Great Britain and Ireland, whose subjects they are, is unwilling that assent should be given to her name to "Any ordinance whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable."

And your petitioners, as in duty bound, will ever pray.

*Here follow 9,401 signatures.*

13. (1.) Dilloo, Old immigrant, No. 82,500, gardener.

About the month of July 1868, I was living at the Nouvelle Découverte. On a certain morning four policemen came, and, without a warrant, entered my premises and asked for our papers; I was able to show the papers for myself and wife, but through my house having been burnt down a short time previously, I could not show the police the acts of birth of my children born at Mauritius, as they had perished in the flames, and as I had no copies of them; but I explained this to the police: my children being respectively 9, 12, and 13 years of age, notwithstanding this (and the affair occurred on a Wednesday morning at 5 o'clock), the police arrested my three children as vagabonds. They were taken to the Moka police station, a distance of seven miles, and were locked up there till the following Friday, when they were discharged at noon, the evidence of a gentleman residing at the Nouvelle Découverte having proved to the satisfaction of the Magistrate that they were not vagabonds.

Secondly.—About the month of September 1869, my son Saewagalam (the second son in the previous plaint), went to Flacq to visit a relative. My son, although a Creole of the colony, was arrested by the police in the Flacq district on his return, sent to Pamplemousses, and sentenced by the Magistrate there to ten days' imprisonment with hard labour as a vagabond.

*[Here follows the signature.]*

(2.) Sumassee, Old immigrant, No. 80,576, gardener on Mr. Bouille's property at Nouvelle Découverte.

About three months ago (deposition taken 16th April, 1871), going from my residence to obtain a new pass, having lost my old one, when I had proceeded one mile and a half I was arrested by a sergeant of police, and after having been taken to court, was condemned to five days' stone-breaking.

*[Here follows the signature.]*



(3.) Doorgachurn, Old immigrant, No. 60,692, labourer.

In the month of February 1871, being on my road to obtain a pass, having at me a reference to the Stipendiary Magistrate of Pamplemousses, which I showed to the police sergeant who arrested me; notwithstanding this he detained me in prison cell during three days (I was arrested on a Friday). I was then taken to Stipendiary Magistrate's court and condemned to five days' hard labour, not having means to procure redress for such grievance, and then had to apply on four successive days, and to walk each day for that purpose a distance of sixteen miles before I obtain the same.

I also find myself continually detained on my way to Port Louis with the produce of my garden; and on one occasion, about three months ago (deposition taken 16th April 1871), during three hours' time, which greatly injured the sale of my goods.

[Here follows the signature.]

(4.) Ramchurn, Old immigrant, No. 15,673, gardener at Mr. Lafond's estate, Nouvelle Découverte.

About twenty months ago (deposition taken 16th April, 1871), I was sleeping on the verandah of my friend Rajchunder, and at about four o'clock in the morning I was arrested by four constables and a sergeant of police. I had at the time with me my immigrant's ticket; but I had not been able, through sickness, to obtain four shillings for a photograph. Through not having this, I was arrested, and bound with a cord, walked all round Nouvelle Découverte, and from there to Pamplemousses, a distance at least of twelve miles. I was locked up at night without food, before the Magistrate of Pamplemousses, and by him condemned as a vagabond to six days' imprisonment with hard labour.

After the expiration of my sentence, I was sent to Port Louis for a ticket at the dépôt, where I was detained three days, when I found a friend who advanced me twenty-four shillings, with which I obtained a ticket, and was liberated.

[Here follows the signature.]

(5.) Ramluckhun, gardener at Nouvelle Découverte.

About a year ago, having prepared everything for my marriage, and spent for that purpose a sum of \$50, I was, on the very day that it was to take place, hindered from going so, for the following reasons:—A sergeant of police and two constables came to my house and knocked at the door, which I opened, when the sergeant entered, in spite of my remonstrances, and looking all round, with the help of his lantern, it being early in the morning, bade me come out, without allowing me time to dress, asked for my papers, which I immediately produced, consisting of my photograph ticket, a police pass for the district of Pamplemousses, lease of ground, and a permit for the sale of produce of my garden in the said district; in spite of which I was taken by him to the high road, where I found many others who had also been arrested. I was then tied up and marched to Moka, where I was locked up for two days. I had to leave my aged parents, of whom I am the sole support, which I explained to the sergeant; and was taken before the Magistrate the third day, to whom I explained my case, and was told to return on the following Friday, which I did, and had to do, by order of the Magistrate, for three consecutive Fridays. At last, I was released; no reasons whatsoever having been given me for such proceedings, which caused me a very serious loss. In fact, up to the present time, I have not been able to recover from it.

[Here follows the signature.]

(6.) Hookum, in the service of Messrs. Pellereau & Co., Pamplemousses.

On Saturday, the 7th of May, 1871, I proceeded to Nouvelle Découverte, to sign a petition to the Governor of the colony, and on my return met the sergeant of Port Louis police station, who asked me where I was going to. I told him that, having been to sign a petition, I was returning home; nevertheless he arrested me, tied me by the hands, and marched me to the station; then he compelled me to fetch water at the station, and then locked me up for the night without food. The next morning my hands were again tied with a cord and I was marched to Pamplemousses, where I was given some rice and salt, which was put in my capra, and then taken before the Magistrate, who did not condemn me; but the next day, having appeared before him, I was condemned to four days' imprisonment with hard labour.

[Here follows the signature.]

(7.) Budha, Old immigrant, No. 180,788, on the estate of M. Tessier, Nouvelle Découverte.

About a year ago, during the night, towards morning, hearing a noise of voices in my yard, and going out to see what was the matter, I found my house, as well as those of my neighbours, surrounded by constables, whom I recognised to belong to the Pampl-

mousses, Villebague and Moka police stations; they entered into our houses, and ordered us to come out of them. They then asked us for our tickets and police passes, which were thirty-two in number, and had our photograph tickets, the leases for the ground occupied, and our police passes for the district of Pamplemousses, in which our leases showed, we resided; notwithstanding which we were forcibly taken from our homes and our hard-earned property, some of us leaving our wives and children weeping with grief; others, who had but little property, gardens, and some fowls, and no one to take care of them during their absence, were left at the mercy of any evilly-disposed persons. This occurred on a Saturday, and we were taken to Moka, locked up there from that day until Monday, the 10th of May, and were taken before the Magistrate, who, after seeing our papers, told us to return on the following day, and threatened that should we omit to do so, we should be fined, or imprisoned, having no idea what the law was or might be, we clubbed together to procure a lawyer, at the rate of \$1 per man, and accordingly were joined by an advocate at Port Louis on the above-mentioned day. When our case was called we did not know what to say; said by our advocate or the Magistrate, but the result was, that our case was adjourned for four days three times consecutively; after which we were released. We had thus travelled backwards and forwards about 200 miles, having lost our property, and some of us the total loss of our property.

[Here follow the signatures.]

(8.) Suroop, Old immigrant, No. 18,682, gardener at Mr. Bouquet's estate, Nouvelle Découverte.

In the month of January 1871 I was informed that my friend Lalchurn, at Port Louis, was very ill; accordingly I started to go and see him. I was near Mr. De Coteau, when I met a sergeant of police, who arrested me, locked me up, for the night, and brought me next day before the Magistrate at Poudre d'Or. I showed my police pass to the Magistrate, but the pass being for the district of Pamplemousses, I was condemned as a vagabond to one month's imprisonment with hard labour.

[Here follows the signature.]

(9.) Seeowen, Old immigrant, No. 257,105, gardener at Mr. Picot's property.

In the month of September or October 1869, I went to Pamplemousses, to obtain a police pass; I went about ten times for this without being able to obtain it. At last I was told, that to obtain this police pass I must have Mr. Argent's signature at Port Louis. I asked for protection to go to Port Louis, and was told that it was not necessary to go to Port Louis, was arrested near the door of the Immigration Depot, although I had my ticket and all my papers with me, taken before the Police Magistrate at Port Louis, and sentenced by him to one month's imprisonment with hard labour.

[Here follows the signature.]

(10.) Ubeluck, Old immigrant, No. 241,318, labourer.

On the 10th of February, 1871, I was in the service of the Indian Charbon dairyman, who fell sick and left him. During my sickness I lost my ticket and police pass. I went to the dépôt, and paid 5s. for a pass for one month to find employment. On the 10th of March I went to the dépôt, and had to pay 22s., and after three days' walking to the dépôt, I obtained my present ticket with photograph. I proceeded then along the road from Pamplemousses to find employment, but being very weak, I stopped at a livery stable, where I became worse and worse, and lay sick there with fever up to the 6th of April. On the 7th of April I obtained employment with Mr. de Plevitz. The latter gave me a certificate that I was employed with him as a general labourer, provided I could obtain a police pass according to law. I was arrested at the central police station, Pamplemousses, that day brought before the Magistrate, and sentenced to seven days' imprisonment with hard labour as a vagabond. At the expiration of the sentence I went to the dépôt, and obtained a permit for a pass. I proceeded then to Pamplemousses to obtain a pass, but went from there to Port Louis central police station, where I obtained at last, on the 6th of April, after paying 2s., a police pass permitting me to go to Pamplemousses, but again I could not obtain a pass, as the clerk said, "You must have a certificate of your date from Mr. de Plevitz."

[Here follows the signature.]

(11.) Rajchunder, Old immigrant, No. 138,928.

In December 1865 I went to the dépôt to have my photograph taken. I had to go five successive days, and was each day turned out with violence. There were Port Louis men with rattans, who struck me with them and then turned me out. I removed to this. I had to travel 100 miles backwards and forwards, and pay 4s. for this photograph.

[Here follows the signature.]

(12.) Ramburru, No. 163,323, Old immigrant. With six others was a tenant on the estate of Mr. Rivet at Long Mountain. Mr. Rivet handed over his estate to Mr. de Plevitz. The latter sent us to get our passes put in order. On arrival we were arrested, locked up for a night, and next morning brought before the Magistrate, when we were liberated to the residence of Mr. de Plevitz, but we were told by the Magistrate that if we did not have our passes immediately altered, we should be arrested and condemned to ten days' imprisonment with hard labour. This although since the passing of the recent Ordinance we had not changed our residence.

[Here follow four signatures]

13.) Aubeluck, Old immigrant, No. 268,683, on the Colville estate belonging to Mr. Desenne.

When the Ordinance No. 31 of 1867 came into operation, I and twenty-four others went to Pamplémousses for a police pass, but being always turned out at Pamplémousses police station, without any reason being given, we then went to the Moka district. Accordingly, we went there and obtained our passes. One morning about breakfast time, I saw a party of constables from the Moka district, and another from Pamplémousses; altogether about fifty. They surrounded our huts, arrested us—although we had our tickets, passes and passes—took us forcibly away from our wives and children, and then two by two, marched us off to the Villebague police station, a distance of about two miles. When they locked us up for that night without food, in such a small place (about twelve) that we could not lie down. About seven o'clock next morning we were taken out, tied up two by two again, and marched to Pamplémousses police station, where they gave us no food. We sat in that court up to about four o'clock in the afternoon, then taken to the central police station, and at about five o'clock they gave us some rice and salt, which was thrown into our capras, after which we were locked up for the night. Next morning they took us to the railway station, without food, and then conducted us to Port Louis. We were taken before the Police Magistrate there, who kept us a whole day in court, were then marched to the central police station, where they put some rice and salt into our capras, and afterwards locked us up for the night. The following morning they gave us a piece of bread, took us by rail to Plaines Wilhems, and from there marched us to Moka, where we arrived about noon at the police station. We were brought before the Magistrate, who released us, telling us to return the next day.

At the expiration of this time, we went again to the Moka police court, where the Magistrate told us that we inhabited the Pamplémousses district, and that we must have passes for that district. Accordingly, next day we went to Pamplémousses for a police pass, could not obtain it on that day, and some of us had to go there during fifteen days, thus, for this purpose only, travelled a distance of 220 miles in going and coming. During these fifteen days we were very often turned out of the police station with violence, and sometimes we were merely told to return the next day.

[Here follow four signatures]

(14.) Mootooga, Old immigrant, No. 52,958.

In the month of July 1868 I was frequently stopped by the police and told by them that I must have a photograph on my ticket, as otherwise I should be arrested as being without bond. Accordingly I went to the dépôt for four successive days without being able to obtain this photograph. On the fifth day I obtained it, after the payment of 4s., and walked for this purpose 100 miles backwards and forward.

On account of my absence I experienced a loss in the sale of my goods amounting to 14s.

In the month of August, same year, I was arrested by a constable of the Long Mountain police station and told I must go to Pamplémousses to obtain a police pass. Accordingly I went there, and had to go during eight days, during which I travelled 110 miles backwards and forwards. For seven days I was expelled from the police station with violence, and obtained my pass on the eighth day. I am a gardener, and am frequently arrested at different police stations by the police to show my papers. This not only costs me a loss of time, but also considerably injures the sale of the produce of my garden.

[Here follows the signature]

Madhaya, Old immigrant, No. 99,462, gardener.

I was stopped by a constable from the Long Mountain police station.

Accordingly for this purpose, I went to Pamplémousses during five days, and travelled backwards and forwards a distance of seventy miles. While at the police station I saw several Old immigrants beaten with rattans and a broom. One day I was beaten with a broom. . . . On the fifth day I saw a white man standing among us, who informed that if we would pay him 2s. we could obtain a police pass at once. Accordingly I gave him 2s.; he entered the office, and about five minutes afterwards received my police pass, whereas most of the other Indians were told to return the next day.

I am very often arrested by the police at different police stations, which not only costs me a great loss of time, but also injures the sale of the produce of my garden.

[Here follows the signature.]

(16.) Madhoo, No. 46,079, of Long Mountain.

On or about the 20th of April, 1871, I was informed that my friend Mungor, residing at Vacoas, was very ill. Accordingly I started on the following Friday to visit him, and arrived by train at the Beau Bassin Station, where I was arrested by a constable and locked up for that night without food, where I was kept until Monday morning, when I was brought before the Magistrate at Plaines Wilhems, who ordered me to be sent to Pamplémousses. However, I was locked up for that night, and the next day (Tuesday) I was sent to Port Louis, where I was locked up, and the following morning taken before the Magistrate of Port Louis. What he said I could not understand, but the result was that I was again locked up at Port Louis for that night, and taken the following day to Pamplémousses and at once before the Magistrate of that district. I explained what happened to me, and the reasons thereof. I was not condemned, but was locked up the following Monday, when being again taken before him I was liberated the same day at 4 p.m. I am fifty-seven years of age, and have resided in the colony for about thirty-five years. I have always served my employers faithfully, and never been condemned for absence from my duties.

[Here follows the signature.]

(17.) We, the undersigned, have at one time or other been beaten with a rattan in the Immigration Office.

[Here follow one hundred and two (102) signatures.]

4. (18.) It is within my knowledge that the police have on several occasions exacted money from Indians.

5. I believe this to be generally the case, and attribute it to the opportunity given to them by the power they have to stop Indians and examine their papers.

6. Contemptuous and arbitrary treatment of Indians by the police seems to follow a general rule. When inside the Immigration Office, where immigrants are to find protection, they have, as is well known, been habitually and openly beaten with rattans by the police.

7. To complete my statement, I must add that, since the present Acting Inspector-General has been in charge, Indians are not so harassed by the police as they have been previously.

ADOLPHE DE PLEVITZ.

Port Louis, Mauritius, June 4, 1871.

#### OBSERVATIONS.

The preceding petition deals only with the Labour Laws of Mauritius, because I have thought it better that it should be confined to one definite subject, and because it is by means of these iniquitous Labour Laws that injustice of every imaginable sort towards immigrants and Old immigrants is introduced.

In order that the position of affairs may be well understood, it is necessary that the system which prevails here should be succinctly described. The people with whom immigrants have to deal are the recruiters in India, the Protector in Mauritius, employers, the police, the Magistrates, and the Legislative Council who make the laws which they must be governed. In their relations with nearly all of these they are victims either of fraud or oppression.

The recruiters receive a certain sum for each man whom they recruit. As soon as an immigrant is engaged, they are entitled to their reward, and it is clearly their object to recruit as many as they can, by fair means or foul; and the greater the in-

duancements they offer—that is, in plain terms, the more they lie—the greater the profits. The agent, in order to earn his salary and satisfy the Immigration Committee in Mauritius, must encourage the recruiters. Any scruples on his part would be incompatible with the interests of his employers.

4. The Magistrates in India ascertain that intending immigrants are acquainted with the terms of their contracts, that they know what wages and rations they should receive and that proper lodging and medical care should be supplied to them; but nothing more. They can do nothing more; for nothing more is stipulated in the contracts on behalf of the immigrants; not even is any limit fixed to the days and hours of labour, but all is left to the will of their master, who, in allowing them their nightly rest and a holiday during the afternoon of Sunday, is but too often actuated only by the same considerations that prevent him from killing his oxen with overwork. Neither does it enter into the duties of the Indian Magistrates to explain to intending immigrants the special laws to which they will be subjected; indeed, it cannot be supposed that the Magistrates themselves are acquainted with them, and still less with the regulations, ever varying and increasing in injustice and severity. So the immigrants are left, for want of other information, dependent on the interested representations of the recruiter.

5. Arrived in Mauritius, he is not even left to the ordinary protection of the law, but is saddled with the so-called protection of the so-called Protector of Immigrants, the worth of whose protection may be estimated from the fact that in his office the employes have for years been in the habit of walking about the office with rattan sticks in their hands, with which, instead of words, they made their way through the crowd of immigrants waiting there to obtain their tickets, for which they must pay, and in the fault of which they would be sent to break stones by the road-side by day and sleep in a prison by night.

6. The Protector is the great support of the whole system, and if his office was instituted to facilitate the oppression of the immigrants, it has certainly answered its purpose.

7. His very title seems a guarantee for the good treatment of the immigrants, and it is natural to think that if their Protector gives his consent to a measure affecting them, that measure must be for their advantage. The value of his name is here well understood, and it has probably often caused to pass unchallenged elsewhere measures otherwise would have attracted sufficient observation to defeat them.

8. Here I will state what course he has adopted with regard to the complaints which form the subject of the foregoing petition. On the 16th of May, when the petition had been open about three weeks, and a month after the facts for it had begun to be collected, his Report was laid on the Council table. In it most of the grievances complained of in the petition find what he is pleased to suggest as their remedies. These are of such a nature as to provide considerable relaxation in the severity of the regulations, but leave the main points untouched. These regulations are imposed by the Exchequer here, without reference to England, and if now relaxed might, at the first favourable opportunity, be re-enacted with more severity than ever. So well calculated, but so well calculated, I hope and trust, are the Protector's suggestions to defeat the well-founded prayer of the petition. To show the illusory character of the Protector's suggestions will cite one of them. He proposes, "That every Old immigrant who is the holder of a licence authorising him to carry on any business, trade, or profession, shall be exempted from the obligation imposed on Old immigrants by Regulation No. 10 (that of paying for a day-labourer's licence if he work by the day)." A man who has paid for a licence and is carrying on a business or profession is not likely to derive much benefit from the proposed permission to work as a day-labourer. This is the first of the Protector's proposals; those that follow are as unsatisfactory, if not so absurd.

9. On some of the estates no doubt the Indians are fairly treated, but when they come into the hands of an unscrupulous proprietor, they are virtually at his mercy. He pays them very nearly what he chooses. But are there not laws, it will be asked, by which they can recover? Yes, there are laws; but when the system of payment is explained, it will be seen how inadequate they are to protect the labourers.

10. Their wages are always at least a month in arrears; so that those for whom wages would be paid at the end of February at the earliest. Meanwhile a book is kept in the form prescribed by the law, in which are marked the days on which the labourer is absent from his work or in hospital. For each day in hospital he forfeits the payment for that day, but for each day that he is absent from his work he forfeits two days' pay.

overseers are in the interest of the proprietor, and are unfortunately but too often valued in proportion to the sum which they can enable the proprietor to deduct from the wages of the Indian labourers. Accordingly the labourers are frequently marked as absent when they are not absent, and stoppages are made from their wages for the non-completion of work which is almost impossible to accomplish, or for other reasons invented by the ingenuity or avarice of the overseers, who must adopt this means to retain the favour of their employers and their situations.

1. Those who bring only their English ideas to the consideration of the subject are unable to imagine such a state of things possible; but it must be borne in mind that the esteem for truth is here very small, and, as has been said by the author of *Colours and Coolies*, "The Englishman who has sat in a Mauritius court of justice has not listened to the wholesale perjury and undisguised contempt for the sacred nature of an oath exhibited by the Creoles of all classes . . . will be disposed to regard it as a vice common to the whole Creole community instead of being the characteristic of the coloured people." "There is not a coloured man in the colony who would not perjure himself for a sixpence," is the frequent charge brought against his class by the white Creoles, whom the consciousness of their own defects might induce to show each a little charity." And the same author, the Rev. Patrick Beaton, says elsewhere:

"If a labourer happens to be one day absent from his work, his employer is entitled to deduct exact two days' labour in return, or to cut off the price of two days' labour from his monthly wages. It might be easily shown that this power is liable to gross abuse when exercised by an unprincipled employer, whose interest it may be at times to provoke his labourers to desert his service. When he does not require the labour of his Coolies, which happens at certain seasons, he may treat some of them in such a way as to lead them to desert, and thus he gains a double advantage: he escapes the expense of nourishing them during their absence, and is entitled to cut off two days' wages for every day they have been absent when they return. The system of cutting the wages (*couper les gages*) is not confined to mere absence. It extends to all possible offences, real or imaginary, and when it is practised by a master ingenious in discovering faults, the poor labourer, at the end of the month, often finds himself mulcted of a large portion of his hard-won earnings. His only mode of redress is to summon his master before the local Magistrate, where, in consequence of his ignorance of French, he is placed at a great disadvantage, and, except in very glaring cases, rarely obtains justice."

2. If this was true when written, it is doubly so now, since the Labour Laws introduced by Sir Henry Barkly have wholly deprived the poor Indian immigrant, even when he has completed his engagement, of the rights of citizenship, have almost put him out of the pale of humanity, and reduced him to the position of a Helot.

3. To return to the manner in which the wages are paid. On pay-day the labourer is informed, it may be, that two, three, four rupees have been deducted from his wages account of absences or unfinished tasks six or seven weeks before; he denies having been absent or having left his task unfinished, and appeals to the Magistrate, being lucky in his way to obtain a summons he is not arrested and lodged in prison for want of a "book" from his master. When the case comes on, the master brings his book, which is signed by one of his employes, and the labourer loses his case as a matter of course, it is never possible for him to bring evidence that will be allowed to outweigh the evidence of the signed register.

The Magistrates are nearly all Creoles, and more or less directly interested in the plantations, besides that they are usually on terms of intimacy with the planters, and are related to them; add to this the Indian's ignorance of the language, his want of education, the influence which his master derives from his almost unlimited power over him, who could bear witness for the labourer, and the abject state to which even Old immigrants are reduced by the Labour Laws, and no one will suppose it possible that the poor labourer should obtain justice; if, indeed, it is not an absurdity to speak of justice in a colony where the labourer is at the discretion of the police by regulations which other men are exempt.

The new Labour Law is stated to be for the prevention of vagrancy; but such is not its use. The Old immigrants, whom alone it specially affects, are those who supply the labour in the colony, outside the sugar estates; there are of course some among them, as there will be in any country, but generally they are a most industrious class of men, from whom the lower classes of Creoles would do well to take a lesson.

his sometimes even the press inadvertently bears witness. Thus in the . . . U



article of the 'Commercial Gazette,' August 2, 1871, its theme being the improvement of some of the Creole population, we find these words: "The Indian is stimulated by industry by love of money; he forms an idea in his mind of the pleasure and the advantage it will procure. The thrifty and economical Chinaman also gets comparatively rich in his little shop. Neither one nor the other working on their own account is of passing days in idleness; but the Creole fishermen," &c.

17. The object of the new Labour Law is in truth very different. The planters had to pay the passage and other expenses attending the introduction of the immigrants engaged on their estates, and as these complete their five years of service and become immigrants, the planters must in the natural course pay for the introduction of new immigrants or give higher wages to the Old immigrants, who by their five years' experience become better workmen. When they got a Governor like Sir Henry Barkly, who was hob-nob with them, and do much to acquire the ephemeral popularity of which he was being in force in the Legislative Council, are the dispensers, they did not fail to perceive that if Old immigrants could be compelled to re-engage on the old terms, it would be the immediate means of diminishing their expenses and putting money in their pockets. To effect this the new Labour Laws were devised, by which, as shown in their petition, an Old immigrant's life is rendered so miserable that the vast majority of them are driven in despair to re-engage on the masters' own terms. This and no other is the object of the new Labour Law; it was with this object in view that Sir Henry Barkly by the mischievous power often given to the Governors to make regulations on their own authority, raised the price of a licence to work as a day-labourer, a licence which was observed required only by Old immigrants, from 4s. to £1 sterling! Imaginable a labouring man in England obliged to pay nearly two months' wages, at the current rate, before he dare begin to work, on pain of being sent to prison as a vagabond. What is this but the grossest oppression of Her Majesty's Indian subjects, as well as a fraud committed upon some 200,000 of them, who came to Mauritius in ignorance of these laws and in fact before they were in existence?

18. The hypocritical defence for all this tyranny and oppression, set forth by interested persons, assented to by the indifferent and unthinking, and upheld by the newspapers which count very few Indians among their subscribers, but all the planting interest, that the Indians are, like children, incapable of taking care of themselves, and require a paternal government having arbitrary authority and exercising it benevolently to promote the welfare of its children.

19. They have made the Government arbitrary enough, but how far it is paid for the facts of the petition show. We see that the Old immigrants have hardly been able to call their own, and it will scarcely excite surprise, when it is stated that suicides among them are of extraordinary frequency, there having been last year more than fifty-nine, against eight among Creoles, Chinese, and Europeans together, or more than five times the suicide rate in the Madras Presidency, according to the report for 1868-69.

20. Nor does the reality at all justify the frequent statements in praise of the care here bestowed on immigrants, of which the utmost is made, presumably with a design to dazzle the eyes of the Indian Government, and prevent them from looking farther; every proprietor being required by law to have hospital accommodation according to the number of labourers on the estate, and to pay a duly qualified practitioner 4s. per head per annum for his attendance. It is to be hoped that this law, in its voluminous details is observed, but it is strange that although there are 217 estates in Mauritius, one never hears of any of the proprietors being fined for violating it. There are, however, some laws made that are never expected to be enforced while others are enforced with the utmost rigour.

21. Dr. O. Beugeard, in his Report on the Civil Hospital for 1870, says: "Une grande proportion de la mortalité parmi les Indiens peut être attribuée à la cachexie paludéenne, lorsqu'ils entrent à l'Hôpital, leur constitution physique est plus ou moins ébranlée par la cachexie paludéenne, qui se développe chez eux à la suite d'accès répétés de fièvre paludéenne, que les soins médicaux leur ont manqué complètement, ou qu'ils ont reçus étaient insuffisants, et surtout au manque de nourriture ou de vêtements convenables." From this same Report it appears that the average per cent of fatal cases among the Europeans was 18.4, among Creoles 66.6, and among Indians 158.6.

22. I think it will be allowed by all who consider the case, that where a man is deprived by law of their personal liberty, as are the Old immigrants, they necessarily fail to obtain justice as against the free part of the community.

tion will perhaps best prove the rule here. I copy from the 'Commercial Gazette' of the 10th of May, 1871.

"*Ramsahaye and Others v. de Chalais.*"

This was an appeal from two judgments of the Stipendiary Magistrate of Flacq, whereby he condemned the appellants to pay a fine of \$5 each and to lose a month's wages. It appears that the appellants considered that the task-work given them by their master was too heavy, and complained to the Magistrate of the fact. On the other hand, their master complained of them for not completing their task. In the first case the Magistrate held that the task was reasonable and dismissed the complaint, and fined each of the appellants £1 for having brought it. In the second case the Magistrate decided their master's complaint was well founded, and condemned the appellants, thirty-nine in number, to forfeit one month's wages each.

His Honour, in giving judgment, reviewed in detail the facts of the case. He remarked that the Magistrate had not used the powers given him under Ordinance 31 of 1871, Art. 23, that is, he had not ordered an 'expertise,' which in His Honour's opinion was a more satisfactory manner of deciding this question than by hearing the evidence of parties interested or their friends. He observed, also, that the evidence showed that the men were *hommes d'élite*, and that they behaved well during nearly five years, and therefore to fine them so heavily *prima facie* seemed rather hard. The real point at issue in this case was to know whether a given task was reasonable or not, and for this purpose the appellants had thought fit to apply to the Magistrate under the Ordinance above cited, and if they were wrong he might have condemned them to the cost of the 'expertise;' but no more. If Indians were discouraged by penalties from appealing to the law, when they thought that they had a grievance, they might have recourse, with a view to obtain redress, to other measures less advantageous to their master or the peace of the community. He (the Honourable Gorrie) held that in the circumstances of the case, it was not competent to the Magistrate to order a fine or the forfeiture of a month's wages, and therefore he quashed both judgments, with costs against the respondent."

23. Here, then, we have an instance of the result of complaints of Indian labourers against their employers, and may consider whether the immigrants are not likely to submit to almost any oppression rather than complain to a Magistrate. In this case the appellants were thirty-nine in number, *hommes d'élite*, and during nearly five years had been enabled to save sufficient money among them to bring their appeal. These are exceptional circumstances, and immigrants generally must abide by the decision of the Magistrate, whether right or wrong.

24. The facility with which planters get their labourers condemned contrasts strangely with the delays in a case now before the Stipendiary Magistrate of Pamplemousses, in which sixty-seven Indians complain against their master, Mr. Poulin. The following are the items of the complaint as read in Court, 29th May, 1871:—

- (1.) Waking them up at 2 o'clock A.M. to be sent to work, and keeping them at work until half-past 6 P.M., and thus obliging them to reach their camp at 8 P.M.
- (2.) When absent from work one day their week's rations are cut off.
- (3.) When sick, and after medicine has been given to them, they are not allowed to remain in hospital, and are sent to work with the bullocks.
- (4.) When they do not appear at pay-day to receive the wages due to them the same are forfeited, and it is only when they re-engage that the said money is refunded to them.
- (5.) The amount of pioches and other tools given to them to work on the estate is reduced from their wages.
- (6.) Two rupees were forcibly cut off from their wages for the Ghoon, but the money was used for that religious ceremony.
- (7.) For the use of the water from the well a dollar is cut off every year from their wages.
- (8.) Whenever they are caught picking up dry wood, 10 rupees are asked from them, and when they refuse to pay that amount they are sent to the police.
- (9.) When the task-work is not finished at 5 o'clock P.M. their wages are cut off.

They further claim two months' wages for March and April 1871.

On the merits of this case I can say nothing, because it is still pending, but the

attendant circumstances are fully sufficient to show, as has been before asserted, the justice to the Indian labourers must be the rare exception. This case has been going on two months; Mr. Poulin has stated that he will keep it going two years; and this seems to be no idle boast, for if he is allowed to continue his cross-examination at the same length as hitherto, and then to bring his other labourers into Court, the case might well last even longer.

26. But if this is the length to which a planter can protract the proceeding, complaint made by his labourers, on the other hand he can bring a complaint against his labourers to a speedy conclusion; for since the complaint against Mr. P began, he has had some of the complainants twice arrested, and on each occasion procured the condemnation of some of them in the other Court of Pamplemousses District Court, to imprisonment for having met together on the estate and persuaded their comrades to go with them to the Magistrate to make the above complaint.

27. While the complaint against Mr. Poulin drags on its slow length, the complainants are at the dépôt, having refused to return to the estate, but their wives are there and subject to whatever influence may be brought to bear on them.

28. It must be evident to any one that such delay as this in the affair of sixty-six Indians *v. Poulin* amounts very nearly to a denial of justice; and the case is the more significant, that the Governor has instructed the Substitute Procureur-General to con it on behalf of the Indians. If this is the result now, what would have been the fortunes of the Indians had not His Excellency interfered? And lest it should be thought that the fact of this complaint having been brought shows that Indians prosecute their complaints without let or hindrance, be it known that these Indians, their last hope, went in a body to Réduit, the country residence of the Governor, and obtained His Excellency's special protection.

29. In spite of the hardships they endure, and this is the point insisted on by who would defend the present system, a certain percentage of labourers immigrate to Mauritius a second time. What are the reasons of this? Firstly, there are some planters who treat their labourers with consideration and justice; to these labourers will gladly return, and these are not the persons who either bear or desire the oppressive Labour Laws, since they would in no case fail to find labour. Secondly, there are some 200,000 Indians already in Mauritius, who have been in ignorance of the laws or before they had attained their present severity, whose relations are here, under engagement or not possessed of the money to pay return passages to India; for they are not provided with return passages, as I have it erroneously stated in Indian publications, the truth being that Old immigrants are compelled to return in such vessels and at such times as the Protector appoints, must pay their own passages, often more than it would cost them if they could return in their own vessel. Thirdly, many of the immigrants who return to India still practise the Hindu rites are adjudged to have lost their caste, and it not unfrequently happens that, unless they have both the means in money and the will to redeem it, the influence of the priests is sufficient to make them outcasts in their native village; and in some cases they return as immigrants, either alone or with other members of their family. Lastly, if poverty alone, or superadded to any of the above causes, induces them to return, that is no reason why they should be ill-treated, nor can it disprove positive facts; it only shows at most how much their misery makes them willing to undergo.

30. Again, it may be urged that the new Labour Laws have already been for some time in existence, and that when made they received the nearly unanimous assent of the Council. This was almost inevitable, seeing that the official Members, from whom all opposition to the planters could be expected, very rarely venture to vote against a Government measure. But for the honour of human nature I am glad to state that in 1867, when the new Labour Laws were under discussion, one Member of Council was honest enough to oppose them. This was the Honourable Mr. Kerr, the then Attorney-General, a gentleman of long experience in the colony, and in consequence well qualified to form a correct opinion concerning the proposed Labour Laws and the real grounds for their introduction. He was mercilessly ridiculed by the Governor, by his colleagues, and by the public prints. The following are extracts from a letter on the subject by the late Mr. Draper Bolton, taken from the 'Commercial Gazette' of November 1867:—

31. With respect to the speech of the Honourable Mr. Kerr, he says: "You will remember of this morning, in which the Honourable the Treasurer is held up to public ridicule for his recent speech in Council, did, I must most frankly confess, astonish me. In my opinion, there was a deep foundation in truth in all the remarks of the Honourable Member, however unpalatable the remarks evidently were." . . .

Mr. Kerr has laid down—and this is the sum total of his offending—but three propositions; and let us see whether they are right or wrong; they are—

"1stly. That the Indian is illegally arrested;

"2ndly. That there is no cause for fear of insecurity from the present liberty of the Indian;

"3rdly. That the Indian is bought and sold like cattle—is a slave in fact."

32. Speaking of the arrestation of Indians, he says: "When conveyed to prison, be he New or Old immigrant, and let us suppose it be only for loss of papers, what may be his lot? The very fact of his having no papers results in his incarceration, and no defence is listened to. I have seen Mr. Ormsby myself condemn ten men in less than ten minutes, because they had no papers." . . .

And when at the Vagrant Dépôt, in the quasi civil capacity of a mere contravenant of the law, not a criminal nor misdemeanant, what happens? If the poor devil cannot work, he is tied up like a criminal and licked to extinction with a cat-of-nine-tails; applied, in Captain Anson's time, and I defy contradiction, by a muscular boatswain of a man-of-war."

"Don't let us talk of Mrs. Fry nor of other prison philanthropists; let us not throw ridicule on persons well intentioned, and who, not being planters, not living on the labourer's toil, can have none other than pure motives for their remarks; but let us set aside all passion, and calmly place ourselves in the position of the poor and humble, in the position of those against whom we legislate."

33. And ridiculing the idea of insecurity arising from the liberty of the Indians, he says:—

"What are the objects of burglaries here? In Port Louis a few verandah chairs and many cages left outside to take care of themselves; in the country a few turkeys and chickens left unprotected. And by whom are these awful crimes committed? I, as a great victim, . . . can tell you. By Creoles, against whom, as *enfants du sol*, has not been thought expedient to legislate at all."

And finally, in speaking on the third point, he says: "Again, how many tickets have been issued to men years in the colony, saying that they had five years to serve, though the law says no man's industrial residence shall be called into question for any period beyond three years before his arrest."

34. These, then, the Honourable Mr. Kerr and Mr. Advocate Bolton, are the only reasons by whom the Labour Laws have been opposed; but their treatment was sufficient to deter others from following their example. That they should convert the planters to their way of thinking was about as probable as the success of any one who, in the face of undisguised slavery, should have asked them to liberate their Africans. Redress could only be had from England; to obtain it here is absolutely impossible.

35. If immigrants were treated with justice and humanity, missionaries here would find a fair field for their labours among the Indians, whose prejudices become rapidly softened in a country where to lose their caste no longer entails the consequences which it does in India, and where only a few Brahmins are interested in its preservation. On their return to India they might be the means of diffusing some small measure of European civilisation among such of their countrymen as would receive them, and greatly by their example the spread of a purer religion; but while kept in a state of bondage, they will always seek such poor consolation as their own religion can afford them, and look with aversion on that of their masters.

England wisely allows great liberty to her colonies in the enactment of their laws; but here concessions in the direction of self-government are converted into oppression of another and more numerous race.

It should be remembered that planters and magistrates here may be the sons of African slaveholders, many of them with a perfect recollection of the actual times of slavery, and, it may be, imbued with the ideas which slavery engenders; and a careful consideration should be kept over the laws, and especially the power of appending regulations to them, which are to receive the Royal assent. For how otherwise than by surprise could the present Labour Laws have been enacted, they being in direct violation to the will of Her Majesty, as expressed in the instructions issued by His Excellency Sir Arthur Hamilton Gordon, by which it is provided that assent is not to be given in the Queen's name to "Any Ordinance whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable."

order therefore that the British flag, which sets the African slaves at liberty,

and which should be everywhere the sign of freedom, may no longer protect a system which comes very near to the enslaving of British subjects, the remedy is most obvious; most just; it is only necessary that Her Majesty's intentions should be fully carried out, and that it be in consequence decreed that "In every English colony, any Ordinance made, or that may hereafter be made, whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable, shall be null and void."

40. I conclude with the fervent hope that Indian immigrants all over the world soon be restored to that freedom which it is the will of Her Most Gracious Majesty that all her subjects should enjoy.

ADOLPHE DE PLEVITZ

Port Louis, Mauritius, August 3, 1871.

## REPORT OF THE ROYAL COMMISSIONERS.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

your Majesty's Commissioners appointed for the purpose of making a full, fair, and impartial enquiry into all the statements made in a pamphlet recently printed and published in the Island of Mauritius by Monsieur Adolphe de Plevitz, and into all matters to which such statements in any way relate, and into the condition generally of the Indian labourers employed in the sugar cultivation of the said island; being authorised, jointly and severally, to collect evidence respecting the subject-matter of such an enquiry, and to communicate to your Majesty as well the evidence as any opinions we may think fit to express thereupon, humbly report as follows:—

Directions in Commission.

### CHAPTER I.—*Manner of Proceeding.*

1. In obedience to your Majesty's commands we have instituted a full and searching enquiry into the subjects referred to us.
2. In the course of that enquiry we have examined Monsieur de Plevitz and sixty-three other witnesses. We have also been furnished with returns from the different estates, and with the reports and proceedings of Government, and returns from various public offices.
3. No limit being assigned to the period from which we were to commence our enquiry, and having very soon discovered, in the course of our investigation, that complaints similar to those brought forward by Monsieur de Plevitz had from time to time been made from almost the very commencement of immigration, we found it necessary to ascertain how those complaints had been disposed of, and thence the necessity arose for examining the proceedings of Government from a very early date.
4. We further, either jointly or separately, visited 51 out of the 210 sugar estates now under cultivation, and would, if we had been required, in order to satisfy the wishes of the planters generally, have visited more; but we were satisfied to form our opinion from those we had seen, and were informed that the Chamber of Agriculture, before us had represented the planting interest generally, were satisfied with what we had seen, and did not desire that we should visit any other estates.
5. The whole of the evidence, both oral and documentary, together with Reports of our Visits to the Estates, will be found in the Appendix.
6. Before entering upon our Report, it will be proper to state briefly the course which we pursued in conducting our enquiry.
7. The Chamber of Agriculture of Mauritius—a body representing the planting interest of the island—appointed a committee and two barristers to represent them before the Commission of Enquiry; and it gives us much pleasure, as well as being a duty, to place upon record that we derived very great assistance from the Committee of the Chamber of Agriculture and the barristers representing them, Messrs. Newton and Guibert; these latter giving us much assistance by their knowledge of the laws and customs of the courts of justice of Mauritius, and in suggesting questions which might be put to the various Witnesses we examined.
8. The Committee of the Chamber of Agriculture also further gave us great assistance in obtaining answers to a circular of Questions which we early issued to the several proprietors of estates; and, further, in furnishing us with information upon other subjects as we required it. The proprietors of the various journals in the colony, likewise obligingly placed their files of newspapers at our disposal, from which we derived much useful information regarding transactions and opinions of past and present times. It is, however, a cause of regret to us that the Chamber of Agriculture could furnish us with no suggestions on their part for reforming the condition of the immigrants; and for securing to the planters a more strict adhesion on the part of the labourers towards fulfilling their contract by assiduous and constant labour; as, from a vowed desire "to offer us such assistance and information as it was in the power of the planters to procure for us," we had hoped to have obtained useful and practical suggestions from them upon these points.
9. In addition to the above sources of information, we received petitions from all persons who considered they had any cause for complaint, and, referring them to the persons who had the power of redressing their grievances, if any existed, we received reports, and thereby ascertained what amount of the oppression complained of was

Searching enquiry.

Witnesses examined.

Researches into the past.

Visits to estates.

Evidence.

Course of enquiry.

Great assistance from the planters.

Circular of questions.

No suggestions from planters.

Dr. Leary's pamphlet.

Petitions from immigrants.



attributable to neglect or ignorance on the part of the colonial authorities, as well as oppression by the planters.

11. In this manner we received about 500 petitions, either written or made orally by the complainants. Several of these complaints were proved to be false and unfounded, others were not established, whilst many of the well-grounded complaints will be noticed in the course of our Report.

12. We visited three Gaols and the Vagrant Depôt, some of the Poorhouses, and the Barkly Asylum.

## CHAPTER II.—The Petition of the Old Immigrants and the de Plevitz Pamphlet.

13. The above petition was presented on behalf of the numerous Old immigrants to His Excellency the Governor, Sir Arthur Hamilton Gordon, on the 6th of June 1871. The signatures or marks are subscribed to it, to His Excellency the Hon. Sir Arthur Hamilton Gordon, Governor of Mauritius, on the 6th of June 1871. Mr. Adolphe de Plevitz.

14. Mr. de Plevitz is of German extraction, and came to Mauritius in 1859. He has continued to reside there, without, however, becoming a naturalised British subject. He is in comparative old age, station, residing with his father-in-law, and managing an estate of 200 acres belonging to the latter, in which he himself has a small interest, at N. Découverte, in the district of Pamplemousses.

15. Nouvelle Découverte is a somewhat secluded place in the valley between Pieterboth and Callebasses Mountains, situated not far from what must be the junction of the boundaries of the several districts of Pamplemousses, Placq, and it is inhabited by great numbers of small proprietors, chiefly Old immigrants who, by their industry, have converted a large portion of the jungle, with which the hill-sides are covered, into market-gardens varying in extent from a quarter of an acre to about two acres, and cultivated with great care and neatness. The place, however, is in ill reputation with the police, being the supposed resort of thieves, and other bad characters. Dead bodies have from time to time been discovered there, as in many other parts of the island, in the fields and jungles.

16. The grievances complained of in the petition may briefly be described as mainly out of the working of the police pass system established by Ordinance No. 1867, and the regulations under it issued by proclamation on the 11th November 1868, and as amended by those of 25th August 1869, may be summed up as—

- (1). Harsh operation of the Ordinance No. 31 of 1867.
- (2). Number and oppressiveness of the fees charged for duplicate tickets, & Immigration and the Police Offices.
- (3). Ill-treatment in the Immigration Office.
- (4). Arbitrary and vexatious conduct of the police in carrying out the law.

17. It was submitted to us at the commencement of our enquiry—

1stly. That Mr. de Plevitz' motive in taking the matter up was corrupt;

2ndly. That the petition did not represent truly the sentiments of the Old immigrants: and this view appears to have been shared by the Hon. Mr. Newton, President of the Chamber of Agriculture, who, in his Report made to that body, on the 6th June 1872, speaks of the petition as having been signed "through the exertions of a man of no favourable antecedents."

18. The antecedents of Mr. de Plevitz, as well as the motives by which he was actuated, we considered quite irrelevant to the issue, and consequently decline to give them as proper subjects of enquiry, further than to give him the opportunity of denying on oath having received any remuneration either from Indians or from the Government. As to the question of how far it represented the sentiments of the Old immigrants upon the subject of such grievances as are involved in the four points above, it will be sufficient here to state our opinion that all four points have been fully proved as containing legitimate grounds of complaints.

19. As to the question of how far it represented the sentiments of the Old immigrants upon the subject of such grievances as are involved in the four points above, it will be sufficient here to state our opinion that all four points have been fully proved as containing legitimate grounds of complaints.

20. Mr. de Plevitz's own statement on oath is, that he undertook the task of presenting the petition to His Excellency the Governor, on the 6th of June 1871, in consequence of the Ordinance and Regulations of 11th November, 1868, first came into full operation.

21. Cases of hardship occurring within his own observation, such as "vagrancy" and the wholesale arrests by the police consequent upon them; Indians so arrested, tied together and taken along the road in the manner of whom he had long known as industrious persons; the harsh and

of the law in its strictest letter by certain Magistrates, and lastly, the circumstance of the increasing frequency of Indians coming to state their grievances to him, led him to commence taking notes of complaints, out of which he selected eighteen cases as typical, and upon them he based the petition.

22. Having drawn up the petition, it was translated gratuitously into the Tamil and N. dialects, and copies were circulated throughout the island for signature, by means of our agents, who gave their assistance free of charge, while Mr. de Plevitz himself went about public places procuring signatures, attended by an Indian boy, who read the petition in the native dialect to persons thought likely, or professing, to be interested. Another copy at the same time was lying for signature at Mr. de Plevitz's house, whither Indians, Old immigrants from all parts of the island, repaired, in order to sign it.

23. At the end of April 1871 an incident occurred which, amid the excitement and suspicion that followed later, was invested with an importance to which, under other circumstances, it would never have attained; inasmuch as it was converted into an imputation, made by no less a person than the President of the Chamber of Agriculture, against His Excellency the Governor of having connived at a violation of the law.

24. Mr. de Plevitz draws attention to the fact, which he stated to have been without previous example in the colony, namely, that during the preparation of this petition—a large meeting of Old immigrants was held at Mountain Long, close to the Nouvelle Découverte, to discuss the general law of the land, which prohibits all meetings not previously authorised by the authorities. Mr. de Plevitz had been present at this meeting, and that the British Magistrate, who was present, had been asked to do so, on the pretext of the meeting being held in a private house, and that he had refused to do so, on the ground that it was not a private house.

25. There can be no doubt that gatherings of Indians and take place, sometimes in considerable numbers, at a shed or "hangar" adjoining Mr. de Plevitz's house, in which the grievances of Indians who came thither were taken down in writing, either by Mr. de Plevitz or one of his assistants; and further, that the petition was read to persons who came with the intention of signing. But we are satisfied that the proceedings went no further, and that nothing coming up to a public meeting, in the sense usually understood in England, that is, for the purpose of discussion, ever took place.

26. It is also true, that the police were apprehensive that a large meeting was about to be held on Sunday, the 30th of April, with a view to enunciating some protest against the Labour Laws; which was duly reported to Captain Gordon, the Acting Inspector-General of Police, and by him to His Excellency the Governor.

27. His Excellency at once said that such a meeting must be prevented, and the parties promoting it informed that it was illegal; and Captain Gordon in consequence saw Mr. de Plevitz twice upon the subject, firstly at his house, and again at the police office in Port Louis, when, in presence of Captain Blunt, the Adjutant, he read to him Article 211 of the Penal Code, under which the contemplated meeting was illegal.

28. Mr. de Plevitz stated that he did not wish to call a meeting, but that the petition was lying for signature in his verandah, and he wished the Indians to proceed thither and sign it on a certain day: whereupon the opinion of the Procureur-General was taken as to whether such a course would fall under the Penal Law aforementioned, to which he replied, on the 25th April 1871, that in his opinion it would not, provided the proceedings were confined to the mere signing of the petition apart from any discussion upon its merits.

29. In case, however, of there being any attempt made to hold the meeting, notwithstanding the warning given to Mr. de Plevitz, orders were given for a detachment of police twenty strong to go secretly to Mountain Long station during the night of Saturday the 29th, so as to be in readiness to act in case the necessity should arise.

30. These men were under the command of Police Inspectors Seed and Timperley; whom we examined, and from whose evidence it appears that on that day Mr. de Plevitz was not at Nouvelle Découverte, and that there was no danger to the public peace greater than might arise from several small groups of Indians in any attire, who were sitting by the road-side, or moving towards Nouvelle Découverte, in consequence of a rumour having by some means got abroad that the

Proceeding  
obtaining  
signature

Procureur  
General  
meeting  
of Old im-  
migrants.  
Imputation  
upon the  
Governor

the President of the Chamber of Agriculture

Meeting of  
Old im-  
migrants  
at Mr. de  
Plevitz's

A meeting  
contemplated  
but failed  
to take place

Interview of  
Mr. de Plevitz  
with the  
police.

Declaration  
of Mr. de  
Plevitz.  
The opinion  
of the Pro-  
cureur-Gen-  
eral was  
asked as to  
whether such  
a course  
would fall  
under the  
Penal Law

Precaution  
taken by the  
police to pre-  
vent any  
meeting.

Examination  
of Police In-  
spectors Seed  
and Timperley  
with two  
men.  
Inoffensive  
character  
of the pro-  
ceedings.

Governor was to be present. It was, however, currently reported that His Excellency's aide-de-camp, or a person representing himself as such, had appeared and informed the Indians that His Excellency could not attend that day.

31. It was, therefore, not a little remarkable that, although nearly all the persons examined before us upon this point had heard of this person, yet none of them had seen him; and as His Excellency's real aide-de-camp most certainly was not present, we are of opinion that the rumour was as devoid of foundation as many others which frequently reached our ears during our sojourn in Mauritius.

32. Although we are fully satisfied that there never was the smallest risk of disturbance of the peace, we do not feel so satisfied that, under the 211th Article of the Penal Code, the mere fact of getting up such a petition at all, was not technically illegal. A view evidently still maintained by Dr. Icery, in whose opinion it is only a quibble to allege that the meeting was held for the simple purpose of signing or affixing crosses to a petition; and from the evidence which has been given of what had occurred, it would appear that the meeting was not held for the purpose of affixing crosses or signatures to the petition, but had for its object to explain to the people assembled there what was the purport of the petition.

33. It is possible that some confusion may have been produced in the minds of the French portion of the community, from the fact that the laws of Mauritius are printed in both French and English, and the wording of the article runs—"Aucune réunion ou assemblée, soit de préparer des pétitions au Gouvernement, soit de s'occuper d'un objet d'intérêt général ne pourra avoir lieu," &c. The English version being—"meeting, the object of which shall be either to draw up a petition to Government or to discuss any object of general interest, can take place," &c.

34. If then, either the words of the French version are to prevail; or, that the down of the complaints of successive individuals, and the reading of a petition by a person or persons inclined to sign it, is to be construed as the "discussion" of the article will go the length of prohibiting any concerted action whatever, where the object is one of general interest. Such, however, is a very narrow construction to place upon the law, as it would render the preparation of any petition against grievances in which large numbers of persons may be interested, practically impossible; and, we feel sure that had the signatures been subscribed without the petition having been previously read over to those signing, no one would have laid greater stress upon the omission, as indicative of the want of *bona fides* in the whole matter, than would have the two learned counsel who so ably represented the Chamber of Agriculture before us during our enquiry.

35. We may here observe that this was not the first occasion in the history of Mauritian immigration upon which this Article of the Penal Code had attracted attention; for we find (*vide* chapter *Contingent System*, paragraphs 299 *et seq.*) that, in 1846 and in 1848, when Governor Sir William Gomm attempted to place certain restrictions upon the meetings and proceedings of the Merchants' and Planters' Association at Port Louis, in virtue of this very article, his action, as well as the law itself, was most vigorously denounced in the following terms: which, if he were acquainted with them, may possibly have guided the conduct of Sir A. Gordon in dealing with the proceedings contemplated by the Old immigrants:—

"You will not fail to mark the extreme illiberality of that law and its flagrant opposition to the spirit of British legislation. We stand indebted for its introduction into the Mauritius code to Governor Sir William Nicolay, who promulgated it in the year 1838.

"But however illiberal that law may be, and inconsistent with British freedom, Sir William Gomm's interpretation of it goes still deeper into arbitrary rule, and aims at the total prohibition of anything like associations. Indeed, His Excellency is evidently desirous of extinguishing in this colony every means of collective representation on the measures of the local government.

"It has been impossible for us to submit to this attempt on what we consider to be the inherent right of all Her Majesty's subjects; and we consider we have effectually defeated His Excellency's pretensions, as the enclosed correspondence will show, as well as the fact that we have since continued to meet. It is our intention to petition the Government for the repeal of this obnoxious law; but we must, in the first place, dispose of more important matters, such as the labour question, in which the very existence of the colony is at stake.

"But, in the meantime, we beg the favour of your communication to the Secretary of State on this subject, removing, if necessary, any erroneous impressions that may exist as to the perfect loyalty and propriety of our intentions."

36. So wrote, in 1846, Mr. Currie, the immediate predecessor, in 1872, of Dr. Icery in the chair of the Chamber of Agriculture, and subsequently one of the Vice-Presidents, —a man justly respected throughout the colony.

37. We therefore, find it difficult to reconcile the censure passed by the Chamber of Agriculture upon Sir Arthur Gordon by their unqualified adoption of Dr. Icery's Report, with the severe strictures passed, under almost similar circumstances, by another of its most distinguished members, twenty-five years before, upon Sir William Gomm.

38. In the particular case under consideration we think that the authorities took all necessary and reasonable steps, under the advice of the legal adviser of the Government, to ensure tranquillity and uphold the law; and that, if any mistake was made, the blame due therefor is to be attributed to confusion in the law, rather than to any connivance on the part of the Government or of the police; and we cannot see that, even if the Governor had taken no steps whatever in the matter, and the meeting had been all that it was represented, there would have been any difference, apparent to an impartial observer, between the relative positions of the Old immigrants seeking redress from laws which most unquestionably infringe upon personal liberty, and of the merchants and planters petitioning in favour of protection, representative institutions, and diminished taxation, sufficiently great to have rendered the non-interference of Government a ground for just censure in the one case, and its interference an intolerable grievance in the other.

With regard to Mr. de Plevitz's part in the matter, we think that at first he clearly intended the signing of the petition by the Indians on a certain day to be a demonstration against the new Labour Law, but, on finding that such a course was likely to bring him into collision with the Government, that he adopted every means in his power to prevent a breach of the law—

1stly, by publishing an advertisement warning Indians against coming to sign in such numbers at any one time as to create a crowd;

2ndly, by going himself on the 30th April, the day for which the meeting had been announced, to a point on the road near the boundary of the Flacq and Moka Districts, in order to stop Indians who might not have seen the advertisements, from flocking to Nouvelle Découverte in crowds;

3rdly, it is to be observed that, apart from the excitement inseparable from the getting up such a petition, no attempt was made to unsettle the minds of labourers engaged upon the estates, it being especially mentioned in the advertisement above quoted that only "Old immigrants not engaged on any estate will be admitted to sign."

40. The essence of the whole petition is, the harsh operation of the law upon Old immigrants not under engagement; and we cannot see in the preparing a petition praying for relief from such oppressive laws, any evidence of intention to excite disorder among the Indians indentured on estates, who were only affected very partially by the law in question.

41. The petition having been presented to the Governor on the 6th of June, he replied, on the 27th of the same month, that he would refer it to a Commission, the appointment of which had been already determined upon for the investigation of other matters connected with the police force. (*Vide* next chapter.)

42. These proceedings do not appear to have attracted any very general notice at the time of their occurrence, though, taken in connection with subsequent events, they combined to produce the utmost alarm and indignation.

43. In the month of September 1871, Mr. de Plevitz issued a pamphlet, consisting of a publication of the petition, to which were appended certain remarks and observations upon it and upon the labour laws generally.

4. This pamphlet, numerous copies of which had been despatched by the preceding mail to England and India, contains a severe attack upon the whole system of Indian immigration as existing in connection with Mauritius, and denounces particularly—1. The recruiters in India; 2. The Protector in Mauritius; 3. The employers of labour; 4. The police; 5. The rates; and 6. The Legislative Council, as the framers of the Labour Laws,—the of which has been, not the suppression of vagrancy, but to drive the free labour of immigrants (that is, those immigrants who have completed their five years indenture) on to the sugar estates, and to compel such free labourers to re-engage to planters on the terms dictated by the latter. It further criticises severely the of Sir Henry Barkly, the late Governor of Mauritius, and goes the length of charging him with complicity with this design.



45. It also quotes a passage from a work by the Rev. P. Beaton, which reflects very strongly upon the alleged want of veracity among Creoles, insinuating that there is not a man among them who would hesitate to perjure himself under even the smallest inducement. It next proceeds to comment upon the unequal administration of the law in cases in which the issue is between employer and employed; citing in particular two cases, one of which attracted much attention (the Mont Choisy case), and which the writer asserted to have amounted very nearly to a denial of justice. (See Chapter XXX. *Magistrates and their Courts*.)

46. It then alludes to the protest made in the Legislative Council against the passing of the Ordinance No. 31 of 1867, by the Hon. Mr. Kerr, the Colonial Treasurer; and in the 'Commercial Gazette,' by Mr. Draper Bolton, an advocate long resident in Mauritius; and concludes with recalling the fact that planters and magistrates in Mauritius may be the sons of former slaveholders, and, consequently, imbued with the traditions of that institution.

47. The amount of truth, falsehood, or exaggeration contained in the pamphlet will be made apparent in subsequent chapters of this Report. We content ourselves with stating here that we think the tone assumed in the pamphlet is to be regretted, if needlessly, and possibly intentionally, offensive to the agricultural body; and Mr. de Plevitz thereby considerably weakened the position which he otherwise would have occupied.

48. Be that as it may, the publication of this pamphlet produced the utmost alarm and excitement among all classes of the community. Mr. de Plevitz was denounced by the press in terms which, for virulence and scurrility, far exceeded his own writing; public opinion generally, called for his prosecution as a libeller; such a course was opened, under the law of libel (Article 287 of the Penal Code)—whereby "Any allegation of a fact prejudicial to the honour, character, or reputation of a person or of the body to whom such fact is imputed is a defamation."

49. The Government very properly taking no steps towards a public prosecution, an incident ensued which Dr. Icery describes as "blameable in every way;" a sentiment in which we fully concur, though we think the expression is far too mild a stigma on the scandalous scene that followed.

50. On the 19th of October Mr. Jules Lavoquer, belonging to a respectable family in the colony, accompanied by a large number of other persons, met Mr. de Plevitz in Port Louis, and assaulted him; while, at the same time, Mr. de Plevitz was assailed and struck from behind by another person, with some instrument which, though not inflicting a severe injury, caused blood to flow; and it is impossible to read the report of the evidence given at the subsequent trial without coming to the conclusion that the assault was the result of a preconcerted plan for the castigation of Mr. de Plevitz, and, in the event of his offering resistance, of overpowering him by sheer force of numbers.

51. Being assaulted in this cowardly manner appears to have brought Mr. de Plevitz within the reach of the law, as he was at once taken into custody by the police and conducted before the Police Magistrate, and charged, together with Mr. Lavoquer, with creating a disturbance, although it might be thought that the latter alone could have been justly obnoxious to such an accusation.

52. The public excitement, however, continued; and on the 21st of October Mr. de Plevitz was again threatened in violent and abusive language in front of the Post-office by a disorderly crowd, headed by Mr. Mervin.

53. His Excellency the Governor, on hearing of this second disturbance, wrote to the Procureur-General, expressing his opinion—an opinion in which we fully concur—that "it might be somewhat dangerous if such things were allowed to go on;" and, in reply, was informed by him, that, after the occurrence of this second disturbance, he had already directed the police to withdraw the double charge against Lavoquer and de Plevitz, and to prefer a charge of misdemeanour against the former alone, which course, though not directed by his Excellency, met with cordial and hearty approval.

54. The perfect propriety of this course did not appear to be duly appreciated even Dr. Icery, contrasting it with the previous inaction of the Government in the matter of the prosecution for libel, writes:

"Then throwing off the reserve it had until then maintained, the Administration ordered the abandonment of a charge brought in the first instance by

\* For details of this case see Appendix O. 16.

"Mr. Lavoquer and Mr. Plevitz for disturbing the public peace, and instead instituted a criminal action against the former alone;"

and, further, that this course had excited a certain discontent, because it was contrary to the custom of the Administration. In fact, though the law gives the police power to take the initiative in the prosecution of cases of assault upon private persons, it never exercises this power in Mauritius except when an assault results in grave consequences; otherwise it leaves the persons aggrieved themselves to obtain redress for their complaints."

55. On the 30th October, a petition, which, to the shame of the colony we regret to say, was signed by more than 900 persons, among whom appear many of the most respectable names in the island, was presented to His Excellency the Governor, with the object—

1stly. Of expressing their approval of the conduct of Mr. Lavoquer, and their disapproval of the conduct of the authorities;

2ndly. Of praying His Excellency to order the immediate expulsion of the alien Mr. de Plevitz from the colony.

56. This extraordinary request, which even Dr. Icery mentions without any censure or surprise, and to which the Governor replied through the Colonial Secretary on the 14th November, by administering a just but severe rebuke, did not alter the resolution of the Government. The prosecution was continued; and on the 3rd November, Mr. Lavoquer was duly convicted, and sentenced to a fine of £25. This fine was immediately paid by a shilling subscription

opened at three of the principal shops in Port Louis, and at the office of the *Cornéen* newspaper; while the stick with which he had assaulted Mr. de Plevitz was formally presented to Mr. Lavoquer on leaving the court, adorned with a complimentary inscription referring to the event.

On the 7th November 1871, the Honourable Mr. Naz, a leading member of the Chamber of Agriculture, from his place in the Legislative Council, gave notice of his intention to ask the Governor what measures he had taken, or intended to take, to prevent the falsehoods and calumnies of Mr. de Plevitz exercising any effect upon the interests of the colony in India.

57. What followed will be best described in the words of Dr. Icery: "On the 13th November 1871, the Chamber of Agriculture, which until then had not thought it would be necessary for it to take any part, unanimously adopted, on the motion of Mr. Hardy, resolutions, which we need not quote at length, to the effect:

"1stly. That His Excellency the Governor should be respectfully moved to take the earliest opportunity of refuting the malicious assertions contained in this libel, in order that the Home Government and the Indian authorities should be made acquainted with the truth.

"2ndly. That, in case His Excellency the Governor should not find reason to accede to their request, Her Majesty may be prayed to name a competent Commission to enquire fully and fairly into all the circumstances; and report on the condition of the labourers employed in the sugar cultivation of this colony."

"At this meeting the President of the Chamber observed that when the Plevitz pamphlet was published he had not attached much importance to it, believing it had reference only to the complaints of the Old immigrants. At the same time he expressed the opinion that the regulations of which Old immigrants complained might be modified and rendered less strict; and he reminded the Chamber that it had not suggested them, and that it had even recommended, when the Ordinance of 1867 was under discussion, that the regulations to be enacted for the carrying out of the Ordinance should not aggravate its clauses." (See Chapter IX. *The New Labour Law of 1867*, par. 525.)

"The Chamber," he added, "had not specially concerned itself about the Old immigrants' petition, because all Her Majesty's subjects have the right to present petitions, and because, besides, it had confidence in the declaration made by the Governor that he would extend an equal protection to the interests of all classes."

"On this occasion the president expressed his regret that the Commission which His Excellency had in the month of June promised to appoint to make enquiry into the complaints of the Old immigrants, and into the facts alleged against the police, had not yet been constituted. He observed, moreover, that His Excellency assessed every means to inform himself on the matters in question and the necessary authority to arrive, in this respect, at a prompt and satisfactory solution."

The Governor's course blamed by Dr. Icery.

Petition for the deportation of Mr. de Plevitz from the colony.

Approval of Mr. Lavoquer's conduct.

Disapproval of the conduct of the Governor.

The Governor's conduct not overrated.

Conviction of Mr. Lavoquer and avulsion in his honour.

Notice of question given by the Hon. Mr. Naz in the Legislative Council.

Resolutions passed by the Chamber of Agriculture.

Enclosure No. 5 in Despatch No. 197.

Enclosure No. 5 in Despatch No. 197.

Cornéen newspaper, 6th Nov.

Page 11 of pamphlet, App. D. 25.

but no reduction of the Revenue of Patrick McIntosh's range of unimpaired and unimpaired equal administration of the law.

reference to the assertions of Mr. Kerr and Mr. Draper Bolton, general impression that the Government planters, questions of tradition of the pamphlet to be regarded.

general indignation and excitement caused by the law of libel in Mauritius.

arranged to be done.

de Plevitz, horse-pistol, and a lying suit.

evil the result of the petition.

de Plevitz, arrested, disturbed the public peace, and for having been self-assaulted.

continued in the Government.

de Plevitz, arrested, disturbed the public peace, and for having been self-assaulted.

de Plevitz, arrested, disturbed the public peace, and for having been self-assaulted.



On the following day, 14th November, the Honourable Mr. Naz, at the meeting of the Legislative Council, put to His Excellency the Governor the question of which he had given notice the week previous, to which His Excellency replied in an address, which may also be regarded as an answer to the Chamber of Agriculture, as a copy of it was transmitted by the Colonial Secretary to that body, to which (it having been already forwarded to and approved by the Secretary of State) we need not further allude than by observing that, while expressing his own belief as to the general well-being of the Indian population, the Governor declared to commit himself to positive statements as to facts with respect to the degree of truth or of falsehood of which he was, and at that time (as we shall hereinafter show) could be, at best but imperfectly informed. And that, as to an enquiry into the allegations contained in the pamphlet, referring not to distinct and specific matters of detail, but to the immigration system generally; such an enquiry, in his opinion, could only be effectually undertaken under the direction of the Imperial Government.

On the 17th November, His Excellency transmitted to the Secretary of State the memorial of the Chamber of Agriculture, and His Lordship, after carefully considering the question, came to the conclusion that the prayer therein contained must be granted; and your Majesty was graciously pleased to appoint us a Commission for the purpose, on the 17th February 1872.

### CHAPTER III.—The Police Enquiry Commission.

59. We mentioned (Chapter II., paragraph 41) that on receiving the petition of Old immigrants, Sir Arthur Gordon announced his intention of referring it to the consideration of a Commission, the appointment of which had already been decided in consequence of a letter written by the Honourable Mr. Justice Gorrie, one of the Judges of the Supreme Court, to His Excellency the Governor, on the 26th April, previous, and of the enquiries which ensued thereupon.

60. Mr. Gorrie drew the attention of His Excellency to certain facts which he disclosed\* during a trial before him of three Indians charged with arson, from it appeared to him that the police were in the habit of arresting persons on suspicion and of improperly tampering with them whilst so in custody, to induce them to evidence of a particular character, and which he denounced as "contrary to maxims and usages of English law."

61. This letter was referred, by order of the Governor, to Captain Gordon, at the time Acting Inspector-General of Police, who was ordered to conduct a formal enquiry in person into the circumstances of the case, and to ascertain whether the charges against Mr. Justice Gorrie were, or were not, borne out by the facts. An investigation ensued before Captain Gordon, Mr. Spencer, the Superintendent of Police, and Mr. Bell, Inspector of Police of Grand Port, who reported their conviction that the prisoners had been induced to make confessions by irregular means, and that intimidation had been used by Police Inspector Macpherson with the same object; while, on the other hand, it was urged by that officer that he had only followed the course generally in use in force, and that he never knew it to be wrong: an allegation which determined His Excellency to appoint the Commission.

62. Some considerable delay elapsed before the issuing of the Commission, which did not take place until the 28th November, when the following gentlemen were appointed to be Commissioners:

"For the purpose of enquiring into and reporting upon the discharge by officers and constables of the police force of their functions with respect to the enquiries required by them to discover the authors of crimes and offences committed or alleged to have been committed, and the exercise by such officers and constables of powers conferred upon them by Ordinance No. 31 of 1867, and regulations issued by the Governor in Executive Council under authority of the said Ordinance."

His Honour Major-General Selby Smyth; His Honour Mr. Justice Gorrie; The Hon.able Clément Antelme; The Honourable John Fraser; Captain Francis Theobald Blunt, Acting Inspector-General of Police; and John Anderson Robertson, Senior District Magistrate of Port Louis.

63. The Commissioners held their first meeting on the 4th of December 1871, under the presidency of General Selby Smyth, and continued to take evidence until the 24th February 1872. Ordinance No. 33 of 1871 was laid upon their table on the 24th February 1872.

\* For details of this case vide Chapter XXIX. The Police, and Appendix H. 40.

December, whereby they were empowered to compel the attendance of witnesses, as well as to examine them on oath or affirmation, a power which, until then, they had not possessed. In the course of their sittings they examined 130 witnesses, including the Protector of Immigrants, the Procureur-General, several Magistrates, police officers, Government clerks, and a number of Indians, some of whom had signed the Old immigrants' petition, and others, such as Mr. Rajarathnum Moodelliar, and Sinnatambou Vingtas, persons of consideration among the Indian population of the colony.

64. The enquiry being concluded, for the purpose of drawing up the Report it was (according to General Smyth, who is herein corroborated by Mr. Justice Gorrie, Mr. Antelme, and Captain Blunt, and, to a certain extent, by Mr. Robertson) "agreed upon unanimously, that each member of the Commission should furnish (General Smyth) with his views upon the evidence, in the form of a draft Report, from which the draft of the general one should be framed for discussion by the Commissioners."

65. The correctness of this statement is demurred to by Mr. J. Fraser, who at that time was about to leave the colony, and who appears completely to have misunderstood the arrangement entered into by his colleagues, and who believed and intended that the Report he forwarded to General Smyth, and which the latter treated as a confidential draft, should be submitted as a separate Report to His Excellency the Governor.

66. Draft Reports were sent in, as agreed, by the other Commissioners, with the exception of Antelme, and after several meetings and discussions, a Report was compiled and agreed upon by General Smyth, Mr. Justice Gorrie, Captain Blunt, and Mr. Robertson; but Mr. Antelme, dissenting upon some points from the others, sent in a separate Report.

67. It is to be observed that these meetings were not attended by Mr. Fraser; and, before the Report had been signed, on the 4th April, he had left for England.

68. It has, however, the authority of General Smyth for saying that the views and suggestions of Mr. Fraser were not overlooked in the deliberations of the other Commissioners, and that care was taken that every member should read and digest his opinions, as expressed in the draft he had sent to General Smyth, and that many of them were embodied into the general Report.

69. The Report thus signed by the majority was submitted to His Excellency the Governor, on the 9th April, 1872, by General Smyth, under cover of a letter, in which General Smyth used these words: "I regret to say the unavoidable departure to England of the Honourable John Fraser previous to his adoption of the Report, has prevented his having had the opportunity of signing it."

70. Some conversation had apparently taken place between Mr. Fraser and General Smyth, from the tenor of which the latter evidently was under the impression that Mr. Fraser would be inclined to approve of the Report adopted by the majority, and would authorise the General to sign it on his behalf, to which General Smyth readily assented, and requested a written authority to that effect; but not receiving any such written authority, he did not, of course, take action in the matter.

71. Whether Mr. Fraser misunderstood General Smyth, or General Smyth misunderstood Mr. Fraser; whether Mr. Fraser would or would not have signed the Report had he attended the meetings of, and discussed the various subjects with, his colleagues; is perhaps now a matter of small importance; excepting in so far as it furnished a pretext for public opinion in the colony to declare that the Report was thereby deprived of all value in their estimation. But, as soon as it was possible, after the Report had been laid upon the Council table and published, a protest arrived from

Mr. Fraser. The Honourable Mr. Beyts, the Protector of Immigrants, likewise protested against the justice of the remarks passed by the Report upon his Department; as did also Colonel O'Brien, the Inspector-General of Police, after his return to Mauritius in the July following, in a letter addressed, at our request (Vol. Q. 5627), to us on the 24th August 1872.

72. Together with his protest, Mr. Fraser forwarded to the Governor his reasons for dissenting from the opinions of his four colleagues, and from these it would appear that there were very few points upon which he did agree with them; for, among the paragraphs dissented from by him, we find mentioned the 58th, which records the opinion of the four Commissioners, that—

"Most of the grievances complained of in the Old immigrants' petition have a real and substantial foundation;" and that, "although the statement given is exaggerated, and was probably very imperfectly comprehended by not a few of those who signed it, yet that it conveys no unfair representation of the sentiments of the immigrants respecting the grievances which bear most hardly upon them; and that they would not have assented to so very general a proposition, and

Power of  
Order 33  
1871.

Drafting of  
the Report.

Misunder-  
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sioners.

Sundry  
protests.

Mr. Fraser  
reasons of  
dissent.

to us so undeniable as the existence of legitimate grounds of grievance, it is evident that any agreement between him and them would have been perfectly hopeless.

72. As we shall have occasion in the course of this Report to make frequent allusion to various paragraphs of the Report of the Police Commissioners, we shall at a time to time state how far we do or do not concur with the opinions expressed therein.

73. With regard to the sixteen special cases annexed to the petition of the Immigrants, the Police Enquiry Commissioners in their Report (Section IV.) leave certain questions connected with them, undecided; as in the case of Dilloo and Seegoolam (No. 1 of the special cases), where the majority of the Police Enquiry Commissioners report—

“If it be true that he (Seegoolam) was arrested for not having his paper pass,

“it is an example of how harshly Ordinance No. 31 of 1867 and the Regulations

“under it have been construed by some of the Stipendiary Magistrates against

“Creole Indians.”

and, Mr. Antelme (par. 62 of his separate Report), says—

“La plainte de Seegoolam est mensongère. Il résulte des livres de M. le

“magistrat stipendié des Pamplemousses, que cet homme a été condamné

“désertion, et non pour être allé dans un autre district sans passe.”

We directed Mr. Seed, the Assistant Protector of Immigrants, to examine the Police Enquiry Commission's books upon this, as well as the other cases. His Reports upon them will be found appended in full, and, from them we find, that, on the 30th June 1869, Seegoolam was arrested in the district of Flacq, and, that, on the morning of the 2nd of July, he was forwarded to the Stipendiary Court of Pamplemousses. The records of this Court show that he was received by escort from Flacq, as a “has not any papers and cannot prove employment,” and, that, without further delay, he was sentenced to ten days' imprisonment.

74. In case No. 4, RAMCHURN complains of having been arrested early one morning about 4 A.M., while asleep under the verandah of a friend's hut at Nouvelle Découverte, and thence to Pamplemousses station, where he was locked up without food. The allegations of this man the Police Enquiry Commissioners do not to be supported by any evidence laid before them, and they did not believe the plainant himself on oath. A friend whom he called to support his statements support them, and added,—

“If he has money by him, he drinks every day.”

Mr. Antelme says (par. 65 of his separate Report)—

“Cet homme a été arrêté à 4 heures du matin sous la varangue d'un bout

“à deux cents pas de sa case. Il s'était probablement soulé dans la boutique

“n'avait pu regagner son domicile. L'enquête a établi que c'est un menteur

“ivrogne.”

The further enquiries made by our orders show that Seegoolam was arrested on Saturday the 1st of July 1871, for having no police pass, and was not brought before the Stipendiary Magistrate until Tuesday the 4th of July. Consequently, his statement is so far corroborated that he was kept three days in the lock-up before being brought before the Magistrate.

75. CASE No. 9, SEOWEN alias JEECOON. The result of the enquiries made by Mr. Seed into this case threw no further light upon it. In neither the cell book at the central police station of Port Louis, nor in the journal of the police magistrate, did his name or his alias appear; and, there was no register kept at that time at the Immigration Office of Indians coming thither with applications, from which his attendance at that office can be proved.

76. CASE No. 12, RAMBURN AND OTHERS. Mr. Seed examined the books of the police and of the Stipendiary Court, for the months of May and June 1869 and 1870, but did not find this name.

77. CASE No. 16, MADHOO. With regard to this complainant, who could not be traced by the Police Enquiry Commissioners, it appears that he was arrested and locked up on the 9th of May 1871 in Plaines Wilhems District: which was a Tuesday, and, as stated in the complaint: and, if his arrest took place after 4 o'clock, his rations having been indented for, he would receive none for that day. On the following day, Friday, as stated in the complaint: and, if his arrest took place after 4 o'clock, he was taken before Mr. Martindale, the Stipendiary Magistrate, at Rose Hill, and, that he was the servant of one Budhun in the district of Pamplemousses, and, that he was ordered him to be taken thither under escort. He was taken to Port Louis, and, that he was kept that night in the lock-up of the Central Station, and, on the following day, he was sent to Pamplemousses. He was on the same day taken

Renouf and remanded; and, four days later (on the 16th), he was released upon Budhun, his employer, appearing and stating that he was no deserter. Thus, exactly a week intervened between his arrest and his release; and, we think that he had very substantial grounds to complain against a system under which he was subjected to such treatment.

78. In conclusion, we have the honour to report, that, without affirming our belief in the truth of every detail contained in these complaints, they show the existence of good reasons for complaint.

79. The grievances complained of are, however, the natural consequences of the carrying out of such laws as Ordinance No. 31 of 1867 and the Regulations thereunder; in cases we have been considering we fail to detect any proceedings which can be characterized as positively illegal. The hardest cases are those which arose from the rigidity of the boundaries: and, though the police appear to have acted harshly, it is not going too far to assert that they had acted illegally.

80. It is upon the case of Dilloo's children that Colonel O'Brien, in his letter to us protesting against the Report of the majority of the Police Enquiry Commissioners,

“If the arrest was illegal, the man had his remedy under the law, or by reporting the individuals departmentally for excess of duty. He had moreover Mr. de Plevitz, whose zeal in his behalf cannot be doubted, but who did not attempt to stop the arrest by enlightening the police as to the status of the lads.”

We do wish that Colonel O'Brien had abstained from the sneer implied in the last sentence, as Mr. de Plevitz, whatever his motives may have been, appears to have acted fully and properly.

81. We will not spend time here, as we did when examining Colonel O'Brien, in discussing how far Mr. de Plevitz ought to have remonstrated with the police at the time of the arrest. It is enough to state, that he took the trouble to go a distance, as nearly as we can recollect, of six or seven miles: to see the Magistrate (the late Mr. E. Dupont), at about 9.30 on the night following the arrest, with the view, if possible, of obtaining the release of the lads; and, further, that he attended the sitting of the Court on the following morning, and gave evidence which led to their acquittal from the charge of vagrancy against them.

82. With regard to their arrest being illegal, we are not prepared to assert that it was so; as by Ordinance No. 31 of 1867, Article 55,—

“any officer or constable of police may at any time of the day, or at any time of the night, under warrant . . . enter any premises wherein any immigrant . . . resides,”

in search of vagrants. The invasion of Dilloo's hut is stated to have occurred at about 5 A.M. in the month of July, and, if this be accurate, it must therefore have been some time before daybreak: in which case we should certainly suppose that a warrant would have been necessary to justify such infraction of domicile. In the absence, however, of any corroborative evidence as to the point of time, we think it but fair to the police to assume that the arrest took place by day; and, although, being natives of the colony, Dilloo's children were not bound to be provided with police passes, the police did not know this, and the burden of proving their status has always been cast upon the parties challenged.

83. In the opinion of the Police Enquiry Commissioners, that it was most coincidental, that, whilst the parties injured might have had a remedy against an illegal arrest, they had none against one, which, no matter how arbitrary, was yet within the law.

84. Colonel O'Brien's second suggestion, that the lads arrested should have reported their “departmentally,” we can only reply by reference to the chapters in this Report on the Enforcement of the Labour Laws and upon The Police, from which some idea may be formed of the amount of good which would probably have resulted had these Indians adopted the course thus recommended by the Inspector-General of Police.

## CHAPTER IV.—Early Immigration.

1758-1829.

85. Although immigration from the East Indies to Demerara and the might have been the result of the abolition of slavery, it was not so in N we learn from Baron Grant (or rather Bernardin de St. Pierre, whose 'Voyage à l'Île de France' Grant translated without acknowledging them) that in 1769 the Malabar coast, whom he describes as a very mild race of p mostly from Pondicherry, came to the island, and let themselves labourers for a certain number of years, mostly as artificers and peons; says that he had seen none who would give themselves up to agriculture.

86. These people inhabited a suburb then called "Camp des Noirs," "Malabar Town;" and so thoroughly were the Indian habits and customs an with the French, that St. Pierre, writing about merchants with small capital to Mauritius and rendered themselves obnoxious by money-jobbing, and m says: "They are called 'Banians,' which is the same as calling them Jews."

87. Though this is the first notice we have of free labourers emigrating from Mauritius, we find that before 1758, natives of India had been introduced as sl Bengal, and we find them and their descendants among the slave population the very abolition of slavery; and, so late as 1827, we find a charge brought a proprietor of the island of Coëtivi, of having, ten years before, taken six f free men from Mauritius, and detained them in slavery at Coëtivi, u discovered there by Mr. Werner, when taking the census of the slave popu.

88. The case is mentioned in Messrs. Colebrooke and Blair's Report; they notice some of the defects of the trial, which ended in an the accused, Laconfurgue and Bertheldt, they do not notice al that are apparent on the record, which was found for us by his Honour the C among the Records of the Court of First Instance.

89. But this case is further remarkable, as showing the standing of immi at that time: that not only rich planters, as were Tiramoudy and Anasw more than an hundred slaves belonging to them: but other Indians, of u from one to a dozen slaves; some, their own countrymen; that is, India descendants; and, later still, in 1839, before immigration had become an in the Government, we find the inhabitants of Mauritius declaring tha "some thousand natives of India and their descendants have been here for very many years as planters, shopkeepers, clerks and artisans, so "native languages of India are here all perfectly well understood and "spoken, not only by the domesticated or Creole Indians, but by a great nu "European residents."

90. Again in 1815, Governor Farquhar obtained forced labour from India shape of convicts; at one time as many as 835; who were sent to Mauritius to the roads, though several of them were employed by private individuals; mo by M. de Chazal in his silk cultivation; and all who employed them spoke we. There were, however, amongst these convicts but six women, one from Bengal from Bombay.

91. This supply of forced labour ceased in 1827, and in 1847 Sir William brought the condition of those that remained to the notice of the Secretary of S a view to providing for their future employment and disposal, and was authorised freedom to all who were more than 65 years old, with the option of going India; and to provide for the maintenance of those who remained in the cr were unable to gain their own livelihood.

92. The Government of India objected to the convicts being returned to I on the 11th April 1853, Governor Higginson reported having liberated all t convicts except two, who were undergoing sentences of imprisonment f committed in the colony; the conditions of their pardon being that they return to their native country. Some were pensioned, and, of them, to remain in the island to this day, receiving rations and lodgings. One r until lately, established as a shopkeeper and is now possessed of more petency.

93. Many of these men, particularly among the first introduced, were characters; but, considering that the dépôt in which they were housed a was admittedly incapable of keeping them in safe custody, and that the in when at work on the roads were no more places of security than a it appears extraordinary that more complain wonderful that they should have behav

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well. Accordingly, in 1858, when wages were so high and labour on the roads in such disrepute that the contractors could not get workmen, the Protector of Immigrants proposed to re-introduce convicts from India as the only system that could give satisfactory results. The planters, he said, had no objection to Indian servants, it would be a great boon to persons living in Port Louis to get ants allowed to engage as a reward for good behaviour, and who, from fear it back to the roads, would continue to behave well.

94. V thus see that, while labourers had been coming for hire from India to Mauritius for fifty or sixty years before the emancipation of slaves called the serious planters to seek other sources whence labour might be obtained to substitute about to pass away, forced labour, in the shape of slaves and transported convict (the former for nearly a century, and the latter for fifteen years) had been receiv from the same source. The immigrant from India, therefore, when he came to that, ay in some measure account for the tenacity with which, as we shall see, the trad of slavery and forced labour have been adhered to in much of the legislation of th colony.

95. The first occasion on which the aid of Government was sought in support of tition from India was in 1829, when Messrs. Guillardin & Co. were introduced by the Government of Mauritius to the Governors of Madras and Singapore, as being "a of high respectability, desirous of introducing into the colony a number of ns as hired labourers;" and, as the Government of Mauritius thought it an of great interest, as holding out the prospect of providing for the cultivation of and with free labour, they bespoke every countenance and facility for them.

It appears, however, that Messrs. Guillardin & Co. acted as much as agents for is on their own account, for, on the 9th March 1829, twenty-five Indian labourers Potier's estate at "Albion," in consequence of his not paying them their wages than three months, but referring them to Messrs. Guillardin for payment. before came to Port Louis, and the Chief Commissary of Police gave them ut had no building in which to shelter them. These men, and some 127 more; n Mr. Potier's, and the rest introduced by some other masters; were then in a agabondage, or subsisting at the expense of Government in hospital or elsewhere, riment called upon their masters to show cause why they should not be forthwith to their native country at their (the masters') cost.

97. Unfortunately, when in 1829 there had been a great influx of low foreigners, the nt had prudently revived a Proclamation of 1817 under which strangers Mauritius were obliged to procure security for their good conduct during ence. Government were thus able by calling upon the securities to rid the short time, and at no expense to the Treasury, of 329 men, who, as it was fased to work and abandoned their places of labour; crowding the public reets, and the police office, and thus the men who had been thrown out of sequence of their employer not paying their wages for three months and repudiating his responsibility, were mingled with the vagabond and worth- less. This was the result of what Mr. d'Epinay says was the first attempt igration from India.

nd no further reference to emigration from India, until the introduction of came a question of existence for colonial industry and agriculture; and then, September 1834, Mr. Macfarlane, Chief Magistrate in Calcutta, wrote to the ecretary to Government informing him (not with the idea that there was ny call for the interference of Government) that 36 Hill Coolies had entered ent with Mr. Arbuthnot for five years, to go to Mauritius and work on The Vice-President in Council desired to know what arrangements had r their return, as he was anxious to assure the Government of Mauritius n could not be a source of expense to Her Majesty's Government on the

99. r Mr. Macfarlane sent a copy of the agreement made with them, in which it provided:—  
The ey should serve for 5 years;  
The air passage to Mauritius, and back at the end of 5 years, should be paid Arbuthnot & Co., unless the emigrants left their service before the piration of 5 years;  
That heir pay was 5 rupees for men, 4 rupees for women;—their work the

Proposition of Protector in 1858, of introducing more convicts from India.

1829. First occasion of Government's countenancing immigration.

1830. Immigration conducted by private parties.

Expulsion of Indians from Mauritius.

Men who would not work for no pay, reckoned vagabonds.

1831.

Mr. Arbuthnot engages Coolies in India to work in Mauritius.

Provisions of the contract with Mr. Arbuthnot.



same—digging holes, weeding canes, or working in the sugar plantation, under the supervision of the manager to fix the quantity.

One rupee per mensem per man to be retained for back-passages. If the money is not required, the money to be restored at the end of 5 years.

Food: 2 lbs. rice per diem per man.

1½ lb. " " woman.

½ lb. dholl.

2 oz. of salt.

" of oil.

" of mustard.

Clothes: 1 dhotee, 1 sheet, 2 blankets,

1 jacket, and 2 caps annually.

Six months' pay in advance, and pay to commence on embarkation.

Information of this was sent to the Colonial Secretary of Mauritius, on the 23rd September 1834.

100. These 36 men, and another 39 from Bombay, without any women or accompanying either party, appear from a Return of the Protector of Immigrants, Hugon, to be considered, officially, as the first emigrants from India.

101. In 1835, 1160 men, 61 women, 22 boys and 11 girls arrived from India. Among these were 37 engaged with Messrs. Paul Froberville, Griffiths, who objected to comply with the order requiring the permission of Government obtained before the immigrants entered the colony, and to furnish security as above (paragraph 97) for their good conduct; urging that there was no Colonial law in existence previously to Ord. 16 of that year (passed after these immigrants had been introduced) under which the course prescribed by the revived Proclamation could be enforced, viz.:—that labourers should not be introduced without the permission of Government, and that persons obtaining that permission should enter into their good conduct: with respect to which they (or rather Mr. Hollier Griffiths in their name) maintained that the passing of this Ordinance itself proved that to the same effect existed previously, and, consequently, that the Chief Commissioner had no authority under which he could require security from the Griffiths further took that opportunity of criticising the Ordinance as being arbitrary and despotic a power in the hands of Government, and as tending to the introduction into the colony of free workmen and labourers.

102. On the 23rd January 1836, Sir William Nicolay, when forwarding Ordinances (16 and 17 of 1835) for approval, enclosed the correspondence with Hollier Griffiths, and mentioned that the only objections made to the Ordinance came from him, and that their enactment had received general approval in the colony. He concluded his letter with,—

Blue-Book 166, 17, 1836. Part six, p. 217. "Your Lordship will perceive by this correspondence that the Ordinance has been introduced into this colony a great number of Indian labourers, a measure which to a certain extent will, I conceive, prove very beneficial, besides furnishing an increase of labour at the moment, it will in all probability stimulate the other classes of workmen to seek employment."

103. The preamble of Ordinance 16 (which Sir William Nicolay, in his letter to Lord Glenelg said, "completely set forth the object of this law") adverted to the inclination to idleness and sloth of people passing from a state of servitude to liberty; to the daily introduction into the colony of foreign labourers; to the insufficiency of the existing laws to compel the lower classes of society to the maintenance of good order with the demands of industry and agriculture.

104. This Despatch crossed one from Lord Glenelg dated the 28th January 1836, in which he wrote with some anxiety on the subject of an Ordinance, which, he had seen in the public journals of Mauritius, had been introduced into the Legislative Council, which, if passed into law, it was said, would subject the whole labouring population of the island, especially persons introduced from the Eastward, to restraint of so extremely onerous a nature, as nearly to revive, under a new name, the servile condition of the great body of the people.

105. It is therefore not surprising that when, on the 21st May 1836, the Governor received the Governor's letter enclosing Ordinances 16 and 17 of 1835, and Lord Glenelg's Despatch thereon, he wrote on the fourth day after the receipt of the P

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Ordinance No. 16 of 1835, in public manner, by the Governor, was received by the Government of Mauritius, and an announcement was made on the 1st of January 1836.

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Blue Book of 1836, p. 106.

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and directing that its disallowance be made known in the most public manner, with the least possible delay: an order but ill observed, as the letter was received on the 23rd September and the Notice was not published in the Gazette until the 18th October, and then only in the ordinary manner, as that His Majesty had allowed Ordinances Nos. 13 and 15, and Nos. 14, 16, and 17: though Sir William Nicolay reports it in the most public manner, and denounced the preamble as wanting not only in perspicuity but in propriety, and added that,—

the law might more accurately have been described as the substitution of some new coercion for that state of slavery which had been abolished; the effect of it at least is, to establish a compulsory system of labour, and in some material respects even less 'equitable' than that which it supersedes.

Since was the first which the Legislature of Mauritius passed, protecting the respective interests of masters and servants, after the abolition of slavery, it will be instructive to analyse it contained in the interest of both master and servant. We should be careful to attempt to do it better than it has been done in Lord Glenelg's Despatch.

marks upon the preamble, his Lordship goes on to say:—

It commences (sec. 1) by directing an annual census of all the persons in the colony. To accomplish such an object with any approach to accuracy, a large body of minute regulations, especially in reference to the names of those who are too young, too infirm, or too ignorant to perform aright, is necessary. But this enactment disposes of the whole subject, subjecting every person who shall not make a return of his name, to a penalty not exceeding two months imprisonment. Such legislation cannot but be attended by great uncertainty and much personal injustice. But I pass to the more immediate and important objects of the law.

The second section gives a definition of the term 'vagrants,' who are to be kept under the surveillance of the police, and who, if convicted of any offence against the Police law, are to be punished, on the first occasion by imprisonment for a term not exceeding three months, and on a second offence by imprisonment for a term not exceeding twelve months, either with or without hard labour in each case. The third section defines the offences of the Police law to which these punishments are attached, and some of them of the most trivial kind. The fourth section defines the character of a vagrant, and is so greatly to aggravate the guilt and the penalty. By a 'vagrant' is meant any person capable of labour, but having neither occupation, nor the known means of subsistence. Thus, then, every hand out of work is by this law declared a 'vagrant,' and is to be driven, by that injurious designation, but by the liability to the most rigid discipline, to seek immediate service, however disadvantageous or unfair may be the terms offered by the employer of such labour. The third clause declares that every person under the age of sixty years, capable of labour, and who should be able to prove that they follow some business, or possess sufficient means of subsistence, shall be bound to take to some trade, or find employment, or to hire himself as field labourers, within a period to be fixed by the police. In the event of failure to perform this duty, the offender is to be delivered over to the police to be employed on the public works. Thus, every man and woman (for no distinction is made of sex) who cannot find work or who may be disposed to temporary repose, is to be subjected to participate in the labour of the public works, and justly dreaded both for its severity and for its degradation.

The law proceeds to declare that if after three months any such person shall not have found employment, he may be sentenced to be placed on some plantation or manufactory, to be there employed for a period not exceeding three months, or woman being first committed to the general police, to be employed on the public works, because he or she could not find employment, is thus sentenced to three years' labour on a sugar estate, because he or she has not been able to find work, although the necessity of labouring on the public works is not the cause of his or her idleness.

Publication of disallowance of Ordinance No. 16 of 1835.

Lord Glenelg's Despatch upon Ordinance No. 16 of 1835.

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"may have rendered the obtaining such employment impossible. If an impediment exists, or not, it is not however required that misconduct should precede this sentence of three years' compulsory service. More is necessary than that the sufferer should not for the purpose of employment. Respecting the remuneration to be made for the daily duration of it, and the maintenance of the labourer, the Ordinance is entirely silent.

"The law however proceeds to give an appeal against the decision of the police, the labourer may transfer this question to the Court of First Instance. But he must do this within eight days from the service of the decision of the Court of First Instance will be final.

"Thus the labourer, condemned without even the imputation of years' compulsory labour, must within eight days institute an appeal. No person is appointed to sue for the labourer, nor protector or adviser. In reference to the ignorant and helpless labourer, this semblance of redress is offered, it may well be regarded as a mockery of justice. The exclusion from an appeal to the Court of First Instance, where the highest interests of the suitor are involved, is an objectionable kind. I abstain from any more particular remarks which render the superintendence of the Court of Appeal dispensable.

"The Ordinance however advances much further in its provisions than has hitherto been noticed. 'If at the expiration of three years' compulsory labour, he may be subject to a fine or imprisonment in the same manner as before.' The state of the hands of the labourer, therefore, according to this Ordinance, is to be that of a slave on the plantations to which they may be assigned by the law. Because it is manifestly impossible, except under some very special circumstances, that any man fixed by the law on a particular estate, should be free to labour elsewhere immediately on the termination of his servitude. That the workman might seek another engagement while working for his master, so as to prevent the occurrence of this fatal interval of inaction, is found in the 25th section, which subjects to a fine, over and above the penalty of imprisonment, any person enticing, or endeavouring to entice, any labourer to leave his master. The bonds of the law are tightly round him in every direction in which his freedom could possibly be made. With what elaborate care the law appears from the regulations which are next to be noticed.

"By the fourth Article it is required that every person above the age of 14 years, who shall be desirous of hiring himself out to service for a period exceeding one month, shall, under the penalty of a fine or imprisonment, register his name at the police;—the persons labouring by compulsory service, are to be registered by the police without their own consent. Every registered person is to be given a ticket, describing his name, age, and employer. Without such a ticket no person can be hired, and no person can change his employer without at the same time resorting to the police for a new ticket. For any omission in this respect, the person (whether hirer or hired) is to be punished by eight days' imprisonment.

"This system of registering the whole working population is a virtual bondage to their employers. The possession of a ticket is the indispensable condition of changing from one service to another. Every person who shall by accident lose this paper, or be prevented from obtaining it, will be unable to relieve himself from any service however onerous. But this Ordinance looks beyond the present, to future generations. Children of the age of eight years or upwards may be apprenticed to any kind of work, however rude and unskilful, until they reach their 21st year. If the parent, tutor, or guardian consents, the child may be bound with his own consent. The consent of a parent, tutor, or guardian, need scarcely say, is to be taken on such an occasion. There would be neither tutors nor guardians to consent to the condition of life which is here contemplated.

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"If the parents of the child are unable to support him, then he is to be apprenticed with any consent whatever. The rule is manifestly unjust. Although the parent may be unable to support the child, the child may well be able to support himself, or some other person (the supporters of a charity school, for instance) may be willing to provide for his maintenance. Respecting the terms of the apprenticeship, and the duties to be imposed by it on the master, the law is entirely silent. But if the apprentice be under the age of 14, the master may confine and punish him or her at his discretion, it being required only that the punishment should be proportionate to the age and fault of the apprentice.

"At a more advanced age, the apprentice committing a more serious offence (the term is left thus indefinite), or failing to fulfil the terms of the contract in any of the enumerated modes (one of which is described by the singular expression 'bad will') may be punished by fine and imprisonment; and this rule is extended to all labourers and workmen. This is a very lax and objectionable style of penal legislation.

"But the 11th clause is still more open to censure. It subjects to imprisonment not exceeding 12 months, with or without hard labour, any workman or apprentice who shall menace or strike his master, or his master's representative.

"Thus the lowest servant on an estate, armed with the delegated authority of the master, is to be regarded by the workman with such reverence, that a blow, however well he may have deserved it, or a threat, however reasonable, or by whatever usage extorted, is to subject the labourer to a penalty which should be reserved for crimes against the State of the most serious kind.

"If three or more labourers shall associate or conspire to quit their service, or to change the conditions of their contract, or to enforce an increase of wages, they may be punished with six months' hard labour, without prejudice to a public prosecution. Without minutely enquiring into the degree of public danger likely to arise from such associations, I remark that combinations amongst employers to prevent their workmen from finding better services, or to depress the rate of wages, though an offence far more easy of perpetration, and far more injurious, if committed, is passed over without any penalty whatever.

"If the master shall not fulfil the terms of his contract, he, it is said, may be compelled thereto at the suit of his labourer, and shall pay damages according to the circumstances of the case. Thus, while on the one side there is the summary and effective remedy of fine and imprisonment, the remedy on the other side is a civil action, which in the case of a common workman is nearly equivalent to a declaration that there shall be no remedy at all.

"In the case of 'excessive punishment,' or 'ill-treatment,' is supposed; and in addition to damages in a civil action, the master is liable to a fine not exceeding £10 sterling. I need scarcely notice that such a maximum of penalty for all the acts falling within the description of excessive punishment, or ill-treatment, may be altogether disproportionate to the crime. But, while the rights of the master are thus slightly treated, and his obligations left without limitation, the 20th, and two following clauses, subject the labourer not only to imprisonment, but to twofold payment for all time abstracted from his service; and even to the payment of two days' labour for every day lost to the master by the imprisonment.

"All the penalties of this law are exigible before a single Justice of the Peace; and that too without appeal.

"I might prosecute these remarks still further, but it is unnecessary. Enough has been stated to show that this is an Ordinance to which it is impossible that His Majesty's assent should be given; nor is it without very deep concern that I have found that such enactments could obtain either the concurrence of the members of the Council, or your own sanction. The freedom contemplated by Parliament, and to secure which such costly sacrifices have been made, must be ill understood at Mauritius, if it be supposed to be compatible with such regulations as these, or with any others which may be conceived in a similar spirit.

"In my Despatch of the 20th January last, No. 7, I referred to what then appeared to me an incredible report, that an Ordinance had been proposed for the adoption of the Council of Mauritius, which, if passed into a law, would subject the whole labouring population of the island, and especially those persons who might be introduced from the Eastward, to restraints and penalties of so extremely servile a nature, as nearly to revive under a new name the former servile condition of the great body of the people. I now reluctantly admit that

1836.  
Lord  
Glenelg's  
instructions upon  
Ordinance 16  
of 1835.

Feeling in  
Mauritius  
regarding the  
disallowance  
of Ordinance  
16 of 1835.

The Govern-  
ment's views of  
the working of  
Ordinance 16  
of 1835.

Ordinance 12

of the

Blue-Book  
No. 189 of 1833,  
p. 78.

The Parsee  
Biccajee's  
opinion.

Several pro-  
visions in  
Ordinance 16  
of 1835, dis-  
allowed, have  
since been re-  
voked.

Reports of  
Messrs. Wood-  
cock and Scott  
in 1836.

Mr. Wood-  
cock's descrip-  
tion of Indian  
labourers in  
Mauritius in  
1836.

"the report was well founded, and that the law is obnoxious to the precise charge which was thus preferred against it.

"In conclusion I am commanded to repeat in the most emphatic terms His Majesty's injunction contained in my Despatch of the 20th January last, that no law for regulating the relations between labourers and their employers, or affecting the condition of the labouring people of Mauritius as a distinct class, must be proposed by you to the Council, except with His Majesty's express previous sanction of the terms of any such proposed law; and that you do not assent to any law of that nature, if proposed by any other members of the Council, unless it contain a clause suspending its operation until His Majesty's pleasure shall have been signified."

109. It is not surprising to find that the Governor and the Council were de-  
at this result, and it is asserted that the inhabitants at large felt a considerable alarm at the fate of the Ordinances, and from two districts petitions came to hold a public meeting protesting against the Ordinances being disallowed.

Governor would not permit; but, in writing to the Secretary of State, subject he stated that the Ordinance, while in operation, had produced a good practical effect without occasioning any manifestation of discontent or complaint of oppression: as if no objection could be taken to a law affecting the labouring population, which was harsh and unjust in the extreme, so long as it stopped short of driving them to desperation: that the state of tranquillity until the Ordinances were disallowed, and since then there had been a visible increase of idleness and disorder among the lower classes of the community. But an important part of the Governor's letter was that submitting Ordinance 12 appointing the Civil and Police Commissaries of the several districts, assistant Justice of the Peace and Police of Port Louis, as, Ordinances 16 and 17 of 1835, had been disallowed, there was no tribunal to take cognisance of suits for wages except the Justice of the Peace, and he could not try all the cases that must

110. Previous to this, however, on the 23rd June 1836, Sir William Nicolson, India, enquiring:—1st, Whether they were satisfied with the manner in which the Indians' work; 2nd, Whether the Indians worked in bands by themselves or with the apprentices; 3rd, Whether the Indians disliked work or the apprentices, and whether, after work was over, they mixed together or not; 4th, Whether the Indians showed any uneasiness or discontent; and 5th, Whether the apprentices had shown any dislike to the Indians.

111. The information, he said, furnished by the answers he received when he sent them to the Secretary of State, was very satisfactory: but, it is to be regretted that more notice was not taken of the answer to the 4th question. Parsee Biccajee, who refers to the Indians' disappointment at not obtaining the same comforts in Mauritius as in their native land, and the deprivation of holidays they enjoyed there, and that the greater part of the planters did not treat them as they ought; for it is probable that Biccajee's knowledge of the Indians was, that the Indians would prefer remaining in Mauritius to returning to their country.

112. It is unnecessary to follow further all that Sir William Nicolay contained in favour of Ordinance 16 of 1835. It had been disallowed, and it is to be regretted that several of the enactments it contained have in the course of time been again introduced into the statute-book, as we shall hereafter see.

113. At this time the Governor-General of India appears to have obtained very good information generally, as regards emigration to Mauritius, from two members of the Bengal Civil Service—Mr. T. Parry Woodcock and Mr. J. Scott, who had visited Mauritius in the course of 1836, and had interested themselves in the state of the Coolies. Mr. Woodcock, whose report is the more practical, was a passenger in the 'Drongan,' the very ship that brought the Hollier Griffiths (mentioned above), but not on the same voyage; he left India in March and had a two months' voyage, which would have brought him to Mauritius in May, and there were only 66 Coolies on board; while Mr. Griffiths did not arrive until September.

114. Mr. Woodcock describes the 'Drongan' as a ship of 355 tons, with a cargo of rice. Of the 66 Coolies on board, 25 were "Dhangurs" or Hill

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Nagpore; 15 Mahomedans, and 25 Hindoos of every caste, from the Brahmin down to the Chumar.

115. The accommodation on board the 'Drongan' was bad. The lower decks were stowed with rice, and the Coolies were disposed of in the waist, between the gangways and the fore-castle, where, unprotected from change of weather and climate, they would have suffered much, had not the weather been remarkably fine.

116. They were made to help to work the ship, but suffered no ill-treatment save the punishment the sirdar inflicted on them for offences among themselves. Each had a quart of water daily, and as much rice and dholl as he could eat. The captain treated several cases of dysentery and fever successfully, and there was only one death in a two months' voyage.

117. On arrival at Mauritius they narrowly escaped being put into quarantine on account of a cutaneous eruption on some of the Coolies, which the medical officer who boarded the ship suspected was *itch*; but they escaped. Those labourers engaged for estates in the island, were marched off to their destination, and those for estates on the sea-coast were put on board a *chasse-marée* and sent direct to the estate without any further delay or proceeding. On arrival at the estate they were generally allowed a few days' repose, before commencing work.

118. The agreement regarding work which his fellow passengers had made, was the same as that made by Messrs. Arbuthnot with their Coolies, "that the daily labour of each person should be fixed by the manager of the estate."

119. He subsequently found that to dig 30 holes, a foot long, a foot wide, and a foot deep, was the usual task, though it varied according to the soil; for such a task, in some parts, would have been an impossible day's work.

120. Though guaranteed rest on Sunday, it was not always allowed; and this, though received compensation, constituted the only serious cause of complaint he heard of.

121. Mr. Woodcock found the men already employed in estates on Mauritius were from the same classes as his fellow passengers. On one estate he found a gang of fifty Indians, of whom not more than two or three had ever before handled any implement of agriculture, the others having been cooks, mussalchees, sweepers, syces, and of every variety of trade and employment, except that for which they were engaged.

122. The Hill Coolies who arrived on board the 'Drongan' had come to Calcutta in search of work, and had entered into the speculation with perfect good-will. The rest had deserted their homes in consequence of some family disputes, or fled from their villages from inability to pay their rents: got involved with crimps, and being offered the alternative of a gaol or taking the advance offered to men willing to go to Mauritius, and so paying their debt, had accepted the latter.

The island, of course, was described in glowing terms: every necessary of life was cheap, and the voyage one of only ten days, instead of two months. There were 7 rupees a month for a "sirdar" (or headman), 6 rupees for "mate" or "Th" rupees for Coolies, and 3 rupees for boys; with clothing:

sets each man, one woollen cap, two dhoties (or body clothes), and one shawl (or jacket) per annum.

and food:

Fourteen chittacks\* of rice, two chittacks of dholl, and salt, oil, and tamarinds, &c., daily.

With regard to lodgings, Mr. Woodcock mentions that there was generally a large but prepared for the labourers when they arrived, at some distance from the ex-apprentices' camp, and that a medical man visited the estate periodically.

123. At the time of Mr. Woodcock's visit to the estates the emigrants were nearly all occupied in clearing waste land, and bringing it into cultivation. This was their work from January to employed in the sugar house; being preferred, for work there, to the Mozambique negroes.

124. Mr. Scott mentions that in some engagements the number of working hours were mentioned, and the engagements were drawn up clearly and per diem; but others were very loosely written, and could be interpreted at the pleasure of the master. Wages in general were assumed to be

Blue-Book  
No. 189 of 1833,  
p. 146.

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as = 1 chittack.  
icks = 1 seer.

\*kan = 1 lb. avoirdupois.—'Mr. Boyts' Mission to India,' 1861.



Mr. Scott's  
Report in  
1836.

Relations be-  
tween planters  
and Indians.

Causes of mis-  
understand-  
ings.

Justices not  
with a reach,  
though want  
of interpreters.

Character of  
employers,  
essential  
point.

Women.

Report of  
Scott, 1836.

How abuses  
would arise.

Case in se-  
lection, sug-  
gested by  
Governor,  
not attended  
to.

Immigration  
stopped by  
Governor.

11 rupees a man per mensem; of which 5 only were paid in money, and the remainder was taken by the master to supply food and clothing. A clause was also added, allowing the master to deduct a rupee (in some cases eight annas only) a month, from the 5 rupees pay, for a given period, to meet the expense of a return passage or maintenance in prison, for any offence, or in case the Government should, for reasons of police, or policy, deem it advisable that the emigrant should not remain in the colony; and to ensure the reimbursement of those sums that Ordinance 5 of 1841 was subsequently passed.

125. All the planters he conversed with appear to have united in their character and general disposition of the Indians, preferring them to the negroes, and thinking them better workmen; though there were, of course, misunderstandings on both sides, arising from the planters being deceived by receiving men unfit for work, from age and infirmity, which had often engendered an unfavourable feeling towards the unwitting object of it; from their not knowing the prejudices of the Indians, or how to manage them, and from the Indians not having understood, or having been deceived in, the terms upon which they were engaged; and also from the terms of engagement differing, not only on different but in some cases on the same estates: from the wages, they had to get through the first six months of their residence as if they had spent the six months' advance given them in India, and consequently, from things having been shown them in India in a brighter light than they found in Mauritius.

126. At that time, too, the only English Magistrate who had an interpreter at Port Louis, and the Indians preferred going thither and communicating with the interpreter, to applying to the Commissary of Police, who, being a countryman of the planters, was looked upon with suspicion by the immigrants. They complained of having to travel so far, and the masters consequently complained of their absenteeism for that purpose.

127. Mr. Scott, whose report, though less practical than Mr. Woodcock's, was valuable as showing the theory on which emigration should be conducted; the result of his enquiries on estates into the condition of the immigrants, practically depended upon the individual character of the employer. The terms of agreement were of trifling importance compared with the spirit with which interpreted, and consequently much harm was done under the agreements at that time, by which the engager might transfer his rights to any other person. 50 out of 100 men engaged to the same person in Calcutta, might, on their arrival at Mauritius, be sent to one estate, while the other 50 went to another, and conditions in no way corresponding, owing to the different characters of the masters. Of this he appears to have had practical proof.

128. The number of women were few, and the Government impressed upon the necessity of a suitable woman to men. But to judge from the story told of one who came with in the 'Drongun' and had been stupefied with narcotics,—we might conjecture that some were sometimes brought illegally and forcibly.

129. The chief abuses which suggested themselves to Mr. Woodcock would (he thought) arise from:—

1st, the manner in which emigrants are recruited; 2nd, ignorance which they have agreed to serve; 3rd, doubt as to whether the identical person embarked; and 4th, doubts as to the treatment they would receive on arrival.

The three first belonged to a system which he believed already existing, deporting labourers to Mauritius, and among the Lascar seamen in the Indian Navy.

130. Such was the appearance immigration bore in the eyes of the public, when Sir William Nicolay on the 27th December 1836, in his Despatch to Lord Glenelg, that he had prohibited the further introduction of Indians until he had ascertained the opinion of the Government upon the subject.

131. The cause of this prohibition, however, really was that in the preceding a Government Notice was issued recommending the introduction of free labour from India, to take more care of the emigrants, and to ensure the persons selected being of a different class from the culturalists in their own country, and that they, and the sirdar should have been known to one another before the engagement was entered into.

132. This excellent recommendation not having been attended to, the Governor published a Notice that he should discontinue the introduction of Indian labour.

133. This determination does not appear, however, to have been put into effect.

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stop to immigration; for in the years 1836, 1837, and 1838, 22,015 men, 716 women, 130 boys and 62 girls, were introduced from the three Presidencies of India: nor, apparently, was the determination communicated to the Government of India; for, in writing to the Chief Secretary of Bengal on the 13th December 1836, in answer to a request of the Governor-General in Council to be made acquainted with the way in which the immigrant was treated, the Colonial Secretary says nothing of the permissions having been withdrawn, but says that the experiment, so far as it had been tried, was attended with very great success; that the labourers and employers generally seemed satisfied with one another, and that, if misunderstanding arose, it was from the employer failing to furnish the immigrant with some article of subsistence agreed upon, but which was not at the time procurable, and not from any discontent with the labour required of them nor with their treatment.

133. The quantum of labour was said to be generally settled by agreement in India,\* but when that was not done, the practice of the colony of work from sunrise till sunset, with an interval of two hours (and sometimes of three) for taking their meals, with a slight modification (not mentioned) was said to be adopted.

134. The labourers, it was shown, were under the general laws of the colony: Ordinances 16 and 17 of 1835 having been disallowed: and, consequently, suits between masters and servants were under the cognizance of the regular Courts, slow of decision and expensive of process: but a temporary measure to remedy this, to give more speedy justice, was before Council.

135. The Colonial Secretary further enclosed copies of the terms under which permission was granted to persons applying for leave to introduce natives from India, as expressive of the Governor's feelings on the subject, in which it was suggested,—

That the emigrants should undergo medical inspection and be vaccinated if they had not had the small-pox or been vaccinated before leaving India.

That a clause should be inserted in every agreement, binding the employer to furnish a return passage, as it would be the duty of the police to warn the Indians at the proper time of their power to leave the colony.

That the masters should be bound to furnish proper daily rations, and annually a due proportion of clothing.

That no agents should be allowed to take emigrants from India who did not produce the Governor's permission for them to be introduced into Mauritius.

That the utmost care should be taken that the emigrants left voluntarily, with a full understanding of their engagements, and that the passengers on board the ship were the identical people who had engaged to emigrate: and, curiously enough, the Governor required that it might be carefully explained to the emigrants, that in Mauritius they would be on the same footing as other servants—whether white or black—subject to the same laws, and not liable to any special or particular regulation beyond the fulfilment of the terms of their agreement.

136. A copy of this letter was sent to the Governments of Madras and Bombay, and the special attention of the former was called to the extensive emigration from the French settlement of Pondicherry, and enquiry was made whether any of the labourers going thence were likely to be British subjects.

137. In consequence of this, a copy of a draft enactment for the better protection of the interests of the emigrants was sent to the Governor of Mauritius.

138. In answer to the Governor's Despatch of the 27th December 1836,† and in commenting upon the enclosures, Lord Glenelg, in his Despatch of the 14th May 1837, pointed out:—

That there was no law for regulating the duration of contracts, prescribing their term or for securing to the labourer a faithful execution of those terms, without action at law:

That in some cases the Indians are worked, with an interval of two or three hours, from sunrise till sunset daily:

That the come unaccompanied by females:

That the favourable report of the Governor was founded on the reports of em-ployers and Commissaries of Quarters, who are for the most part wholly employed in the cultivation of land, by the same or similar methods.

He therefore urged the Governor to call upon the Special Magistrates to report upon the state of the colony, as being more satisfactory to him; and he likewise enclosed the agreement, given above (paragraph 99), the manager was to fix the quantity.

\* In Arbutnot &  
† Vide paragraph

Declaration  
Mauritius  
Government  
in 1836 to  
Indian Gov-  
ernment.

Medical in-  
spection of  
arrival.

Draft Law  
protection of  
immigrants  
sent to Mac-  
Gill.

Lord  
Glenelg's  
Despatch of  
14th May  
1837.

Order in Council of the 22nd June 1836, relative to the duties of masters and labourers in British Guiana.

139. On the 30th December 1837, a Circular was issued to the Magistrates, communicating to them the satisfaction which the Secretary of State received from the perusal of the correspondence and proceedings which had been before him relative to the Indian labourers introduced into the colony, and desiring them to enquire into and report upon the state and condition of the Indian labourers. The number of them report only what they heard from the planters themselves: only two of them, Messrs. Anderson and Seignette, admitting that they entered upon their duty with less confidence, from their confined intercourse with the Indians and entire ignorance of their language.

140. The employers generally declared themselves satisfied with the Indian work and conduct: as well they might be; the Indians, by the employers' own doing the work equally well with the apprentices and receiving only 2 dollars a month and rations, while the apprentices would not work for less than 8 or 10 dollars a month. So that the employers had good reason for saying that they would not be able to help it, keep a single apprentice on the establishment.

141. The complaints by the employers were of insubordination, drunkenness, absenteeism (this last arising from labourers going to make complaints against masters in Port Louis, and for which there was no punishment); want of work caused disputes with apprentices; want of care in selecting persons, by whom infirm, and incapable, were sent out from India; want of care on the voyage, which the men landed in bad health.

142. As regards the immigrants, it was suggested with a view to improvement,—

That all engagements should be uniform in the covenants; the giving rise to constant complaints of supposed injustice, of which they were always suspicious, and which they are prone to resent.

That six months' advance of wages in India is objectionable, as it renders the labourers discontented and work ill, while their wages are retained to repay the advance.

That transfers of service should not be allowed: several Indians working without engagement in consequence of having been transferred from one master to another.

143. One Magistrate thought the Indians lower in the scale of civilization than the apprentices. Another thought that the Indian would never equal the apprentice as a labourer. A third found that the planters showed every respect to their religious prejudices: and as the immigrants earliest introduced gave the most satisfaction, he attributed it to the people having parted with many of their habits and antipathies, which, he had no doubt, would, in time, be the case with others.

144. There was one Magistrate who declared that—

"Their state and condition is an enviable one, when compared with thousands of their fellow countrymen. Their rations, clothing, and comfort are such superior to those of the apprentices, independent of their monthly pay, the sole one which they might save, and when the period of their engagement expires, return to their native country and families, where they might live comfortably for life."

Though, as if to qualify this, another Magistrate had the boldness to say—"I am happy to state that I consider their introduction is an immense benefit to the proprietors in Mauritius, as well as an advantage to the Indians; but I also humbly conceive that it would be well to protect them from every chance of injustice, in a colony where there has always been such a tendency to take advantage of the labouring population."

145. These papers were not sent to the Governor-General of India referred to, as we shall hereafter see. But, on the 9th March 1837, the Governor of Mauritius submitted them to the Secretary of State, with his hopes most highly satisfactory; that the complaints of the employers were very few, and generally of a very trifling nature; that the chief inconvenience proceeded from a want of interpreters of their language, which he hoped soon to provide a remedy. Consequently on the 26th March, 1837, the Estimates for 1839 before the Council, he said:—

"He would before that have attached two interpreters to the office, but no qualified individuals could be found; but it is—"

"but no qualified individuals could be found; but it is—"

"but no qualified individuals could be found; but it is—"

"but no qualified individuals could be found; but it is—"

"but no qualified individuals could be found; but it is—"

"but no qualified individuals could be found; but it is—"

"but no qualified individuals could be found; but it is—"

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"but no qualified individuals could be found; but it is—"

"but no qualified individuals could be found; but it is—"

"be found and that the expense ought not to fall upon the community, but upon those who have Indians in their employ."

146. No separate answer appears to have been sent to this Despatch; but, in his Despatch No. 1, of the 19th January 1839, agreeing with the Governor in regretting the want of interpreters, the Secretary of State notices that many of the Magistrates state that they have been compelled in a great measure to receive the information they required from the employers, and adds—

"The circumstance must naturally diminish the value of these reports, which might otherwise have been considered, on the whole, satisfactory."

Lord Glenelg further trusted that the Governor had not been disappointed in the expectation of being soon able to provide for this want of interpreters. But, unfortunately, no well-qualified interpreters have been found to the present day; as will be seen when we come to consider the Magistrates, and their Courts and establishments.

147. On the 10th March 1839, the day before the extinction of slavery in the colony, Sir William Nicolay received the Secretary of State's Despatch, enclosing the three Orders in Council of the 7th September 1838, relative to the rights and duties of masters and servants; 2ndly, for the suppression of vagrancy; and 3rdly, respecting marriages.

All have occasion to notice all these Orders in detail hereafter; but as regards the first, it is necessary to premise that it is supposed to form the basis of all legislation between master and servant. It contemplates the parties contracting on an equal footing, the weaker party being protected from any possible abuse by the Stipendiary Magistrates, who had exclusive jurisdiction for the enforcement of all contracts for service, and for imposing all penalties for the breach, non-performance of them.

Others and others objected to some of the provisions of it, as we shall see hereafter (p. 179). On noticing the petition they presented against it in the following May.

A. 839, three emigrant-ships were placed in quarantine, owing to the high mortality which had occurred amongst the labourers embarked on the ships had full cargoes of rice, so that there was no more proper accommodation for emigrants than we have seen (paragraph 115) there had been three

lodation years before

It was difficult for an officer on board

The company conveying them and were not

149. In his pointed out a number of points of comfort and against British

Pondicherry.

It was not on the voyage alone that the emigrants suffered, for the Governor

that merchants engaged in obtaining immigrants had made considerable

selling themselves of the exclusive right to the immigrants' services, either

clause in the engagement giving the employer an unconditional right to

immigrants' services to whomsoever he chose; or, by omitting the name

of the employer, leaving it to be filled up after the emigrants' arrival in

151. It was further again suggested that no emigrants be allowed to leave India unless

they were vaccinated or had had the small-pox.

152. Before the Act 5 of 1837 of the Government of India

provided that after the 1st June of that year no emigrant should

from the Governor of Bengal or Superintendent of Emigration:

it be given until the contract had been seen: that the contract

in five years, unless it provided for a free passage back; nor

stood the terms of the contract: nor, if application were made

to say what their personal treatment had been, as there was no medical

nor any person to attend to their welfare.

Commanders of the ships had no interest in the emigrants beyond that of con-

to their destination, and the mates and crew considered them incumbrances,

it likely to attend to their comfort.

149. In his notice of this state of things to the notice of the Government of India, it was

that provisions similar to those in the English Passengers' Act, restricting the

passengers to be taken in emigrant ships, and requiring due provision for their

medical treatment on board, were very much needed, as well as provisions

in subjects being allowed to emigrate through the French settlement of

was not on the voyage alone that the emigrants suffered, for the Governor

that merchants engaged in obtaining immigrants had made considerable

selling themselves of the exclusive right to the immigrants' services, either

clause in the engagement giving the employer an unconditional right to

immigrants' services to whomsoever he chose; or, by omitting the name

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it be given until the contract had been seen: that the contract

in five years, unless it provided for a free passage back; nor

stood the terms of the contract: nor, if application were made

to the emigrants to embark in one ship, should the permit be granted

if he satisfied himself that the accommodation, food, and medical

on the ship were sufficient for their health. Registers were

of two hundred rupees was provided for any breach

of the Act, would remedy much of the evil brought

about by the Secretary, and, in Lord Glenelg's opinion, seemed

to afford full protection to those natives of India who were

Lord Glenelg's Despatch, 15th January 1839.

Information from Magistrates' reports not used in a great measure from planters.

Interpreters not found to present day.

Orders in Council of 7th Sept. 1838.

Order in Council respecting rights and duties of masters and servants.

Passengers Act to be applied to emigrant ships.

Over-reachinging contracts.

Indian Act of 1837.

1837.

Enquiry by the Magistrates, as ordered by Lord Glenelg.

Magistrates ignorant of Indian languages.

Employers satisfied.

Complaints from employers.

Complaints from immigrants.

Advances in India.

Views of Magistrates.

One Magistrate thinks immigrants may become rich, and be happy ever afterwards.

Another thinks that in Mauritius there is always been a tendency to take advantage of the labouring population.

Reports not sent to Governor-General.

Want of interpreters.

\* Compare this with the description given above (end of paragraph 89) of

Magistrates, that they should a year following.

disposed to enter into contracts with employers at Mauritius; and Sir William Nicolay was directed to pass an Ordinance conferring upon the Special Magistrate, and in supersession of, those granted to the Civil Commissaries, to whom it was thought useless by the immigrants to prefer complaints.

153. On the 11th July 1838, the Governor-General of India having stated to the West Indies, wrote to the Governor of Mauritius, suggesting, satisfying the Government and public of India as to the condition of the Indians who were exported to Mauritius,—that a committee should be appointed into the subject, and that one or more Indian civil or military servants, or able to communicate personally with the Indians, should be placed on their order to ascertain whether they were contented with their lot, and satisfied in manner in which their contract had been fulfilled. On the 12th September, the Colonial Secretary addressed the Chief Secretary of Bengal in reply, and suggested no enquiry made in Mauritius, conducted by the local authorities, with the assistance of chance visitors, would be satisfactory or convincing to those who agitated the subject, and he therefore proposed that the Indian Government should send one or more for the purpose, as the Governor was perfectly confident that the result of the enquiry could not fail to be highly satisfactory as to the state and condition of the labourers generally. That, although he did not presume to say there were no abuses (and, whenever such occurred the Indians were not slow in making them known, and means were immediately taken for enquiring into and redressing them. An Ordinance was in progress for placing the immigrants under the same protection as the apprentices, and that the Special Justices had been desired to take of their visits to the apprentices on estates, to enquire into the conduct of the labourers: that, their Reports\* had been sent to the Secretary of State, with the papers published by Parliament, furnished much satisfaction to these people, and showed the anxiety and attention with which they were watched over their interests. He then referred to the abuses which had been complained of by a local regulation requiring that no transfer should take place without the consent of the Indian given before a police officer, and with the sanction of the Special Magistrate after he had satisfied himself that it would not be prejudicial to the Indians. Improvement of this effect was to be introduced into the Ordinance. Improvement of the board ship might, he thought, be better obtained by rules framed by the Government in Mauritius, which rules should also include provisions to put a stop to the part of the recruiters.

154. Without waiting for an answer to this letter, on the 13th of October (probably urged by a petition which had been made by some colonists), shall say more hereafter, to be allowed to hold a public meeting on the subject of immigration, such as had been held in Calcutta, calling upon the Government to put a stop to it), the Governor appointed a Commission, consisting of Mr. Campbell and Messrs. Bury and Hugon, and Captain Forbes of the East India service, together with the Special Magistrate of each district; who visited several establishments, and by personal communication endeavour to ascertain

Whether the Indians were satisfied with the manner in which their employers, or those acting under the orders of the Government, fulfilled the engagements entered into with them:

Whether they were contented with the quantity, quality, and amount of wages; their hours of labour; and the mode in which they were generally treated.

Whether the several hands remained in the service in which they were originally engaged.

Whether any had been transferred from one master to another without their own consent and that of the Government.

They were also to ascertain from the masters whether the Indians were entitled to a free passage back to their country, or from inability to work, from sickness, or from any other cause.

They were likewise told to urge upon the

William Nicolay  
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depositing money in the savings-bank, as crimes had been committed from the knowledge among their comrades that immigrants carried their money about with them.

The Governor further, in a Notice dated the 25th October 1838, requested the inhabitants of Port Louis and the country districts to afford the Commission every information and assistance which they might require in the course of their enquiry.

155. The Commission, on the 13th November 1838, reported upon 31 establishments in Port Louis, on which more than 10 men were employed.

There was considerable difference of opinion between Mr. Special-Justice Anderson and the other members as to the treatment which the labourers had received from their employers: the majority of the Commission thinking some interference necessary with the accommodation, medical treatment, and time allowed for meals; but a hope that on the plantations they would find as few exceptions to general treatment as they had found in Port Louis—while, Mr. Anderson (who had visited the 31 establishments visited by the rest of the Commission) was of opinion: that, with a few exceptions, they were treated with great and unjust severity, by work and by personal chastisement; their lodgings either too confined and disgustingly filthy, or none provided for them, and in case of sickness the most neglect was evinced in withholding the accommodation, advice, and assistance which the utter helplessness of the sufferer so urgently required. Of the establishments had sufficient hospital accommodation, and the expense of a public hospital was always urged as an excuse for not sending them there. The Indians' prejudices were never considered; their deplorable state of education in their own country was always urged as an argument in favour of improved condition here; without any reference to the change which takes place by their emigration from comparative idleness and indolence, with the full amount of all their natural prejudices, to severe and unremitting labour under painful restrictions; that they are generally pillaged of the six pence advanced to them in India, and are compelled to toil here for a reward which bears no proportion to the work to which they are subjected, and to the common value of labour in the colony, or the sum they would have had the free disposal of their own time.

It was confessed that this appears to be a severe judgment to pass upon the 31 establishments, but it is possible that Mr. Anderson, who was at Port Louis, wrote from knowledge he had obtained elsewhere.

But, if these shortcomings, or the greater number of them, were found out of 31 establishments, the mild commendation, which appears to be even more than was deserved, was, but consisted only of 25.

THE EMPLOYER.

the establishment, and from

ry, and from whom

by their

\* These are the Reports mentioned in paragraphs 132 and 145.



to the employer and 14 to the Indians, cannot be considered to have been very searching; and the Governor therefore, in acknowledging the Report, informed them that they should not limit their enquiries to these questions, but extend them, as occasion might require, to others, calculated to elucidate the real situation of the Indians in the different establishments; and he therefore requested them in future to note down in full detail the whole of the evidence.

He further desired to have full particulars of their lodging; that the Committee would make the most minute enquiries as to the medical and hospital treatment afforded to the immigrants, and as to the hospital accommodation: Whether the work was not more severe than they engaged to perform, and whether the hours of work were not prolonged beyond what was fair and reasonable; how the conditions of the several agreements differed; and particularly to ascertain whether they were subjected to personal restraint or other punishments by their masters, or the under them.

158. On the 18th February 1839, the Commission forwarded a protest received from six of the planters, in the first section of the district of Flacq,

"having every wish for an enquiry into the treatment of their Indian  
"being anxious to show to the Government of India how scrupulously  
"were in fulfilling their engagements with their Indian labourers,—an  
"ness and humanity with which they are treated, and how happy is the  
"Mauritius, thought, that the Indians should not be examined;  
"individually and separately; that the proprietors should have explained  
"every statement or complaint made by the Indians; that the master  
"the complaint, should be taken at once, in order that it might be kept  
"the contract of engagement is observed or not;"

and upon that, the Governor thought it advisable that the enquiry of the Commission should commence as soon as they had completed the examination on those estates where no opposition was made by the proprietors.

Accordingly, on the 16th March 1839, the Commission presented their Report upon those estates only which they had inspected, was of course very favourable.

They ever, remarked, that the heaviest mortality was found particularly noticed for the perfect harmony and the management and the kind treatment of the Indians, and hereafter.

They particularly bad treatment, or of breach of contract.

The men were treated with humanity and no more severe.

Within what they could.

of bodily exertion.

ever, great variety.

which often gave.

as limit.

161. Though the greater part of the men they examined, had only been a short time in the country, and had not re-imbursed the advances they had received in India, still they found 70 who had saved money; one as much as 600 rupees, and was a sirdar. They did not, however, mention whether he had saved this sum out of his wages or made it by trade.

162. The Indians were aware that they were entitled to a passage back to India on the expiration of their contract; but some of the planters had got the idea that no Indian had a right to stay in the country, except in the service of his first master, and therefore, that, at the end of his contract, he must either leave the island or stop with an unkind master, if it should be his misfortune to have one.

163. Complaints were made of personal chastisement inflicted by overseers, but not sanctioned or countenanced by the masters. Restraint had only been employed for the preservation of good order; and the Commission were of opinion—

"that the power of punishing a slave, even, having for so many years been taken  
"away from the master, it must be improbable, that the planter could adopt it  
"towards a free man, whom it was his interest to conciliate. Moreover, they  
"thought it would be dangerous for him to attempt to coerce them, for instead of  
"the mild and inoffensive Hill Coolie, they would have to deal with the bold and  
"irrepressible native of Western India, whose disposition would ill brook severity  
"and harsh treatment."

164. They comment upon the way in which advantage had been taken of the famine in India to deceive men into emigrating; but, conclude with the opinion, which is apparently stereotyped for all reports, "that the condition of the Indian in this island is superior to what it is in most parts of India."

While these enquiries were going on, the Governor observed the remarkable mortality which had occurred on the property of Pamplémousses: 85 deaths having been declared between the 1st January and 1st February 1838. He accordingly directed a Medical Commission to enquire into the cause of this mortality; for, until December 1837, when 185 New immigrants had been only 65 Indians in Mr. Merven's employ, and these were still in of good health. Of the 185 received in 1837, only 105 remained: all the rest had been often in hospital; 57 bore marks of having suffered under severe disease; 18 were still in hospital, and, of these, 10 were in a hopeless state, and unable to work.

The estate appeared to be in good order: hospital, lodging, and food: and that Mr. Merven and the medical attendant treated the Indians with humanity and kindness; and the Commission attributed the great mortality on the estate to the bad state of health, and depraved habit of the Indians on their arrival.

The Stipendiary Magistrate who visited this estate on the 4th of September, corroborated the account given by the Medical Commission of the state of the Indians. The band then appeared healthy; the accommodation for their lodging adequate; and the hospital new, clean, and airy. In accordance with the Governor's Orders mentioned in the 158th Report, which Mr. Campbell was president brought their labours to a close, were continued by the Stipendiary Magistrates alone, under the sanction of the Governor, dated the 4th May 1839. These Reports were published in the Gazette of the State in January 1840, and the owners of

Commission of Enquiry, 1838.

Men who had saved money.

Back passages. Whether Indians could stay in the country at the end of their contracts.

Complaints of beatings.

Commissioners of opinion that no fear of cruelty.

Men deceived into emigrating.

Opinion that condition of Indian in Mauritius superior to that in most parts of India.

Enquiry into excessive mortality on Merven's estate in Pamplémousses.

The Magistrate's report upon Mr. Merven's property.

and have "as much leisure time for meals and repose from labour as the master was able to afford them;"

But they passed over in silence those cases in which the masters punished the men, and put them in the stocks, and, they did not draw particular attention to wages being three or four months in arrears, nor did they note that the most frequent answer to the question

"Whether, from the manner in which they were treated in Mauritius, they would, after their return to India, feel themselves warranted in recommending their countrymen to engage on similar terms?" was: "that it would depend on the manner they were treated here."

Immigration into this district commenced in 1835.

169. Mr. Campbell, the Special Magistrate of Flacq, alone visited that district, and sent up the questions he put to the managers and labourers, and their answers, but made no general Report. A few immigrants had been introduced into this district in 1834.

It is remarkable that the 26 estates visited, were those, which would not consent to his Commission visiting them, and amongst them are some instances of good treatment of which the proprietors might have been proud, as where Mr. Desjardins gave, beyond what the contract required, ghee, salt, dholl, and arrack daily, and red wine on Sunday: on Madame Feuillherade's, where the Indians spoke in the highest praise of both proprietor and manager, and on Mr. Lebreton's, where there was the best food and lodging in the colony, and the Indians had plenty of pigs and poultry. On the other hand, however, there was on other estates, as might be expected from the nature to being examined, much to find fault with: as on Mr. d'Arifat's, where the men disliked the island, but their master more; where they were paid only one month; their clothing and rations were not given according to agreement; pay was deducted for one day's absence.

At Messrs. Latapie's, where they liked neither employer nor island, their clothing, were overworked, and punished by the overseers and sirdars, beyond the master's knowledge, and he took no notice of it. So on Messrs. La Charrière's, Mr. Martinet's, Mr. Montenet's, and Madame Prévost de la Croix's, where they were beaten by overseers and sirdars,—and on Messrs. Charreton's, Sornet's, where they had a very bad hospital, bad and insufficient lodging, very much dissatisfied.

170. Rivière du Rempart, where on seven estates Indians were visited by both the Special Magistrates, Mr. Campbell and Mr. Bury, who reported that, with the exception of very few estates, they were generally well treated, satisfied with their employers and contented with their situation, but that was not borne out by the detailed reports.

On many estates they were satisfied with their masters, but dissatisfied on account of the scarcity of water, dearness of all they wanted, the food was bad to do.

On most estates they got extra rations, but, even there, they were not satisfied with their country.

On one estate they got as rations, only rice and salt, but they were not their master's fault, that he could not give them more.

On some estates they were positively ill-treated, as on Messrs. Selve's.

that the contracts from Calcutta were not uniform; except that they all contained a proviso that a rupee a month should be deducted for return passages: but the Magistrates, who had reason to believe that the men did not understand the nature of all the questions put to them, wound up by giving it as their opinion, that, the state of the Indians employed on estates in these districts was one of real personal comfort, and, that the punctual manner in which the contracts were performed on the part of the employers merited the marked approbation of Government.

172. The Special Magistrates at Black River were assisted in their enquiry by Mr. Bury of the Madras Civil Service, who had been a member of Mr. Campbell's Commission. Immigrants were first engaged in this district in 1835. There were 32 estates in the district, but on only half of them (16) was sugar-cane cultivated; the others being gardeps, meadows for hay, cattle farms and salt-pans, or belonging to woodcutters and limeburners. Twenty-six men were employed on one estate in collecting ballast, and they all complained of being employed as sailors and servants; and the Commissioners told the proprietor that the employment was illegal, and the men would be justified in refusing to work. The Magistrates found the labourers introduced from Calcutta satisfied with the treatment they received, and that they spoke well of the country and their employers; but the men from the coast made several complaints, the greater number of which proved unfounded. The Commissioners, however, found the lodging accommodation and hospitals not to be of a good description, and that there were 16 estates where there were no regular medical practitioners engaged. They also observed that on many of the men's tickets that were lithographed, the pen had been run through some of the items of food, such as "Ghee" or "Dholl;" and, that the name was not marked as having been made in Calcutta, and in Mr. Birch's (the Chief Magistrate's) presence, whilst it might have been made since the immigrants' arrival in Mauritius. They were also of opinion that many immigrants had been grossly imposed upon by subordinate agents and sirdars in India. On some estates 3 days' pay was authorised absence, and on others 9d. (equal to 18 cents.) a-day.

The Special Magistrates at Grand Port were assisted in their enquiries by Captain 15th Bengal Native Infantry, who, as well as Mr. Bury, had been a member of Mr. Campbell's Commission. There were 30 estates in this district, in only 10 of which immigrants, who had been introduced in 1835, and on only 5 any more introduced in 1836. The lodging accommodation was found sufficient. In some instances the immigrants had the huts of the ex-apprentices. The hospitals, sufficiently large, were wanting in cleanliness and comfort. Complaints were made of over-work; but, the Commission did not think that the work was more than the immigrants' engagement required: the average being 9 hours, except during the rainy season, when it was extended to 12, for which they received extra pay or remuneration. There were but few complaints of ill-treatment or personal restraint; but, very many of the labourers were dissatisfied, their dissatisfaction arising, in some instances, from their not being fit for the work; they having been in their own country coachmen, police constables, sepoys, and handicraftsmen.

It is very remarkable, however, that the masters in this district had preferred more complaints to the Magistrate than those of any other, and, that more men expressed themselves dissatisfied in it than in any other district.

174. The 24 estates in Savanne were visited by the Special Magistrates alone, and they suggested that the information they had obtained might be less complete than they could wish, from their being unable to communicate with the Indians in their native language.

They found the contracts as to food, wages, and clothing fulfilled by the master; and, in some cases that more was given than was covenanted for: that no systematic annoyance or ill-usage was pursued; and no restraint resorted to except in cases of drunkenness and riotous conduct, when the masters thought themselves warranted in putting the offender into confinement: and, that the treatment of Indians generally was better than at an earlier period of their immigration.

They suggested that the contracts should be uniform: the difference in the covenants in the several contracts on the same estate leading to discontent: and, that men engaged as agricultural labourers should not be employed as artisans and woodcutters against their wishes.

The Indians were lodged in huts similar to those of the late apprentices, but of less durable materials; and it appeared that they were expected to repair or improve them themselves.

Few of the hospitals were sufficiently large, airy, dry, or comfortable.

175. The result of the whole enquiry appears to be that the treatment differed on almost every estate. The number on which they were well treated exceeded those on which they were ill-treated.

1838.

Enquiries by Special Magistrates.

Discontent caused by contracts not being uniform.

Illusory conclusions of some Magistrates.

Black River.

Only sixteen sugar estates.

Work not lawfully given.

Result of enquiries.

Want of medical attendance.

Items struck out of contracts.

Immigrants imposed upon in India.

Grand Port.

Sufficiency of lodgings.

Complaints of over-work.

Few complaints of ill-treatment.

Many dissatisfied, being unfit for the work.

More prosecutions by masters than in other districts.

Savanne.

No system of annoyance or ill-usage.

Uniformity of contracts suggested.

Indians engaged as labourers, not to be employed as artisans.

Lodgings.

Hospitals.

Result of the enquiries.

1538. on which they were abused, and that on some estates they were better off than they are now; as on some no deductions were made for absence or sickness, or on any other pretext, and their wages were more regularly paid.

Their hours of work were much the same as now; from 4 A.M. till 8 P.M. the utmost in the sugar house, and from the call-bell at 4:30 A.M. to 5 P.M. in the fields; mostly from 6 A.M. till their task was finished, or till 6 P.M.; though cases were to be found of work from daylight to dusk, and a *coryée* after that to cut wood or grass; but only on exceptionally ill-managed estates.

The task, too, differed; to dig 100 holes in the day being generally the utmost required, while on some estates the task was as low as 20, probably for the new hands; 40, on some land, being considered equal to 100 on other, and the task rising to 120, 130, 150, 180, 200, 240, and even 300; while, on one estate, where the task was from 180 to 260, they worked extra, in crop time, without compensation.

176. On some estates no extra work was ever required. On some, work on Sunday was considered extra, and paid for; on others it was a grievance that it was not paid for. On some the labourers would not work extra even if they were paid for it, and, on others they could not work extra hours because they were bound to work as the manager exacted, and could not work more.

The remuneration for extra work was various: from 6d. to 2s. a month; from a glass of rum extra to 1 rupee per mensem, with an extra half ration, and rum at each meal.

177. But, in answer to the question whether they would recommend their friends to come to Mauritius, the labourers on 37 estates said they would, and on 13 others that they would return to their present master. On 21 they were divided in opinion, would and some would not. On another 13 they might return or recom- country if they were treated well, and on 48 they were disgusted with the would neither recommend it nor return to it, nor stay in it after their 5 year expired.

178. Sir William Nicolay wrote to Lord Glenelg on the 4th of May, after the Prædial apprentices in the colony had been liberated, informing had almost wholly abandoned work on a number of the large sugar estates in order to enjoy a more easy life.

That although the population was in an extraordinary & quiet as was a visible increase in thefts, pillages, and devastation of property; and of labour pressed most heavily upon several of the proprietors of the estates; and, emigration from India being stopped, free labourers could not be procured from thence: that he had been urged to permit immigration from Mauritius by other means of procuring labourers, but, that he hoped, the voluntary emigration of free labourers from India would speedily be permitted, and on the 21st of November forwarded the proceedings of Mr. Campbell's Commission to the Medical Commission appointed to enquire into the case of the immigrants, and a Mr. Merven's property, showing the treatment of the Indians in Mauritius, and the nefarious practices resorted to in India in order to procure emigrants.

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In forwarding this petition, the Governor, Sir William Nicolay, recommended the prayer of the petitioners so far as regarded India, to favourable consideration, and concluded by recommending the removal of all prohibition against the emigration of Indians who might wish to seek employment in Mauritius.

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communication between them and the Commission: but, on their persisting in their request, sanction was given on the 29th September 1838; and, on the 11th October, a meeting was held, with Mr. Dupont, aîné, in the chair, which was addressed by Messrs. Chevreau, Herchenroder, Eugène Piston, Brodelet Lafontaine, J. B. Rivière, Berger Degonet, Ad. Autard de Bragard, Dr. Bergsten, Messrs. Carie, Laverdant and Savy, and the following resolutions were carried:—

“Resolution 1. It is indispensable to the prosperity of the island of Mauritius, where a vast tract of fertile land is again put out of cultivation, and where the progress of industry is stopped, that agricultural labourers and handicraftsmen should be obtained from without, especially from India.

“Resolution 2. It is a matter of public notoriety, and will be proved by the  
“result of the enquiry ordered by Government, that the Indians are universally  
“well treated in Mauritius, and much better than in their own country; that their  
“engagements are carried out *to the letter*; that the laws are all in favour of the  
“engaged labourers; that their pay is in general 5 rupees, and that they receive an  
“equal sum in food and clothing, so that the expenses to the planters are 10 rupees  
“or more per mensem for each man, without reckoning medical care, which is  
“furnished to them gratis; that almost all declare themselves satisfied with their  
“condition; and that their physical state is sensibly improved after a few months’  
“residence in the colony; that a great number have declared their intention to  
“remain in the colony, and enter into new engagements on the expiration of their  
“present engagements, and this is proved by the return to the colony, as new  
“immigrants, of Indians sent back by different proprietors on the expiration of  
“their former engagements.”

In this Resolution "libérement" was substituted for "littéralement," as it was urged by Mr. Berger Degonet that while immigrants from Pondicherry were entitled only to salt-fish or salt, those from Calcutta were entitled to ghee, dholl, and curry-powder, still all got the same pay and rations.

“*Resolution 3.* That the Local Government be requested to urge the interests of the colony upon the Government of India, so that no new law be passed preventing Indian labourers coming freely to the island of Mauritius.”

"Resolution 4. In order to show in the completest manner possible that the well-being of the Indian labourers is in unison with the interests of the colonists of Mauritius, the Local Government should be requested to authorise the Commission, which they have declared themselves ready to appoint, to take evidence upon oath, from all persons they think it necessary to examine; and further, that the Government be requested to have the proceedings printed and published, and sent to the Governor of Bengal, and also to the Colonial Minister in London, with notes sufficient to convince them that the Indians are well-treated in Mauritius and satisfied with their condition."

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"*Proposed*—That the Government be requested to choose for the Commission of Enquiry they are about to appoint, persons who have resided for a long time in India, and who have neither property nor apprentices in Mauritius, so that no doubt may remain of their impartiality."

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182. Of the speakers at this meeting, there were several whose names we do not find in the list of estates visited by the Magistrates. For instance, we do not find Messrs. Chevreau and Herchenroder, and Piston and Dupont; the two first, who moved Resolution 1, and the two last the amendment, which was carried; though Mr. Herchenroder junior's estate in Black River is very favourably reported upon by the Magistrates; notwithstanding his having no regular medical attendant; and we do not find any estate belonging to Mr. Savy, who seconded Resolution 2; while Mr. Brodelet, who moved that Resolution, was superintendent only of an estate in Grand Port, on which there was no medical attendant, though Dr. Cox's attendance could always be had in two hours. Mr. Brodelet treated the men himself, and that, too, very successfully; but, he was accustomed to slap the men who misbehaved. The Madras men were well satisfied, though the Calcutta men were much the reverse. Judging from the Magistrates' Report, the motion might have been placed in less exceptional hands.

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1835.  
Public  
Meeting in  
Magritius.

Resolution 1.  
Labour  
wanted.

Resolution 2.

Happy condition of labourers in Mauritius.

Liberality in carrying out contracts.

Resolution,  
Appeal to  
Government  
of India.

The results of the Commission of Enquiry to be published.

Motions not carried.

Committee  
to the  
Independent  
League

The *Ag.*  
at the meet-  
ing: their  
position as  
planters.

Mr. Herchel  
roder.

Mr. Brodelet

Messrs. Du-  
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Langlois.



1838. on which they were abused, and that on some estates they were better off than they are now; as on some no deductions were made for absence or sickness, or on any other pretext, and their wages were more regularly paid.

inquiries by the public. (Good treatment more frequent than bad treatment.—Unlawful absence and wages.) Their hours of work were much the same as now; from 4 A.M. till 8 P.M. the utmost in the sugar house, and from the call-bell at 4.30 A.M. to 5 P.M. in the fields; mostly from 6 A.M. till their task was finished, or till 6 P.M.; though cases were to be found of work from daylight to dusk, and a corvée after that to cut wood or grass; but only on exceptionally ill-managed estates.

The task, too, differed; to dig 100 holes in the day being generally the utmost required, while on some estates the task was as low as 20, probably for the new hands; 40, on some land, being considered equal to 100 on other, and the task rising to 120, 130, 150, 180, 200, 250, and even 300; while, on one estate, where the task was from 180 to 260, they worked extra, in crop time, without compensation.

Extra work. 176. On some estates no extra work was ever required. On some, work on Sunday was considered extra, and paid for; on others it was a grievance that it was not paid for. On some the labourers would not work extra even if they were paid for it, and, on others they could not work extra hours because they were bound to work as the manager exacted, and could not work more.

for extra work. The remuneration for extra work was various: from 6d. to 2s. a month; from a glass of rum extra to 1 rupee per mensem, with an extra half ration, and rum at each meal.

ad-hand- 177. But, in answer to the question whether they would recommend their friends to come to Mauritius, the labourers on 37 estates said they would, and on 13 others that they would return to their present master. On 21 they were divided in opinion would and some would not. On another 13 they might return or recommend country if they were treated well, and on 48 they were disgusted with the would neither recommend it nor return to it, nor stay in it after their 5 years expired.

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Public Meeting in Mauritius.

Resolution 1  
Labour wanted.

Resolution 2  
Happy condition of labourers in Mauritius.

Liberality in carrying out contracts.

Resolution 3  
Appeal to Government of India.

Resolution 4  
The results of the Commission of Enquiry to be published.

Motions not carried.

Committee appointed to be thorough.

The speakers at the meeting: their position as planters.

Mr. Herchenroder.

Mr. Brodelet.

Messrs. Dupont and Langlois.

1833. Public meeting in Mauritius. immigrants in his employ since 1834, but some of the men there had been transferred from other estates, from which they claimed wages which had never been paid to them. The men on his estate were not perfectly satisfied with their treatment, and said that their report of Mauritius would depend upon the way in which they were treated. Their work was from 6 A.M. till dark in the fields, and from 4 A.M. to 9 or 10 P.M. in the sugar-house, for which Mr. Langlois had promised, 1 rupee per mensem, each, during the "coupe." They sometimes got glasses of spirits given them, but were imprisoned on the estate for any offences they might commit.

Mr. Autard de Bragard. Mr. Autard de Bragard proposed Resolution 4. It does not appear to have been formally seconded, but he is shown to have been an excellent master. He first employed immigrants in 1836; gave them rations, larger than those agreed for, and clothing, which formed no part of their agreement. Neither he nor his labourers sought the Magistrate's court,—the labourers, because they had nothing to complain of, and he, because he punished them himself by imprisonment for small offences. His men said they would report favourably of Mauritius when they returned to India.

General character of the speakers. 183. In fact, those who attended the meeting, so far as we can trace them in the Committee's Report, appear to have been men, who if they had not all doctors on their estates, and sometimes took the law into their own hands, were mostly men who managed their estates and treated their immigrants well; and, like their successors, ignored or were ignorant of, what was done on any estate but their own, and painted the whole island, as if it contained no worse masters than themselves.

India and Mauritius compared. 184. At the meeting there was the usual declaration against India, and the state of the Indians there; that they were so miserable that thousands perished every year of starvation and wretchedness, and, that the pay of artisans and labourers was so small that it did not afford them the necessities of life.

185. Of course, the opinions of the Magistrates and the Civil Commissaries were paraded in favour of the planters, but, we have seen what value, even the Secretary of State attached to these Reports.

1838-1840. Appointment of a Committee of investigation at Calcutta. 186. The public meeting in Calcutta (paragraph 180) above mentioned, to the appointment by the Deputy-Governor of Bengal, on the 1st of August 1838, of Mr. Dickens, the Rev. H. J. Charles, Mr. Dowson, Major Archer, Mr. J. P. Grant, and Russommy Dut, as a committee in Calcutta, to investigate the alleged abuses of the system of Coolie emigration. The Committee com-

Duration of the enquiry. 18. m. and am. menced their proceedings on the 22nd of August: Major Archer left in October for England; and the enquiry closed on the 14th January 1839. But, it was not until the 14th October 1840, that a Report was made, and that was signed only by Messrs. Dickens, Charles, and Russommy Dut, strongly dwelling on the abuses, to which emigration had been subject, and in favour of the continuance of the law prohibiting emigration.

on's Major Archer was still absent in England. Mr. Dowson made a Minute maintaining opposite views to those of the members who signed the Report, and Mr. Grant in an able and elaborate Minute maintained, that, though serious evils had existed in the shipment of Coolies to Mauritius, still, under proper regulations in India and in the colony, the prohibition might be removed.

cri- 187. The Report was severely criticised by the Mauritius Free Labour Association, a society which had been formed in 1840 for the special purpose of providing for the urgent wants and necessities of agriculture, and to encourage by all lawful and suitable means the voluntary immigration of free labourers. Their reply to the Bengal Report was dated 4th June 1841, and Sir Lionel Smith sent it at their request to the Secretary of State, though in his own opinion the spirit in which the Report had been drawn up was so self-evident that no unprejudiced person was likely to be biassed by it, and he did not think it required further notice, particularly as it had been answered in the way most likely to carry conviction by the declarations published in Bengal of 25 Indian labourers, who had returned to Calcutta, having completed five years' service in Mauritius.

ho 188. Much of the value of the evidence of these men, as of all witnesses, depends upon the circumstances under which it was given. Some returned, though emigration had been prohibited, to induce others to emigrate; some, having made enough of money, would not return again to Mauritius—under any inducement.

The evidence itself shows that out of the first fourteen men examined, one, a sirdar, would return; five would not return; four had nothing to say, and two complained of having been beaten or slapped. Of the next six,—two used to be beaten and would not return; another would return, though he had been beaten at first, if his father would let him. Another, a sirdar, would go back;

Blue-Book No. 43 of 1841.

and two others had nothing to say. Of the last five—three wanted to return; one had lost his eyesight in Mauritius, and could not return; and the fifth would not return. All of these twenty-five, except the blind man, had money with them, and two or three of them had money or property in Mauritius; and though their statements were very satisfactory, as showing what could be done in Mauritius, with prudence and good conduct, and an average share of good fortune, it was no guide as to what those less prudent and well-conducted suffered, who had fallen into the same hands, as some of these had done; who mention the name of one master in particular, on whose estate we find in the Special Magistrates' inquiry, they complained that they had been treated with great injustice, the remembrance of which their subsequent removal to the estate of another master had not obliterated.

189. While the Commissioners in Mauritius and Bengal were sitting and making their Reports, emigration was almost at a standstill, having been prevented in India by an Act (14 of 1839) imposing penalties upon persons aiding and abetting agricultural labourers in emigrating. Nevertheless:

In 1839—931 men, 102 women, and 2 boys

„ 1840—107 „ 9 „

„ 1841—480 „ 33 „ 19 boys, and 10 girls

were introduced into the colony from India, in addition to Chinese labourers from Prince of Wales Island, and small numbers from Madagascar, and also labourers from the Comoro Islands.

190. But, though licensed immigration was at a standstill, schemes and projects were still rife.

On the 29th December 1840, Sir Lionel Smith enclosed to the Secretary of State extracts from the Special Magistrates' proceedings, particularly in assault cases, which he thought the best means of showing the general nature of disputes between masters and labourers. Several of them were entirely unfounded, a great many were frivolous, and those that were found just were sufficiently punished.

He also referred to cases, in which the Special Magistrates deemed it their duty to cancel the engagements of labourers with their masters and leave them free, so that they might obtain other masters at increased rates of wages.

The consequence of this, and of the Indians becoming suddenly acquainted with the extent to which they had been undervalued, was, he said, to cause them to resort at once to every artifice, trick, and combination that violence and disappointment could suggest, in hopes of being released from their contracts; they even went so far as to maim themselves. But, still, considering the ignorance of each other's language, and that the labourers were the outpourings of the lowest caste population of each Presidency, deplorably disorderly and dissolute, he thought it scarcely to be wondered at, that their treatment had been so little tainted with planters' tyranny from men still mourning over the loss of their slaves; and, he recommended as the cure, to grant all possible facilities for an increase of labourers, and to receive as many into the colony as could find employment under protective regulations, concluding (as many before him and since have concluded) by saying that they could not promise that no injustice or oppression could possibly occur, but that, come what would, the Indians would be infinitely better off in Mauritius than in their own over-peopled country,—an argument, and the best, that the slave-traders used to urge in favour of the slave-trade; but, one entirely beside the subject, when used in respect to free persons under contract, in whose engagements there is no clause covenanting that their status in their own country shall hold any place in the scale of the standard of their treatment elsewhere.

191. On subsequent occasions—15th and 24th of February 1841, Sir Lionel Smith addressed the Governor-General of India and the Secretary of State, submitting a plan drawn up by the Free Labour Association for emigration, encouraging, he thought, in all its conditions, and which might be embodied in a Government Ordinance; with such additional clauses as experience or better information might show to be necessary. He further assured the Governor-General that, having minutely inquired into the treatment of the Indian labourers, he was able to report to the Secretary of State, that they had been by no means harshly dealt with, oppressed, or neglected; and that he was satisfied that justice and good treatment were guaranteed to them on the island, by the interests of the planters and the intelligence of the Indians in the modes of insuring redress of wrongs, and that he had entered into the inquiry with a bias against the planters, but, he was satisfied that the Government was powerful

1838-1840.

Immigration from 1839 to 1841.

Schemes of Immigration

Sir Lionel Smith communicates with the Home Government.

Sir Lionel Smith recommends immigration.

Plan of emigration drawn up by the Free Labour Association.

Sir Lionel Smith is satisfied that justice and good treatment are guaranteed to the labourers.

1839 to 1841.

Schemes of immigration suggested by:  
1st. The Mauritius Free Labour Association.

enough to enforce the Queen's commands against the most ill-disposed planter in the colony.

192. The Free Labour Association's plan was for emigration from India, Madagascar, Muscat, and other countries, and differed only from the present plan in the following respects:—

Agents were to be appointed by the Association, with the approbation and under the control of Government.

Preference was to be given to men with wives and families.

They were to have clothes and blankets for the voyage, and were to make no engagements previously to their arrival.

After their arrival they were to have lodging, food, and medical attendance during such reasonable time as Government might determine.

They were to be free to choose their own employers.

They were to be allowed free exercise of their religion, and were to have free schools and a free passage back at the end of five years. Before that, passage back would be at their own expense.

Application for labourers was to be made to the Association.

2nd. By Mr. Hugon.

193. Mr. Hugon in 1839 submitted a plan, the chief points of which were, that—

A Committee of Merchants and Planters should be at the head of immigration.

An Emigration Agent, at each Presidency, was to be selected by the Committee, and approved previously by the Indian Government. He must have resided eight or ten years in India, but not at a desk in town,—such a person would be as unfit for the appointment as a Mauritius clerk. He was to receive as salary 10 rupees per head for every effective man landed.

Advances made in India were not to exceed one or two months' wages, for advances were very demoralising: men engage themselves to any advance, and in hope of eluding the performance.

No immigrant was to free himself during crop time from July to 3 All engagements were to be uniform. No transfer of labourers from one to another was to be made, without the immigrants' consent.

There was to be a Superintendent; the centre of all things. He must have a knowledge of the Indian character.

Shops on estates were to be prohibited and markets or bazaars established.

The intervention of the Magistrate was to be deprecated,—a competition in good treatment should replace it.

All rules and regulations regarding the Indian population should be translated into their own tongues.

3rd. A Bill in Parliament which proves abortive.

194. In the year preceding this, a Bill, with some most excellent provisions in it, was introduced to Parliament on this subject; but it dropped, and the best clauses have never been introduced into the Colonial laws.

The contract, amongst other things, was to specify:—

The nature of the work required.

The number of working days in the week.

The number of working hours in the day; and, that no work was to be done on Sunday, Christmas Day, Good Friday, and native holidays.

A place of worship was to be provided for them.

The immigrant's name, caste, parentage, and previous occupation or employment to be recorded.

The remuneration, whether wholly, or in part of money, food, or clothing.

Remuneration, at what period or periods to be paid.

Wages in money never to be in arrear a longer time than one month.

Advances in India, not to exceed probable duration of voyage, under penalty of liability to pay a second time.

Half-wages might be paid to family in India.

No debts to be contracted between employer or agent and emigrant.

The resident officer in India (Protector?) was to examine the Indians whether they understood the terms and conditions of their contracts; had been accustomed to agricultural labour; and were capable of work.

A special officer, of European birth or descent, to accompany them to the colony.

He was to continue to reside with them until their contracts expired; take care of the strict execution of contract; induce the emigrants faithfully to perform their part.

A Protector might be appointed in the colony, to guard the interests of those who had no special officer.

195. A fourth scheme, but one proposed at a much earlier period, viz. in 1833, was by one of the speakers at the meeting of the 11th of October 1838, Dr. Nils Bergsten, who proposed to go to India, and engage as Swiss mercenaries with native princes and others—a body of free labourers to work in the fields, as if they belonged to a special corps of pioneers. They were to be officered by old and distinguished officers of the Honourable East India Company's army. In cases of insubordination or breach of contract, to be subject to a sort of court-martial.

Dr. Bergsten was to be the head, and under him a brigadier, to command from five to eight thousand men.

A superior officer to command a thousand men, and an inferior officer to command a hundred men.

The scheme was not rejected at once; but appears, if not, to have fallen through, on account of Dr. Bergsten's not being willing to furnish security, and his insisting that the Indians, being pagans, ought to be obliged to work on Sundays; at any rate, to have been much prejudiced by his adherence to these clauses.

196. It will be observed that in none of these schemes: not even in that introduced into Parliament on the 4th July 1838, where the interests of the immigrants appear to have been well kept in view: is it anywhere provided that they should know that they are liable to punishment, fines, and forfeitures for any breaches, it is hard to call it of their engagement, for the engagement only refers to what the employer undertakes to do for the immigrant during his five years' service. It makes no reference to what the immigrant shall suffer in the shape of fines, forfeiture, or imprisonment, for any breach of the engagement to work for five years, on his part; be such breach caused by his own bad health, illness, or the act of God: and, it appears that it is in this that the immigrant is more deeply interested.

An answer to whether he understands the engagement is answered by: "to have such and such wages, and rations and lodgings and medical

but it is until he comes to Mauritius that he finds that his monthly wages are paid only according to the days he works in the month, and that if he does not work, being hindered by a hurricane or heavy rain, or even sickness, he loses that day's pay, and, that if he is absent without leave, he may lose more than twice that day's pay or even be sent to gaol.

197. It may happen that if he knew all this, he might hesitate or refuse to emigrate, but, it is very clear that unless he does know his (and it is not always explained to him), he does not know all that he undertakes.

Thus, Section 27 of the Indian Act VII. of 1871 appears only to require information as to the man's name, father's name, and age, village or place of residence, depot to which he proceeds, rate of wages, and period of service. A man answering all this is still probably ignorant of all he will suffer if he does not work; and, though he leaves the Magistrate's kutcherry, having satisfied the Magistrate that he does understand the nature of the engagement, the recruiter knows or ought to know, that there is much connected with the engagement that the emigrant does not know, and of which the Magistrate is equally ignorant, and into which he has made no enquiry.

198. But, to return to the proceedings of Government regarding immigration in 1841. We have seen above (paragraphs 95 to 97) how the first attempt at immigration in 1829 came to an end in the following year. We have also seen how it was renewed in 1835. Of the immigrants during these years, a register was kept at the police office, giving the name of the immigrant, the ship in which he came, and the name of the person introducing him.

Some of these were Indians themselves, such as Tirimoudy, the widow Husson, Malliapa, and Mullapa. Government, too, introduced some in 1837 and 1841. The port whence they came is very seldom mentioned, and even less common is the entry of what became of them. "Dead," "Embarked," "Sent back for misconduct," do occasionally appear; and, in the last register dated 1840–1841 a remark may be found,—“Eleven years in the country” and “Petition for license,” “Petition to remain as hawker.” These registers were in 1841 transferred to the Immigration Office, when immigration ceased to be a private speculation, and passed into the hands and under the control of Government.

Schemes of immigration suggested by:  
4th. Dr. N. Bergsten.

How this scheme was prejudiced.

Immigrants not made aware of liability to punishment.

If emigrants knew all, they might not emigrate.

Emigrants ignorant of what they were about to undergo.

Retrospect of immigration.

Records respecting early immigration.



## CHAPTER V.—The Bounty System.

1842.

Re-opening of immigration. Bounty system.

Ordinance 2 of 1842, establishing the Immigration Fund.

199. 1842 was an important year in the history of Mauritian immigration, owing to the removal of the prohibition imposed upon the exportation of Indians by the Indian Act, No. XIV. of 1839, and to the commencement of that stream of emigration to Mauritius which has continued with very slight interruptions to the present time.

200. On the 8th of March in the previous year, the Council of Government having voted a sum of £14,000, to be annually appropriated for the introduction of labourers; and, on the 24th of January 1842, the Free Labour Association having presented a petition that a Colonial Fund should be established for the introduction of labourers; the Procureur-General was directed to prepare a draft Ordinance for the permanent establishment of the Fund. This Ordinance was introduced at their next sitting, the 2nd February 1842; read a first time on the 21st, when £25,000 was substituted for £14,000; and it was passed on the 28th, as Ordinance No. 2 of 1842, apparently without further discussion. This Ordinance does not appear to have been repealed, although Ordinance No. 4 of 1850 repeals certain provisions of Ordinances appropriating revenue to immigration purposes:

"As the distinction between the ordinary and immigration accounts complicates the financial affairs of the colony, and creates a prejudicial impression as to the distribution of the interests between different classes of the inhabitants."

Receipt of the Royal Order in Council of 15th January 1842, and proceedings thereon.

Lord Stanley's instructions to the Governor of Mauritius.

201. On the 2nd May, Colonel Staveland, then administering the Government, laid before the Council a Despatch from Lord Stanley, in which his Lordship (after reviewing and dismissing some of the various objections, urged against the re-opening of Coolie emigration) enclosed a copy of the Royal Order of January 15th, permitting the re-opening of emigration. Lord Stanley directed the Governor of Mauritius to promulgate the Order, as it reached him, but not to carry it into execution before receiving the sanction of the Council. The Governor, however, did not wait for the sanction of the Council, but by submitting it to the consideration of the Council, and obtaining a vote of money conditional upon the passing of a law in India, and subject to the regulations which such law might impose.

Return passengers.

Lastly, he noticed the provision to be made for securing to emigrants arriving from India the means of return. Your Majesty's Government were of opinion that, in the case of such persons, it was not enough to rely upon the forethought and frugality of the emigrant himself to secure the means of return when the proper time arrived, and they thought that provision should be made for these objects by other and more certain means. Lord Stanley therefore gave implicit orders that the Governor, before assenting to any grant of public money for the immigration service, should take care that the grant should be connected with due legal provision for the free return passage to India, at the end of five years, of any immigrant introduced at the public expense; notwithstanding any unfulfilled engagements by which he might then be bound for the discharge of any service; so that all hirings must at the arrival of that period cease, whatever might be their duration, if, with a view to his return home, it should be the pleasure of the immigrant then to bring them to a close.

Schedule to the Order in Council of 15th January 1842.

Duties of emigration agents.

Emigrant ships.

202. The Schedule referred to in the Ordinance contains the regulations suggested for carrying out the emigration contemplated.

The Governor of Mauritius was to nominate from time to time fit persons to act as emigration agents at the ports of embarkation in India, as well as a Protector of Immigrants at Mauritius. The former was to ascertain by personal communication that the intending emigrant had not been induced to emigrate by fraud or misrepresentation; to explain the real advantages likely to be derived from such a course; and to ascertain that he was in good health, and not incapacitated for labour from old age or other causes.

Sections 4 to 9 relate to the finding of the emigrant ships, of which it is sufficient to say that it was provided that the minimum height between the decks should be 6 feet; and, that whatever might be the tonnage of the ship, no greater number of passengers should be carried than at the rate of one person for every 12 feet of the lower deck, unoccupied by goods or stores not being the personal baggage of the passengers: any contravention of this rule rendering the offender

liable to a penalty of £5 per head in respect of each passenger so carried in excess. The master of every ship was bound to provide sufficient and proper food for the daily maintenance of the emigrants during the voyage, and for 48 hours after arrival at Mauritius, under penalty, on conviction, of a fine of not less than £5, nor more than £20, for each and every such offence; and in default, to imprisonment, for not less than one, and not exceeding three calendar months.

Sec. 11. The master of every ship carrying emigrants was required, before clearing out of port, to deliver to the agent thereat a list in writing, together with a duplicate of the same, of the names, ages, and occupations of the emigrants on board; the counterpart of which the agent was to sign and deliver to the master, to be by him delivered to the Protector of Immigrants on arrival, but previous to disembarkation, at Mauritius; on receipt of which the Protector was to proceed on board, and, by personal inspection satisfy himself that the regulations in the Schedule contained, had been properly observed, besides verifying the counterpart of the list sent; and in the event of the death of any immigrant during the passage; or of any difference between the number or names of the immigrants with those on the list, to note such death or difference on the counterpart: after which he might grant a license for the disembarkation of the immigrants.

Sec. 19. No immigrant arriving from India was capable of entering into any contract of service until he had been at least 48 hours on shore; nor could any immigrant be held liable to any action or demand in respect of any contract made before his arrival in Mauritius.

203. We thus observe that under these regulations a larger space was required, per person, than is required in troop ships, a requirement which subsequently was the cause of regret, but ineffectual remonstrance (paragraph 320 of *The Contingent System*).

204. The two rules last mentioned were obviously intended to leave the immigrant the perfect freedom on arrival in Mauritius, unfettered by any engagement, to obtain the best price he could for his labour.

This object, however, they failed to effect. The interval of 48 hours was perfectly illusory as a means of enabling them to obtain information to guide them in their choice of employers, or as to the terms they should accept, while it was one sufficiently long to expose them to the tricks and frauds of crimps and so-called "labour-brokers," whose proceedings proved a fruitful source of scandal and complaint for the next sixteen years, until the entire reform of the system by Ordinance No. 30 of 1858.

205. Immediate action was taken upon the Order in Council; for, at the ensuing Min. of Council, meeting of the Council of Government on the 9th May, Colonel Staveland submitted a minute to the Board upon the Order, and on his proposal the Council resolved itself into a Committee of all the members, in order to devise the ways and means for meeting the heavy expenses connected with immigration.

The Committee entered upon its labours with such diligence, as on the 23rd May Min. of Council, to make their Report, which was laid before the Council on the 27th of the same month.

They reported that provision should be made for the introduction, in the first year, of 10,000 effective men at least, the cost of which, under the conditions of the Order in Council, was estimated at £100,000; to meet which, various modes had been submitted: but, after full discussion, it was finally determined that the least onerous and most expedient mode of raising funds was by levying a consumption duty upon all wines and spirits. They further recommended that £6 be allowed from the fund for each adult male or female immigrant from the territories of the East India Company; half that sum being allowed for children.

Min. of Council, 23. 6. 42. These recommendations were embodied without delay in Ordinance No. 7 of 1842.

206. At the same time an Ordinance was passed, allowing the same sum of £6 for each adult legally introduced from any part of Asia but British India, and £4 for each adult from Africa.

Lord Stanley, however, was of opinion that the term "legally introduced," unless further explained, was far from clear; and, that the Order had been passed for the special object of obtaining an immediate supply of labourers, pending the arrangements with the Government of India; and that, as those arrangements were now complete there was no longer any call for such a measure, and he accordingly advised your Majesty to disallow it.

207. On the 13th August a Despatch was communicated which had been received from the Secretary to the Government of India, transmitting a draft of a law to regulate the emigration of natives of British India to

1842.  
Proceedings  
of the Govern-  
ment of India  
upon the  
Royal Order  
in Council.

Conditions  
proposed.

Emigration  
agents.

Emigration  
agents to be  
paid by Mau-  
ritius.

Appointment  
of the Pro-  
tector of Im-  
migrants.

Contracts and  
oaths.

Penalties for  
reporting  
emigrants.

Turn pas-  
sage.

Penalties for  
importing  
irregular emi-  
grants.

Penalties  
against use of  
proper docu-  
ments.

Ordinance No.  
of 1842.

Schedule of  
order in Coun-  
cil made law.

Penalties  
against cap-  
tains of ships.

Turn pas-  
sage.

Contracts with  
immigrants.

September 3, 1842, En-  
closure No. 2. *Vide* 'Corre-  
spondence relative to Emi-  
gration of Labourers to the  
West Indies and Mauri-  
tius,' printed 1844, p. 166.

had been certified to him that such regulations had been provided, and that such measures had been taken by the Government of Mauritius, as he might deem neces-  
sary for the protection of emigrant labourers from India on their passage to Mauritius,  
and during their residence there, and, for their safe return to India at the expiration of  
five years, or any subsequent period, should they desire it.

208. The Despatch further proposed, *inter alia*, the following conditions as essential to  
the carrying into effect of the Act:—

1st. That the Government of Mauritius should nominate the masters-attendant at  
Calcutta, Madras, and Bombay, emigration agents on its part, with liberty to the  
Governments of the Presidencies to indicate from time to time any other public  
officer instead of the master-attendant.

2nd. That the sum of 8000 Calcutta rupees should be placed at the disposal of  
the Governor-General in Council by the Government of Mauritius, for the payment  
of such officers.

3rd. That a Protector of Immigrants, with the powers indicated by the Order  
and Schedule, having been actually appointed at Mauritius, and all the duties  
required by the Order having been imposed upon him; the appointment of the  
Protector of Immigrants by the Government of Mauritius should be only temporary,  
until the Governor-General in Council should appoint a Protector of Immigrants to  
reside in Mauritius, with like powers; the Government of Mauritius appointing a  
second Protector of Immigrants if they thought fit, or, in case of the vacancy of the  
office, until a successor should be appointed by the Government of India. The  
Government of Mauritius to pay every Protector of Immigrants at Mauritius, whether  
appointed by that Government or the Government of India, a salary of  
£800 a-year, payable monthly. The Governor-General in Council to have the  
power, from time to time, of removing the Protector of Immigrants appointed by  
the Indian Government, and stationed at Mauritius, and of substituting another  
Protector of Immigrants in his place, with like powers and to be paid in like  
manner.

4th. That all the provisions directed in the Order and Schedule concerning  
contracts and service by the immigrants at Mauritius should have the force of law  
in the island.

5th. That all the directions concerning penalties for importing immigrants should  
have the like force of law.

6th. That in addition to the directions contained in the Order and Schedule, the  
duty should be imposed upon the Protector of Immigrants of taking proper steps for  
the return to India of the immigrants free of charge, after a stay in the island of  
five years, should they wish to return; which he was to ascertain by personal  
communication. A copy of directions upon this subject to be sent to the Indian  
Government for approval before passing the Act.

7th. That an adequate punishment should be inflicted upon all persons aiding and  
abetting the importation of immigrants from India, who had not been embarked  
conformably to the Act.

8th. That an adequate punishment should be inflicted upon persons forging or  
using fabricated or altered certificates, lists, or other documents required by the  
Act.

209. The Council met three days later, when the draft of an Ordinance was presented  
for giving effect to the intended Indian Act above mentioned; which was  
read the third time, and passed five days later, as Ordinance No. 11 of 1842:  
to take effect on the Governor's receiving intimation that the restrictions had been  
removed in India.

Article 1 declared that all the provisions contained in the Schedule of the Order  
in Council should have the force of law in Mauritius.

Articles 2 to 7 enacted severe penalties against captains of ships and others con-  
cerned in the introducing of immigrants without having observed the regulations  
in force in India or in Mauritius.

Article 8 conferred upon every Indian immigrant labourer the right of a free return  
passage, after a residence of five years in the colony; and

Article 9 prohibited the passing of contracts with immigrants of over five years'

residence, otherwise than upon a certificate of the Protector that such immigrant  
was no longer desirous of returning to his country.

For some reason, of which however no trace is to be found, this most  
important Ordinance never received your Majesty's confirmation, and therefore lapsed at  
the end of three years. The penal clauses contained in it were never embodied in any  
subsequent Ordinance. Consequently, when, many years after, irregularities occurred,\* the  
Government of Mauritius found itself unable to punish for proceedings precisely such as  
those against which this Ordinance was especially intended to provide.

210. These measures proving satisfactory to the Government of India, on the 22nd  
December the Draft Act before mentioned was passed, re-opening immigration to Mauritius, and within a few  
weeks of that date Governor Sir William Gomm was able  
to report to Lord Stanley the arrival of the first band of  
Indian immigrants, numbering 234.

211. The dispositions under these several laws were also pronounced satisfactory by  
Lord Stanley, with the exception of the combination in the same person of the duties of  
Emigration Agent, under the nomination of the Government of Mauritius, and those of  
Protector of Emigrants under that of the Indian Government, and, the selection for  
these appointments of the masters-attendant at the three ports of embarkation; but,  
upon the Government of India resting satisfied that the arrangement proposed afforded  
sufficient security against abuse, Lord Stanley thought it unnecessary to object further,  
but instructed the Governor of Mauritius to select other persons as emigration agents,  
to be employed in travelling through the districts whence emigration might be expected  
to take place, to collect and despatch emigrants.

212. Anderson, who had been provisionally appointed Protector of Immigrants in  
Mauritius, Colonel Staveland on receipt of the Order in Council, was approved by Lord  
Stanley, Captain Rogers, Master-Attendant, was nominated Emigration Agent at  
Calcutta by the Government of Mauritius.

213. Some irregularities were reported by Sir William Gomm as having occurred in  
the course of the second month of immigration, such as indi-  
viduals obtruding themselves on board the ships and personating  
others who had gone through all the forms and had obtained  
their licences. These irregularities were promptly repressed by  
the Government of Mauritius and the fraudulent immigrants sent  
back to India.

214. On the 27th February an Ordinance was passed, on a report of the Committee  
upon Immigration, raising the bounty upon each immigrant from 6*l.* to 7*l.*, and,  
by Article 3 allowing an increase of bounty of 5 per cent. for every adult male  
labourer, whenever the number of females were in the proportion of 5 to  
every 100 male labourers brought in the same ship over and above the number of 10  
females for every 100 males: a sum amounting, if expressed  
without circumlocution, to double bounty upon the women  
between certain limits, as pointed out by Lord Stanley in  
confirming the Ordinance.

215. On the 10th July Sir William Gomm announced that the two votes of 25,000*l.*  
each, which had been given, were nearly expended: whereupon it was resolved  
that His Excellency should be authorised to order such further advance to  
be made as might be deemed necessary for the purposes of immigration until  
your Majesty's pleasure should be known with regard to Ordinance No. 7 of 1842.

216. Meanwhile a stream of immigration had been kept up; and the returns of the  
Protector showed that between the 23rd January and 31st July 7951  
men, 868 women, and 183 children had arrived at Mauritius from  
India.

217. Some points, however, in the system, attracted the attention of the Local Govern-  
ment as requiring reform, the chief of which  
were:

- 1st. The expense attending the introduction.
- 2nd. The affording additional encouragement to the introduction of females.
- 3rd. The simplifying and bringing under Government control the agency whereby

\* See next chap., paragraph 370 *et seq.*

1842.  
Ordinance 11  
of 1842 never  
confirmed by  
the sovereign.

1843.  
Bounty sys-  
tem and its  
defects.

Lord Stan-  
ley's views re-  
specting the  
new laws.

Recruiting.

Irregularities  
repressed.

Ordinance No.  
3 of 1843.

Rate of bounty  
raised.

More money  
wanted for  
immigration.

Arrival  
immigrants.

Points requir-  
ing reform.

1843.

the parties were obtained for immigration, and destroying the competition that must otherwise prevail.

The attention of the Council was invited to these points by Sir William Gomm in a minute dated the 26th August 1843, and the Board, fully entering into his views, resolved itself into a Committee in order to report thereon; which report was submitted to Council on the 14th of September.

#### 218. The Committee resolved—

That the supply of labourers had not yet equalled the demand: a complaint steadily maintained for the thirty following years, and still maintained at the present day:

That it was "essential for the existence of the Island, in anticipation of changes openly announced as early about to take place, that there should be such a supply of labour as would enable the planters to raise their sugar at a low price, in order to meet competition with foreign sugars in the home market;"

And, they recommended that His Excellency should despatch an agent to Calcutta to enquire into the abuses complained of and arrange with the Bengal Government the best means of remedying them.

219. Sir William Gomm thereupon appointed Mr. Anderson, the acting Protector of Immigrants, as the person best fitted to be entrusted with this mission, and he sailed for Calcutta on the 16th September 1843.

220. The result of Mr. Anderson's mission \* was the passing by the Government of India of the Act No. XVI. of 1843, by which emigration to Mauritius was from January 1, 1844, restricted to the port of Calcutta, and provision made for the employment of a separate agent on the part of the Government of Mauritius, and of a Protector on the part of the Government of India, under whose undivided control the emigration should thenceforward be carried on.

It was calculated that an effective force of 30,000 to 35,000 labourers could supply the requirements of the planters of Mauritius; that, by the 31st December 1843, nearly 29,000 Indian emigrants would have reached the island; and, that Calcutta alone would be able to furnish more emigrants than would thereafter be required, and the system would there be under the eye of the Government of India, it consequently would be needless to maintain expensive establishments at other ports.

It was hoped that by transferring the business of procuring emigrants from the hands of private agents to those of an officer appointed by the Government of Mauritius, who should certify to the Protector that each emigrant had been engaged by him on its behalf, a more suitable class of labourers would be recruited, and particularly a superior class of females, and, it was expected by encouraging the emigration of families, to procure for Mauritius a permanent settlement instead of a mere temporary immigration.

221. With this view Mr. Caird, who had for some years held an official situation at Allahabad, was appointed Emigration Agent for Mauritius at Calcutta, with a salary of 1200*l.* a-year, and 800*l.* was allotted to a Protector to be appointed by the Indian Government. Both these salaries were to be defrayed from the Treasury of Mauritius.

222. Mr. Anderson left provisional instructions with Mr. Caird upon the mode in which his duties were to be performed, and limited the number of emigrants to be shipped off to 500 monthly, exclusive of women and children; and authority was given to announce, that the rates of wages to agricultural labourers at Mauritius would be five rupees per mensem, exclusive of food, clothing, and lodging.

223. On the 30th December of this year a short Ordinance, No. 21 of 1843, was passed for fixing the rates of licenses for the sale of liquors during the year 1844; the 2nd Article of which forbade the employment as a servant, in a warehouse or shop, of any person introduced as an agricultural labourer from any part of Asia or Africa, except under a written agreement signed before a Magistrate, after having obtained the sanction of the Government.

In consequence of this Article, Lord Stanley disallowed the Ordinance, and instructed Sir William Gomm to take care that no similar provision should be inserted into any future Ordinance of the same description.

\* None of Mr. Anderson's letters are to be found in the Colonial Secretary's Office in Mauritius, except one dated 11th November 1843.

224. Mr. Anderson returned from his mission on the 3rd January 1844; and, on the 29th of the same month the Report of the Immigration Committee upon his proceedings in India was submitted to, and approved by, Council. They expressed approval generally of the arrangements made by him, but regretted that he had not remained somewhat longer in India, so as to have witnessed the new system in full operation, and personally to have assisted in removing any obstacles which might have presented themselves to the satisfactory working of it.

They expressed the hope that, as a Protector had hitherto been dispensed with in India, and an Indian official had been selected for emigration agent, the Government of India would deem it superfluous, with such guarantees against abuses, to nominate a Protector in Calcutta.

They were apprehensive that 500 labourers despatched each month would prove insufficient for the first year, to meet the requirements of agriculture, and, consequently, recommended that emigration should be fully maintained.

The Report concluded with requesting the Governor to use his influence with the Government of India for re-opening the ports of Madras and Bombay for emigration to the colony.

225. About this time it came to the knowledge of the Governor that certain resolutions had been concerted, by the body of merchants interested in a large portion of the estates in the colony, with the view, by combination, to regulate the wages of Indian labourers; and, that it had been agreed that the then rate of monthly wages of 5 rupees, with a gratuity of 1 rupee to first-class labourers for extra work during crop time, should form the maximum rate of pay thenceforward, whatever might be the deserts of the individual; in the expectation that the large number of immigrants introduced into the colony at the public charge, would enable the body of employers so combining, to control the labour market.

226. The correspondence ensued, which, together with the resolutions, was transmitted to the Secretary of State by Sir William Gomm, who notified to the Committee that Government would regard with extreme jealousy, any plan for pecuniary concessions, involving a reduction, even with his own consent, of the labourer's rations, or any extension, upon the same terms, of the period of payment of his wages beyond that legalised or sanctioned by established custom.

To this communication Lord Stanley replied by expressing his great regret at such a combination, and by stating that, although not seeing the possibility of useful interference on the part of the Government, he approved of the course adopted, and trusted that the knowledge that attention had been called to their proceedings would prevent any attempt by the planters to adopt harsh or illiberal measures towards the immigrants.

227. The most important laws, as affecting immigrants, in this year were:—  
I. Ordinance No. 40 of 1844, on hospitals, lodgings, and articles of food to be supplied to labourers on rural estates, which we shall treat of at length hereinafter.

II. Ordinance No. 42 of 1844, for the suppression of vagrancy, which was framed on the model of a like Ordinance passed in Jamaica, with only such modifications as were rendered necessary by the difference of the localities, and consists of the Order in Council of 1838 reduced into the form of an Ordinance; of which more will be said hereinafter.

III. Ordinance 59 of 1844, for encouraging the immigration of free labourers from Africa.

228. In their report upon the draft of this last Ordinance, the Immigration Committee recommended the Governor to take measures, at an early moment, for ascertaining from what places and by what means immigration from the east coast of Africa could be most advantageously carried on.

Sir William Gomm in consequence selected Mr. Sullivan to proceed to Zanzibar to make the requisite enquiry, and a sum of £200 was voted to provide presents for the chiefs whose territories he might visit.

Return of Mr. Anderson, and report of the Immigration Committee upon his proceedings. His proceedings approved by Council.

The Council think 500 immigrants monthly not sufficient. The Council wish emigration from Madras and Bombay reopened.

Combination among the proprietors to keep down wages.

Lord Stanley greatly regrets the combination among proprietors.

Immigration laws in 1844. Hospitals, lodgings, food.

Vagrancy.

Immigration from Africa.

Ordinance 59 of 1844.

Immigration from the east coast of Africa.

Mr. Sullivan's mission to Zanzibar.



Ordinance 59 of 1844 disallowed.

Result of Mr. Sullivan's Mission to Zanzibar.

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Cl. 1844.

Arrival of the first ship with immigrants.

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Act 184

1,000 immigrants.

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Expenses of immigration.

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ppointment Mr. Rawson's Committee.

returns as to the absentees from estates, and the title of Sir W. Gomm's return.

Lord nstr he C

The Ordinance was nevertheless disallowed on consideration of the facilities enjoyed by Mauritius of obtaining labour from India, and, above all, of the great risk of abuse that would attend the transport of persons from the coast of Africa. Mr. Sullivan proceeded to Zanzibar, and, in a letter submitted to Council on the 31st March 1845, he expressed his belief that it would be impossible to obtain a free labourer from any part of the Imaum of Muscat's African dominions.

## CHAPTER VI.—The Contingent System.

229. The new system of immigration under exclusive Government agency came into operation, at the beginning of the year 1844, and on the 24th April, the first band arrived from India in the 'Appoline.' It consisted of 138 men, 56 women and 33 children: and Sir William Gomm reported them to consist of an infinitely better description of persons than had hitherto been introduced; the men being without exception young, able-bodied, and healthy in appearance, and the women and children equally so. The whole number, with the exception of about 20, were "Dhangurs" or veritable Hill Coolies.

A second band arrived a month later, when Sir William Gomm went on board the vessel, in company with the Protector of Immigrants, and personally inspected the arrangements, with which he expressed his entire satisfaction.

Between the months of April and September, 10 ships arrived, bringing 2493 immigrants, of whom nearly 2000 were males; thus making a total number introduced in the year and three-quarters which had elapsed since the re-opening of immigration to amount to nearly 44,000 souls of whom 37,112 were males.

230. On the 8th July Sir William Gomm communicated a minute to the Council announcing the almost entire failure of the lands allotted for the purposes of immigration, and requesting their serious attention to the means of remedying the defect, and of meeting future expenses, as well as replacing the funds, which had been diverted from the execution of public works, for which they were urgently required, though appropriated to immigration purposes. This serious matter having been referred to the Immigration Committee, their report was considered by the Council on the 9th September. The same report (No. 16) contained a clause upon the still unsatisfied demand for labourers: notwithstanding the large number introduced: the reason assigned being the numerous desertions from estates, upon which the Indians had been at first engaged, and the practice prevalent among them, of not renewing their engagements on the sugar estates after the expiration of the first year: a state of things which appeared to the Committee to call for the serious attention of the Government: and, they suggested the desirableness of modifying the Order in Council of 1838, by permitting the passing of contracts for two years, instead of for the one year only, as limited thereby. They further urged, that it was most advisable that instructions should be given for the strict execution and enforcement of the law against vagrancy.

231. The Council having considered this report, resolved—  
"That, in order to furnish His Excellency the Governor with sufficient grounds for recommending, to the Secretary of State and the Government of India, the proposed prolongation of the term of engagements with labourers, a Committee be appointed for the purpose of enquiring into and reporting upon the causes of the insufficiency of the labouring population, after so large an introduction of immigrants: as well as upon the means that it may be practicable to adopt here for providing remedies for any, or all of these causes, and, also, in regard to the operation and effect of the Ordinance on vagrancy."

232. With the view of assisting this Committee, Sir William Gomm, in the month of October, laid before the Council a return, which he had called for from the Civil Commissaries of districts, of the number of absentees from estates, which popular rumour had stated to be as high as 10,000, but which, the return in question showed to amount to no more than 1699 exclusive of Port Louis, which might give about 50 more. On closer examination, however, this return was found to have been so drawn up, that no general result could be deduced from it, as on examining the lists which had been sent from the estates, it was found that, in some

instances, deserters only were reported, and, in others, deserters and daily absentees; while the returns from some estates, were made out differently at two different times. In the majority of instances, it did not appear whether or not absentees were included; and, lastly, the returns from a considerable number of estates were wanting altogether: the whole return in short being as little to be relied upon, for anything approaching to accuracy, as are so many of the returns in the colony at the present day.

233. A minute of the Governor was communicated to the Council at the same time, in which His Excellency gave his opinion on the causes producing the state of things complained of, founded on Reports, which he had called for, from the Stipendiary Magistrates. He pointed out that the evils arose, not so much from the vagrancy, as the "mis-employment," of the labourers: that, the earnest recommendations of the Government to employers diligently to denounce their absentees on the one hand, and, on the other, to refrain from engaging labourers out of employ, without evidence produced of their being legally discharged, were far from being generally regarded; and, that, abduction of labourers by an influential sirdar, from one estate to another, not only on the expiration of a first engagement, but, while it was still subsisting, was an event of no rare occurrence; and, His Excellency consequently suggested that, in an universal discouragement of "unfair" employment, the proprietary body had the remedy ready to hand.

He also drew attention to the marked difference in the number of absentees on some estates, as compared with that on others having on them a nearly equal number of labourers: and, observed that, whatever might be the satisfactory explanation, it could hardly be assumed that all the vagabonds should happen to resort to one estate, while all the industrious flocked to another hard by.

234. The Committee appointed by the resolution of the 9th September had meanwhile under the residency of Mr. Rawson, the treasurer, proceeded with their enquiry; and, after giving several of the proprietors, planters, and the Protector of Immigrants the opinions of a still larger number of managers of estates and Stipendiary Magistrates, completed their first Report on the 19th February 1845.

235. Two main questions were considered in it—1st. Whether or not there was a sufficiency of labour in the island to meet the wants of its inhabitants. 2ndly. Whether or not it was expedient to rescind the regulation which prohibited engagements for a longer period than one year.

236. The first of these was determined in the negative, the second in the affirmative. On the first question, after recording the difficulty they had to encounter, owing to the absence of all correct information regarding the number of labourers, Indian or other, in the colony, the Committee estimated the total population available as labourers as follows:—

|                                 |    |    |    |        |
|---------------------------------|----|----|----|--------|
| Male Indians of 1st immigration | .. | .. | .. | 11,000 |
| ditto 2nd ditto                 | .. | .. | .. | 35,000 |
| Male ex-apprentices             | .. | .. | .. | 6,000  |
| Total                           | .. | .. | .. | 52,000 |

and, that of the Indian population the numbers employed in agriculture amounted to 35,000.

Paragraph 12. From this number, however, they calculated that a deduction of 27 per cent. must be made on account of,—

|                   |    |    |    |                         |
|-------------------|----|----|----|-------------------------|
| Desertion         | .. | .. | .. | 2,100 men, 6 per cent.  |
| Absenteeism       | .. | .. | .. | 3,850 .. 11 ..          |
| Change of masters | .. | .. | .. | 700 .. 2 ..             |
| Sickness          | .. | .. | .. | 2,800 .. 8 ..           |
| Total             | .. | .. | .. | 9,450 men, 27 per cent. |

thus reducing the number of working hands to 25,550: a total but slightly in excess of that supplied by the slaves employed on estates before the Emancipation, viz., 23,000; whilst in the interval, the capabilities of the island for the cultivation of sugar had become developed to a great extent: the crop in 1830 having yielded 68,000,000 lbs., whereas it was expected that the crop of 1846 would produce upwards of 100,000,000 lbs.

237. The causes of desertion and absenteeism, assigned by various witnesses, were: that idleness which "forms part of the Indian character;" a love of wandering; and, an unfitness for hard or constant work: the short period

Unreliable character of the returns.

"Unfair" employment by planters of other planters labourers the chief cause of absenteeism.

Sir W. Gomm sceptical as to causes of absenteeism.

Mr. Rawson's Committee.

1845. First Report of Mr. Rawson's Committee.

Amount of labour in the colony.

1845.

First Report of  
Mr. Broussin's  
Committee.  
Causes of ab-  
sences.

of engagements; the facility of engaging by the month or week; abduction from estates; fondness for petty traffic, and, lastly, over-rigid discipline or ill-treatment on the estate.

238. After weighing the various alleged causes the Committee expressed their opinion that the root of the evil was in the character and habits of the Indians (which if true would, we think, have incapacitated them for all purposes of immigration), that the regulations for their employment and the absence of an efficient police were calculated to foster the evil; and, that, it was an imperative duty of the Government, to adopt measures, to remedy so serious a mischief.

Complaints  
against the  
police.

A better  
vagrancy law  
wanted.

239. Both planters and Magistrates complained generally of the inefficiency and uselessness of the police. The former recommended the prolongation of engagements to 3 or 5 years, or a provision compelling labourers to render 300 days of service in the year before being entitled to their discharge. Among the suggestions of the Stipendiary Magistrates were a better vagrancy law; a law to prevent the employment of Indians without written engagement, and, to punish employers not reporting absentees; and, lastly, the establishment of a passport system.

Limitation of  
contracts.

240. Upon the 2nd question: whether it was expedient, that the period of engagement should be extended beyond a year; a great quantity of evidence was adduced, to show that contracts so limited, were prejudicial to the interests, both of labourers and employers; that the grounds upon which the Secretary of State

Paragraph 33 et established the limitation, were not justified by the results of actual experience, and that by the law which permitted engagements to be passed only in the colony, no provision had been made for insuring to the colony the labour of the immigrants in re-imbursement of the expenses of their introduction; and

Paragraph 44. that, in consequence, during the first year of trial, 564 men had returned of their own accord, and 141 had been sent back as invalids, for whose maintenance the Government had paid at least £4500.

241. The Report concluded with reducing these several points into 14 Resolutions, to be submitted to the Council, with a view to subsequent action.

#### Resolution I.

Withdrawals  
from labour.

That the number of Indian immigrants introduced into the colony, and now remaining in it, affords a very erroneous criterion of the amount of labouring force, available for agricultural purposes, in consequence of the great extent of the withdrawals from that kind of labour, which are favoured by the annual expiration of engagements, and, of the amount of desertions, absences, and sickness prevailing on the estates.

#### Resolution II.

More labour  
wanted.

That the colony requires a large additional number of labourers, not only for the cultivation of the sugar estates, but for other branches of employment, including the public works, and the maintenance and repair of the roads.

#### Resolution III.

Urgent demand for labour has led to many existing evils.

That the urgent demand for labourers has led to many of the evils under which the planters labour; namely, to the enhancement of wages; to the employment of sirdars, with extravagant remuneration to obtain men, thereby encouraging abduction and desertion from the estates; both causes, operating to induce the labourers to change their employers, at the end of each yearly engagement; and to the present unsound state of the labour market, in which the master is obliged "to coax labour," and, to submit to the will and caprice of his labourers,—a continuance of which is incompatible with the prosperity of the colony, or, with the true welfare of an uneducated and unreflecting population.

#### Resolution IV.

Funds for education and instruction.

That under the existing system of introducing and engaging immigrants, the present demand of labourers will not cease. The revenue applicable to immigration purposes will scarcely suffice to introduce 6000 men annually, and the colony is already burthened with heavy taxes, which, it is not desirable to increase. During the next three years, the actual increase of the labouring population will be reduced by death and departure to 2000 annually; and in 1848 and the following year, a decrease of 7000 must be expected, arising from the expiration of the five years'

service of the men introduced in 1843 and 1844, which, if not provided for, will entail a most serious blow on the cultivation of sugar in Mauritius.

#### Resolution V.

That, considering the amount of capital invested in the island, and looking to the future, when Mauritius will have to compete with foreign countries, in whose favour the sugar duties have been lately reduced in the United Kingdom, and with other colonies about to receive an accession of labourers, it is only to an extension and improvement of the cultivation on the estates, and to a rigid economy of labour and wages, that proprietors can look to recover their outlay, and to enable them to find a profitable market for their produce in the mother country.

#### Resolution VI.

That the colony has more to apprehend from the want of labourers than from an excess; and that in this country, where, with a favourable soil and climate, the means of livelihood are so easily acquired, and where the cost of a return passage to India may be earned in three months, there is nothing to fear on account of the labourers from a temporary excess of labour, even if such an event were probable.

#### Resolution VII.

That many of the evils complained of by the planters, would be remedied by the further introduction of the labourers "to such an extent as to create competition for employment;" but that, under the present system, by which the whole expense of their introduction falls upon the community at large, it is impossible that such a number should be introduced.

#### Resolution VIII.

That under the system of annual engagements, the planters cannot be expected to contribute directly to the introduction of an increased number of immigrants; but that, if engagements for five or three years were permitted, they would probably be willing to pay a considerable proportion of the expense incurred in bringing in as many labourers as they require, from which the double benefit would arise, of diminishing the burthen on the community, and of keeping the labour market supplied according to the demand.

#### Resolution IX.

That under the present system, no provision has been made to insure to the colony the labour of the immigrants for a reasonable period, in reimbursement of the expense of introducing them, and consequently during the two last years, 2 per cent of the whole number arrived within that period, have returned to India, whereby a loss of £4000 has been entailed upon Government.

#### Resolution X.

That irregularities and desertion exist on the sugar estates to an alarming extent, producing consequences as injurious to the labourers as to the employers, and seriously prejudicial to the colony.

#### Resolution XI.

That these evils are in a great measure attributable to the limitation of engagements to a single year, and to the inefficiency of the existing laws and police to insure discipline and regularity on the estates.

#### Resolution XII.

That as the limitation of engagements has failed to insure to the Indians the advantages which were anticipated, or, has contributed to entail upon them evils far outweighing any benefits obtained; and, as these evils cause the most serious injury to the planters, by limiting the cultivation of the estates, increasing the expenses of their maintenance, and even placing their continued cultivation in jeopardy, it is expedient that the period of engagements should be extended, at the option of the contracting parties, to a term of at least three years.

## Resolution XIII.

That whenever the demand for labourers be reduced by an adequate supply, and, it became the interest of the labourer, to remain with his employer, and to serve him well, which is the remedy for the existing evils suggested by those who are opposed to an extension of the period of engagement,—the planters will doubtless of their own accord, have recourse to annual, or even shorter engagements, since it is only on account of the inadequate supply, and the injurious consequences of annual engagements, under existing circumstances, that they seek for an extension.

## Resolution XIV.

That the Council trust the Secretary of State and the British Government will not attribute the request for an extension of engagements to a desire to encroach upon the privilege which they have granted to Mauritius, to introduce immigrant labourers, a privilege indispensable to the existence of the sugar manufacture; but, to a sense of the magnitude of the evils that have arisen under the present system,—to a great sympathy for the great difficulties and deep anxieties under which the proprietors and planters labour,—to an apprehension that, it is at present vain to look to the remedy of an adequate supply of labourers, and, to a conviction that the change is consequently material to the happiness, health, comfort, and pecuniary interest of the labourers, to the profitable working of the estates, the recovery of British capital, which has been sunk on them, and to the permanent prosperity of the colony.

242. This Report was laid before the Council on the 25th March, together with the Minute of the Governor, in which His Excellency reviewed the Report at length, and dissented from its conclusions on several important points. He commented with some severity upon the expressions used in the 5th paragraph of the Report, which he construed as reflecting upon his administration of the Government: but the expressions were subsequently explained much to the Home Government and the Government of India, as to that of Mauritius.

243. The requirements complained of by the Committee were stated to be:—

1st. The laws requiring employers to provide their labourers with food, lodging, and medical attendance in addition to high wages, thereby destroying all stimulus to labour.

2nd. The Order in Council of the 7th September 1838, which prohibited engagements for periods longer than a year.

3rd. The Regulation under which the Government assumed the exclusive management of the introduction of immigrants, and forbade the planter from furnishing himself according to his wants, and according to the actual demand.

On these points Sir William Gomm expressed his dissent from the opinions held by the Committee.

244. On the 7th May the Report and Minute were taken into consideration, and after some discussion, during the course of which the Colonial Secretary proposed as an amendment, that the system should continue to be tried for one year more, 12 out of the 14 Resolutions were passed unaltered, and the 11th and 14th, after slight changes, and the Report was adopted, but, with the Resolution

“That, as Articles 29 and 55 had given rise to misconception, and might do so again elsewhere, it be now placed on record, that these paragraphs have been explained by the official members of the Committee to the satisfaction of the Council.”

245. This debate called forth another Minute from Sir William Gomm, which was communicated to the Council on the 12th May, and produced a protest drawn up by the non-official members of the Committee, and adopted by the Council, against the attempt of His Excellency to invade the rights and liberties of the Council by commenting upon the speeches of the members of that Assembly, and praising or censuring them.

246. The second Report of the Committee was laid before the Council on the 25th August. The draft of an Ordinance for amending the Order in Council for regulating the relative rights of masters and servants, having been submitted on the 28th of the previous month.

247. In the second Report, the Committee, after reviewing the circumstances under which immigration commenced, and had been carried on in Mauritius, pointed out that the new system, notwithstanding its many advantages, bore heavily on planters, by preventing their sending to India, when in want of labourers; the supply being restricted to the number which the Government thought sufficient, or had the funds to introduce: and that the equitable distribution of the men thus introduced, among the numerous claimants for their services, was a matter of great difficulty: the competition being so keen, as to have led at first to disorder and violence;\* and, afterwards, to the practice of planters, outbidding one another, and offering enormous bribes to the sirdars having influence with the men, to induce them to accept their offers: thus placing an obstacle in the way of prudent persons, with limited means, and opening the door to reckless speculation.

248. They then proceeded to review the consequences of the Regulations for entering into engagements, pronouncing the most mischievous to be:

1st. That, prohibiting engagements being entered into by the emigrant before his arrival in the colony.

2nd. That, limiting the period of engagements to one year.

Since by the first, immigrants were at liberty to escape from their engagements, implied if not actually imposed, and were free on their arrival immediately to return to India, without serving at all; or to stay in the colony without serving; or to quit service at the close of their first year's engagement, whereby they did not forfeit any privilege, to which, the man who had laboured continuously during five years was entitled, except the right to a free return-passage.

249. The Committee next drew a comparison between emigration to Mauritius and elsewhere, and pointed out that the advantages, derived therefrom by the Indians, were so great as to lead them to

express their hope that the time was not far distant, when the Indians would be so convinced of the advantages of emigration to Mauritius, and so eager to obtain them, that they would be willing to enter into an agreement to defray or to refund the expense of their passage to the colony!

a sanguine expectation; of which, up to the close of the year 1872, we have failed to discover the realisation.

250. The second abuse against which the Committee considered that provision should be made, was, the abandonment by the immigrants of field labour, or service of any kind, at the expiration of the first yearly engagement. The Government desired, as the interests of the colony required, that the New immigrants should be employed in agriculture; but it had not adopted any measures to secure such an application of their labour; and, consequently, at the close of the first year's engagement, immigrants might at pleasure continue field-labour or enter domestic service, follow petty trades or no profession whatever, provided they abstained from committing any act of vagrancy: a state of things which the Committee inferred neither the Colonial Government had contemplated, nor one, that the Government of India had intended to exact.

251. The second portion of the Report considered the means of repressing desertion and absenteeism; and the Committee finally made the following sixteen recommendations, concluding with expressing their conviction that all the measures recommended, or any that might be adopted, would prove but palliatives of the existing evils, so long as the demand for labour in the colony far exceeded the supply; and reiterated without hesitation the opinion submitted in the first Report, viz.:

The necessity of an additional supply of labourers, and of rescinding the Regulation limiting the period of engagement to one year:

- I. Provisions to prevent immigrants from returning to India before expiration of the term for which they agreed to serve the colony, without repaying a fair proportion of the expense of their introduction.
- II. The refusal of a free return-passage to labourers, who have not served, as well as resided in the colony for the stipulated term.
- III. Provisions to ensure the restitution of a proportionate share of the cost of passage, from India, by immigrants abandoning service, or returning to their country, before the expiration of the five years during which they engaged to serve in the colony.

\* See below, paragraph 253.



- IV. A moderate tax on immigrant servants, to compensate for the abstraction from agricultural labour.
- V. A code of Regulations for the bazaar, to diminish the number of idlers finding or professing to find a scanty livelihood by attending the bazaar in various capacities.
- VI. A system of licensing and regulating the number of porters plying for daily hire in Port Louis, with a similar object as to the last recommendation.
- VII. A provision to require the stipulated number of days' work from the hired labourer before his engagement can be cancelled, with the view of checking absenteeism.
- VIII. A provision to require employers to report deserters to the police.
- IX. A carefully made census of the population of the island.
- X. The counter-signature of a Magistrate to all certificates of discharge.
- XI. A penalty on the employment of immigrants, without a certificate of discharge from their last employer, counter-signed by the Magistrate.
- XII. An improved system of police.
- XIII. An alteration of that clause of the vagrancy law which relates to the abandonment of families.
- XIV. The establishment of a fixed and well-considered scale of punishment for absenteeism.
- XV. A provision to empower Magistrates to punish parties making fraudulent complaints.
- XVI. A check upon the abuse of the *dépôt*, by requiring a moderate contribution in money, or labour, after a certain time.

252. Sir Wyham Gomm, while still at issue with his Council and the Committee, upon the desirableness of an unlimited increase in immigration, and the extension of the periods of contract, was not insensible to the evils which threatened the colony, owing to the serious expenses attendant on the immigration system; the weight of which, it was probable, would be aggravated to an overwhelming extent, at the close of the five years, when the right would accrue to the first immigrants to claim their return-passage. To this he had invited Lord Stanley's attention in a Despatch dated 16th May 1844, in which he urged, that it should be conceded to the colony to withhold the free return-passage from such as did not for five years devote their labour to agriculture; and on the 15th September, he had arrived at the conclusion that, by immigrating to Mauritius, for however brief a period, the Indian improved his condition to such a degree that, encouraged by the Reports of Mr. Caird and Mr. Hugon, of the increasing desire shown by Indians to emigrate to Mauritius, he did not hesitate to propose that, while retaining the introduction wholly in the hands of Government, the party engaging should bind himself to repay to the Government the cost of his passage to Mauritius, being allowed a term of four years for that purpose, with the option of freeing himself of the debt at any time within that term, and always by such instalments as might best suit his convenience. He proposed, however, that an exception should be made in favour of families, at the cost of the landed interest, since it was only through their introduction that a settled labouring population could be secured in the island.

253. On the 10th November Sir William Gomm transmitted to Lord Stanley a return of the labourers employed, sick and absent, in the colony on 30th September, and expressed his continued adherence to the opinion given, in his minute of the 21st October in the previous year, that a very large proportion of those classed under the head of *absentees* were really *irregularly employed* upon estates, in other localities; and, also, that the irregularity was far from being equally distributed, or even fluctuating throughout the colony, but showed itself in particular quarters: and, further, that the proportion of absences, was far lower on estates in the hands of independent proprietors, or administered by persons whose management was universally admitted to be judicious.

254. About the middle of this year (1845) two Reports were written, upon the condition of Indian immigrants in Mauritius, the first by Mr. Brennan, a young man, who

had been connected with an indigo plantation in the district of Jessore. In it, a comparison is drawn, between the condition of the labourer in Bengal, and in Mauritius, as regards 1st, lodging; 2nd, food; 3rd, clothing; 4th, medical attendance; 5th, pay and casual profits; 6th, nature and hours of labour; 7th, his chances of redress under ill-treatment or injustice; 8th, health. On all these points, Mr. Brennan pronounced the Mauritian immigrant to be in a position far superior to that which he would have occupied in Bengal.

The other report was written by Mr. Robert Neave of the Bengal civil service, who, during a residence of over three months, in Mauritius, appears to have studied the labour question, then absorbing the attention of the colony; and, at the request of Sir William Gomm, he reduced his ideas on the subject to writing. In his first note, upon the statements of Mr. Brennan, he in the main fully coincided with the opinions expressed by that gentleman, and concluded with remarking upon the one-sided character of the legislation, in Mauritius, touching the immigrants, and that, assuming the existence of oppression in some persons, some effectual check should be placed upon the misconduct of the other side. He admitted that checks existed, but they were ineffectual; a man absenting himself, being sentenced to break stones for 14 days, a nominal labour as enforced in Mauritius. The remedy he pronounced obvious, viz., to condemn the absentee to fulfil, on the expiration of his engagement, a number of days equal to those on which he had been absent, and, an additional number equal thereto by way of penalty. Having visited the *dépôt*, and enquired into the circumstances, attending the departure of 169 labourers before the expiration of the five years, he came to the conclusion that, more caution should be used by the native agents in India in engaging people for emigration, and, in selecting fit and proper persons, instead of taking all comers indiscriminately; among whom were some, who, having from youth been educated in other pursuits, could not be expected to take heartily to agricultural labour.

Mr. Neave concluded his Report with the opinion, that, justice to the colony demanded that immigrants returning to India, or abandoning agriculture, for other pursuits, before the completion of such period as was implied by the contract, should either provide a substitute, or else refund to the Treasury, a due proportion of the expenses incurred in their passage; and, that truth compelled him to declare, that, in some respects, in endeavouring to protect the Indian, justice had not been rendered to the employer.

255. An incident occurred in the course of this year, illustrative of the violence and disorder attendant on the distribution of newly-arrived immigrants at the immigration *dépôt*.

On the occasion of such a distribution on the 30th May, the *dépôt*-keeper found it necessary to repress the zeal of the sirdar of Mr. Lionnet, who was endeavouring to compel some men to engage with that gentleman. Mr. Lionnet, conceiving himself aggrieved by such intervention, shortly after, in the temporary absence of the Protector of Immigrants, first grossly abused, and then savagely assaulted the keeper. On the 14th June, there was another distribution, when, owing to the concourse of persons who had collected at the gate, Mr. Anderson, the Protector, found it necessary to regulate the admissions into the *dépôt*, by requesting merchants and proprietors to form themselves into a line, in order to avoid confusion. To this arrangement Mr. Lionnet, who was present, refused to conform, but pressed forward to the gate before the line came up, and when requested to move, refused to do so, indulging at the same time in much abusive language.

Finding remonstrance useless, Mr. Anderson at length sent for an officer of police and caused him to be removed, after the proceedings had been delayed one hour and a half.

Mr. Lionnet was prosecuted before the Court of First Instance, and sentenced to a fine and imprisonment, from which judgment he appealed to the Supreme Court, who reversed the sentence and adjudged the Protector to pay to Mr. Lionnet £250 damages, besides costs, which were, however, ultimately paid, by a vote of the Council.

256. The beginning of 1846 witnessed the first important modifications upon the Royal Order in Council of 1838, viz.: Ordinance No. 1 of 1846 passed on the 16th February; the draft of which had been submitted to Council at the end of the month of July in the previous year. It embodied many of the measures recommended by Mr. Rawson's Committee, in their Reports, with the view of checking desertions and the illegal employment of engaged servants.

Confession of immigrants in Mauritius superior to the condition when in Bengal.

Mr. Neave's Report.

Mr. Neave coincides with Mr. Brennan.

Mr. Neave thinks effectual checks should be placed upon misconduct of immigrants.

Punishment of absenteeism.

Case in recruiting.

Indians returning to India prematurely to pay part of cost of introduction. Sometimes employer is obliged to provide for protecting Indian.

Outrage at immigration *dépôt* by Mr. Lionnet. Protector adjudged to him £250.

1846. Ordinance 1 of 1846.

Ordinance No. 1 of 1816.

Articles 1 & 2. Frivolous and vexatious complaints.

Article 3. Period of time: working days.

Article 4. Verbal engagements.

Article 8. Certificates of discharge.

Article 12. Punishment for illegal employment of labourers.

Harbouring labourers.

Article 13. Complaints to be tried in district of complainant.

Article 14. Punishment for "Neglect of work" and for "ill-usage."

Article 15. Overseers liable to be punished as employers.

Articles 16, 17, 18. Protection of labourers' interests.

Articles 19, 20, 21. Petty Sessions and Appeal.

Article 6. Absenteeism. Master to produce written statement of absence.

Observations of the magistrates upon

Articles 1 and 2 related to penalties, in cases of frivolous and vexatious or malicious complaints.

Article 3 declared engagements to be binding on master and servant, for the number of working days, in any period agreed for, instead of the calendar period itself.

Article 4 declared every verbal engagement to be binding for one month, in the absence of any express stipulation to the contrary; on the expiration of which, the engagement was to be considered as tacitly revived, and to continue from month to month, unless the master or servant should give a notice of 14 days, before the expiration of the month.

Article 8 enjoined upon masters, the duty of sending within 24 hours of the discharge of any labourer, a certificate of the same to the Stipendiary Magistrate; the labourer was bound to apply to the same Magistrate within 48 hours; and, in default of his so doing, his engagement was to be deemed unfinished, and he remained liable to the penalties of the 7th section of the 4th chapter of the Order in Council.

By Article 12 provision was made against the illegal employment of engaged servants, by the imposition of a penalty, on persons so illegally employing labourers, of a £10 fine, besides damages, at the rate of 8s. a day, in favour of the rightful employer; and further, that the fact of any such servant's being employed by any person on any premises, or being lodged or allowed to remain on any premises without employment, should be held as *prima facie* evidence of illegal harbouring against such person.

Article 13 declared that, every complaint of master and servant should be before the Stipendiary Magistrate of the district in which the complainant; all proceedings had, upon the same complaint, before another Magistrate null and void.

Article 14 authorised the imposition of a £10 fine, in cases of "stipulated work" or of "ill-usage," in addition to, or instead of, compensation to the complainant, as provided by the Order in Council, chapter 4, sections 7 and 8.

Article 15 rendered all persons, placed over labourers, liable to the same penalties, as the master, and, rendered the latter liable, for the misconduct of the former.

Articles 16, 17, and 18 regulated the conditions of sale of property, for the better protection of the labourers' interests.

Article 19 provided for the formation of the petty sessions, and Articles 20 and 21 modified the power of appeal: the former Article declaring the decision of the Stipendiary Magistrate, to be final in all cases, where the penalty did not exceed £2, if awarded against a master; or a month's wages or 10 days' imprisonment, if awarded against a servant.

Article 6 dealt with absenteeism. By it, masters intending to claim restitution of time, were bound, within the first three days of every month, to produce to the Stipendiary Magistrate, a written statement of the number of days during which each servant had been absent, in the month previous; and, if it were found correct, the servant, might be adjudged, to replace an equal number of days, before becoming entitled to his discharge; and, in the event of his not complying, with such sentence, to an imprisonment of not less than 14 days, nor more than 1 month; and, in the event of persistent non-compliance, to a further imprisonment, with hard labour on the roads, of not less than two months nor more than four months.

This Article had undergone several important changes, in its passage through Council. In the original draft it stood as Article 5, and, beyond the replacing of the days of absence, it had decreed no penalty.

At the second reading it was moved and carried, that the following additional Article should be introduced as Article 6; the idea of which was derived, probably, from the Merchant Shipping Act, or from a condition, which, previously to 1839, it had been common to insert in contracts, made with immigrants:—

"Every labourer engaged by the year or by the month, who, during the period of his engagement, shall have absented himself, without the permission of his master, or without good cause, such as real sickness, shall lose double the amount of his day's wages."

257. The draft as amended at the second reading, was ordered to be printed, and circulated, and was transmitted, by order of the Governor, through the Colonial Secretary, to the Stipendiary Magistrates of the various districts,

B  
Circular 25,  
14th January 1816.

together with a circular, requesting their observations thereon. The 6th Article attracted considerable attention, and, was condemned by several.

258. Mr. Fitzpatrick of Port Louis wrote as follows:—

"The punishment for absence set forth in this Article is excessive.

"1st. The absentee forfeits two days' pay for every day of absence.

"2nd. He replaces the days of absence, even after his engagement has expired.

"3rd. He is liable to a fine of a month's wages, and 14 days' imprisonment with hard labour.

"The citation of the Merchant Seamen's Act in support of this Article is not in point. A sailor is liable to a forfeiture of wages for temporary absence, but he is not compelled to work, to replace the days of absence, nor, is he also liable to imprisonment with hard labour. I think, every purpose would be answered, by obliging the absentee to work, to replace his lost time, leaving him still subject to the punishment which now exists, and even authorising the Magistrate, at his discretion, to extend that punishment, to a month's imprisonment with hard labour.

"I also think, it would be better to dispense with saying anything about the 'books of the establishment,' for such documents cannot, without a violation of the universal rules of evidence, be received as proofs for the master, although they are received as evidence against him. On such grounds, destitute of other proof, I could not pronounce a conviction."

2. Elliot of Pamplonousses, declared that,—

"her in equity or justice can it be maintained,"

and considered the provisions of the corrected paragraph, as the most severe and unjust measure that proposed by a Legislature."

Like Mr. Fitzpatrick, he strongly objected to a sentence being pronounced on the simple production of the books of an establishment, and concluded his remarks with putting the following hypothetical case:—

"Out of fifty men, admit half absent, during fifteen days each month, the master, at the end of the month, will have nothing to give to his labourers, according to this new framing of the law, if I clearly understand it. Further, they are bound to complete six months before they can obtain their discharge, and thus vagrancy will become the resource of the absentees, who have received no wages, and the intention of Her Majesty's Order in Council set at naught."

260. Mr. Régnard, of Flacq, pointed out, that the servant or labourer, sentenced possibly months after the absence, to replace such days, in addition to the forfeiture of wages, would view this in the light of a double punishment for the same offence, and would leave nothing untried to elude its consequences, while the ineffective means of enforcing the provision by coercive measures, then, at the disposal of the Stipendiary Magistrates, would materially add to the difficulty of executing it.

261. Mr. Selve of Pamplonousses considered the Article quite incapable of being put into execution, and also, that the returns of absences sent by employers to the Magistrates, should be attested on oath, a proceeding

"the more necessary, as it is to be feared, that the temptation of the deduction of two days' wages, for each day's absence, may lead unprincipled persons to make false returns;"

and added,—

"I am well aware that the great majority of the masters are highly honourable men; but, at the same time, I cannot hide from myself that, there are others of a diametrically opposite character: and, it should be, to protect the labouring classes from the malpractices of such people, that this Article of the law should be framed."

262. Mr. Seignette, of Plaines Wilhems; after some general observations on the difficulty of framing regulations suited to all exigencies, pronounced the Ordinance "just and equitable," and, proceeded to lament the propensity of planters to "speculation beyond their means," and, the evils consequent thereon; and concluded—

"as it is a fact, that the man who is free, never thinks he is enough so, and, in the same time, the speculator never finding enough is done for him, but, that he is always craving after some other advantage."

263. Of the other magistrates, Mr. Hervey of Black River offered no remarks. The Ordinance appeared to Captain Davidson of Grand Port, well adapted for the repression

1816.  
the amended draft of the Masters and Servants Ordinance.  
Mr. Fitzpatrick.

Mr. Elliot.

Mr. Régnard.

Mr. Selve.

Mr. Seignette.

Mr. Hervey.  
Captain Davidson.



Ordinance  
No. 1 of 1846.  
Mr. Randall.

of desertion, and abuse of contract on both parties: and Mr. Randall of Moka, while entertaining a very favourable opinion of the good which was likely to result, thought, that the power extended by it to the Stipendiary Magistrates, would bring down unpopularity upon that body; an increase of responsibility, which, he hoped, would be accompanied by an increase of salary.

264. It was probably, owing to the opinions above quoted, added to the strong aversion of Sir William Gomm\* for the measure, that the clause imposing the double forfeiture of wages, for the single day of absence, was expunged at the second reading of the amended draft Ordinance, but, there was added a clause, subjecting the labourer to an imprisonment, not exceeding six months,

Minutes of Council, 27th January 1846. "in case of his refusing to obey the order of the Stipendiary Magistrate;" which was again finally altered and passed, as above mentioned, on the 9th February.

265. At the same meeting, Article 7, which had been prepared by the Procureur-General, by desire of Council, was submitted and passed. It dealt with desertion or absence from work, when under written engagement, continued for a calendar month, for which the labourer became liable, at the discretion of the Magistrate, to imprisonment, with hard labour, for not less than one, or more than two calendar months, or to a fine of £5, or to both; and, on conviction for absence of three months, to imprisonment and hard labour for not less than two, nor more than four calendar months, or to a penalty of £10, or to both.

Protest  
against 1 of  
1846, by  
Messrs. Harel  
and others.

266. This Ordinance did not pass without a protest, from five members of Council, whom three—Messrs. Keenig, Harel, and Barbé—had formed Mr. Rawson's committee.

These gentlemen, together with Messrs. Pitot and Bourgeat, objected to the Ordinance, as being altogether insufficient to remedy the evils complained of, and as not giving effect to the recommendations of the Committee embodied in the Resolution which had been adopted by the Council; especially, in overlooking the principle, that the immigrant grant should be compelled to perform his contract during five years, or to reimburse the colony a proportionate part of his introduction. They declared further, that,—

"it had been acknowledged by every member of Council that, ever since its promulgation, many of the principal dispositions of the Order in Council of 7th September 1838, and, which would beyond doubt, have prevented many evils, had never been put in execution."

They, therefore, protested against the half-measures contained in the Ordinance, and declared that

"nothing but a prompt and radical change of system could avert the ruin of the colony."

Pending  
ruin of Mauri-  
tius.

Ordinance 1  
of 1846 dis-  
allowed.

267. The Ordinance was nevertheless disallowed by the Home Government, as notified by Earl Grey to Sir William Gomm in a Despatch, laid by him before the Council, on 11th January following, in which his Lordship, after criticising the particular clauses, which appeared objectionable, went on to review the tendency of the Ordinance, and then to enunciate, what, in his opinion, was the sound principle upon which legislation should proceed in dealing with the immigration question. He nevertheless, entirely concurred in the opinion, that some change in the existing system of the introduction and employment of Coolies was urgently required, and his objections to the Ordinance were founded not upon the necessity of adopting more effectual regulations for securing the continuous labour of immigrants introduced at the public expense, but, upon the conviction, that the measures proposed were not well-adapted for effecting the end that was in view.

268. Lord Grey wrote,—

"The original error to which all the objectionable provisions of the Ordinance are to be traced, is, that it proceeds upon the principle of endeavouring by law, to force upon the immigrants the due performance of the obligations to labour, which they have contracted, by accepting a free passage to the colony, instead of seeking to place them in a situation in which they might be acted upon by the same motives, by which men are impelled to labour in countries in which industry flourishes."

Lord Grey's  
Despatch, No. 38,  
29th Sept. 1846.

Wrong prin-  
ciple in Mauri-  
tius legisla-  
tion.

\* Minute in pencil, endorsed upon the observations of Mr. Fitzpatrick:—"For Council to-morrow, particularly A. 6, which I can not pass under its present form.—(Signed) W. G."

"This I conceive to be a great mistake: all experience tends to prove, that no legal regulations, however severe, if they stop short of the extreme compulsion, which is the characteristic of slavery, can succeed in enforcing really efficient labour (even though it may be in fulfilment of a voluntary obligation) from men who have no interest in being industrious."

Lord Grey's  
objections to  
Ordinance  
No. 1 of 1846.  
Compulsion  
useless.

While sanctioning yearly contracts for labour, he expressed his conviction that they would be found to work much better if either party, in case of being dissatisfied, had it in his power, under certain restrictions, to annul them; as

"Unless dismissal is felt by the labourer as a punishment, and is one which it is in the power of the employer to inflict, the latter cannot practically exert that authority, which, in the relation in which they stand to each other, it is in the interests of both parties that he should possess."

Master should  
have power of  
dismissal by  
severance of  
contract.

269. The Despatch concluded with pointing out the very temporary nature of the relief afforded by immigration, so long as the immigrants were attached to the country by no permanent tie, and endorsed the recommendation which had been made by Mr. Gladstone, in his Despatch of the 14th May preceding, that an attempt should be made to organise newly-arriving immigrants into villages, with a moderate quantity of land attached, based on the model of the village communities of India, under the direction of a head man, and subject to the payment of a fixed annual sum to the colonial revenue, which would thus indemnify the colony for the costs of introduction and settlement, as well as provide for the expense of educating the children, an object, as his Lordship pointed out, which ought to be most carefully provided for.

Villagesystem  
of India re-  
commended.

Enclosed with the Despatch were ten heads proposed for an Ordinance, to carry out the above principles: to which, as it embraces a very important subject, we shall return, after noting the charges brought about this time by the Anti-Slavery Society against the drafts.

Heads of an  
Ordinance for-  
warded by  
Lord Grey.

270. In the early part of the year, Mr. Gladstone transmitted to Sir William Gomm a correspondence which had taken place between the Colonial Office and Mr. Scoble, the Secretary of the Anti-Slavery Society, in which the latter alleged the prevalence among Coolies of frightful immorality: promiscuous intercourse between the sexes, and unnatural crime among the men. At the same time, when requested to furnish such specific information as would enable the Local Government to institute an inquiry, with a tolerable certainty of arriving at a true knowledge of the facts, they declined compliance, on the ground that the facts were so notorious at Mauritius, as to require no particular cases in proof; and further, that, knowing as they did

Charges made  
by the Anti-  
Slavery So-  
ciety.

"That every man in Mauritius is treated as an enemy who points out an abuse," they felt it would be improper to indicate the sources of their information (on which, however, they placed perfect reliance); as their doing so would lead to no beneficial results, and might be productive of much evil to individuals. Mr. Gladstone, though regretting this determination, ordered, that a searching inquiry should be instituted forthwith, and in the event of the allegations being proved to be well founded, that a stop should be put to them immediately, and at whatever cost.

They decline  
to give up  
their autho-  
rity. Why?

271. Sir William Gomm at once issued a Circular to the Magistrates of each district, calling for minute reports, especially upon the nature of the accommodation, on each estate, provided for and actually used by the Coolies. The result went to show that the dwelling accommodation was generally ample, and not of a character to cause "huddling together" provocative to an intercourse such as that alleged.

Result of en-  
quiries.

272. Lord Grey, on the receipt of the evidence so collected, offered to allow the whole to be perused and copied by Mr. Scoble, on the condition, that, if after perusing the same, he should be satisfied that the charges were thereby refuted, they should be unequivocally withdrawn. If, on the contrary, he, and those he represented, still adhered to them, that the evidence on which they rested should be produced. Of this offer Mr. Scoble, on behalf of the Society, did not think proper to avail himself, and the matter accordingly dropped.

The matter  
drops.

273. Great complaints continued to be made during this year of the inadequate supply of labour, of the wholesale extortion practised by the labourers, and the immoderate rate of wages. The mouthpiece of these complainants was the "Committee of Merchants and Proprietors," who, about the middle of the year, waited on the Governor, and urged the introduction of 12,000 men from Madras, in addition to the annual 6000 from Calcutta. They subsequently pronounced the immigration a failure, and addressed a petition to the Governor for the remission of the export duty on sugar.

Lord com-  
plaints of the  
planters  
against the  
labourers.

Sir W. Gomm to  
Mr. Gladstone,  
No. 149 of 1846.  
Sir W. Gomm to  
Earl Grey, No.  
216 of 1846, and  
224 of 1846.



Ord.  
No.

1846.

Mr.

Mauritius a  
melancholy  
enigma" to  
Sir W. Gomm.Sir W. Gomm  
in the condi-  
tion of the  
planters, and  
in the rate of  
wages.re-engaging  
men at the  
same rate paid  
them on first  
landing.The Mauritius  
Association in  
London urge  
upon the Colo-  
nial Office  
the necessity  
of immigra-  
tion.

Pro-

posed.

1847.

Messrs.

and

Heads of Ordi-  
nances for-  
warded by  
Earl Grey  
with No. 38  
of 1846.Registration  
of immigrants  
passports be-  
fore leaving  
long  
return pas-  
sages.  
Commutation  
to be paid for  
unexpired  
residence.Monthly tax  
to be paid by  
immigrants  
not engaged  
to planters.

Earl

Grey

to

allow

Employers to  
be responsible  
for monthly  
tax of regis-  
tered immi-  
grants, when  
these are en-  
gaged with-  
out written  
agreements.

Lord

Grey

to

allow

Industrial  
residence.  
Punishment of  
absence.  
Engagements  
may be ter-  
minated.

Wron-

gling

with

the

Ordi-

nance.

Recovery of  
monthly tax,  
&c.  
Moneys re-  
ceived under  
Ordinance to  
be applied to  
immigration  
purposes.  
Suggestions  
adopted in  
Mauritius.

274. Sir William Gomm declared the whole condition of Mauritius to be "a melan-  
choly enigma" to him: that within two years, from the date of his writing,  
it had been formally declared in the Council that, could the production of  
the island be fixed at 100,000,000 lbs. of sugar annually, it had nothing to  
fear from the competition of the slave colonies. He stated that the sugar produced  
had been steadily increasing by 20,000,000 lbs. annually, since the revival of  
immigration: that official returns, called for from the employers of Indian  
labourers, showed that the latter were, by no means, guilty of incessant  
hankering after change, as alleged: that he had incontestable proof that wages and  
expenses of employers connected therewith, even during the busiest period  
of the "coupe," were very decidedly falling to within the reasonable limits  
of 12s. and 14s. per mensem; and that he had on record an instance of one  
of the principal complainants against the exactions of the Indians re-engaging labourers  
at 10s. a month—the rate of wages usually given to men, on their first landing in the  
colony.

275. Meantime similar complaints and representations had been made in England to  
Earl Grey by Mr. David Barclay, Chairman of the Mauritius Association in London,  
with which the Committee in Mauritius maintained a correspondence, who likewise  
urged the paramount necessity of a largely increased immigration, stating the great rise  
in the price of labour, and the fears entertained of the difficulty there-  
would be in getting in the next year's crop: an alarm which Sir  
William Gomm unhesitatingly declared to be without foundation. Mr. Barclay further  
proposed a scheme, on the authority of Dr. Beke, a traveller, for opening an emigration of free Christian  
from that country into Mauritius.

276. To return to the ten heads of an Ordinance, which were enclosed in  
from Earl Grey of 29th September 1846. These were as follows:—

1st. All immigrants introduced at the public expense, within five  
registered.

2nd. Every immigrant so registered to be required, before leaving the colony, to  
obtain a passport; which, if he had completed five years' industrial residence, should  
give him the right of a free return passage. If he should not have completed five  
years of such residence, he should not have the right of a free return passage: and  
further, before receiving a passport, should pay £1 for each year wanting to make  
up the term of his residence.

3rd. Every registered immigrant during the term of his industrial residence not  
working under written engagement to a planter, to pay monthly in advance a tax  
of 5s.

4th. Written engagements only to exempt an immigrant from the monthly tax,  
in the event of their being for a year, and on stamped paper: 40s. being the sum  
chargeable on original agreements, and 20s. upon the renewal of an expired agree-  
ment.

5th. All persons employing any registered immigrant, without a stamped agree-  
ment, to be responsible for any amount of monthly tax due by him, and also, for  
making good to any person, to whom such immigrant may at the time be under an  
engagement, any claim which he may have upon him.

6th. No portion of time to reckon in the industrial residence, in which the immi-  
grant has not been either working under a stamped agreement for a planter, or duly  
paying the monthly tax.

7th. Every immigrant, under engagement, absents himself, to forfeit his claim  
to wages and rations, and further the sum of 1s. a week, or 2d. a day to his master,  
during such absence, which, if lasting for more than a week, should not reckon as  
part of the five years' industrial residence.

8th. Engagements to be terminable by giving a month's notice, provided that, if  
so cancelled at the desire of the immigrant, he should repay to his master a pro-  
portionate part of the stamp duty paid for the agreement.

9th. Monthly tax and other payments to be similarly recoverable, and, in default  
of payment, imprisonment to be inflicted, at the rate of one day for every 6d. due.

10th. All moneys received under the Ordinance to be applied to immigration  
purposes.

277. These suggestions were referred to, and were adopted by the Immigration Com-  
mittee of Council, with the trifling modification of reducing the amount  
payable for monthly tax from 5s. to 4s., and of the stamp duty from  
40s. to 10s., on the ground of the high export duties paid by planters  
on their sugars.

Report No. 24 of Immigra-  
tion Committee. Minutes  
of Council, 8th February  
1847.

It was also resolved that the enactments to be prepared should be divided into two  
Ordinances; the first, having relation to the propositions of the Secretary of State, and  
the other, to the clauses of Ordinance No. 1 of 1846, which the Committee recommended  
to be maintained.

278. The Ordinances were prepared without delay; and, on the 3rd May, the first was  
passed as "Ordinance No. 22 of 1847, for promoting immigration into Mauritius, and  
for encouraging the industry of immigrants."

By it, the distinction between "Old" and "New" immigrants was defined for the first  
time. Provision was made for a registry of New immigrants; and the conditions of  
industrial residence defined as consisting either of a five years' residence in the colony,  
employed under a stamped engagement to a sugar planter, or of the payment, in lieu  
thereof, of a tax thereafter fixed, at 4s. per month; power being nevertheless given to  
the Governor in certain cases to exempt any immigrant from these obligations. The  
right of immigrants to return to India—whether at the public expense or at their own—  
before the expiration of the five years' industrial residence, was limited by the imposition,  
in the latter case, of a payment at the rate of £1 10s. per annum, for any number of  
calendar months, wanting to complete the five years, before being entitled to receive the  
passport, without which they were not permitted to embark. A stamp duty was imposed  
on planters engaging a New immigrant, of 20s. for the first engagement, and descending  
to 4s. for the fifth. Old and New immigrants were required to have tickets, to be issued  
by the Protector, proving their respective status—which ticket was to be produced, by  
any immigrant appearing in any case, before any magistrate or other public officer. If  
found in a district in which he had no residence, he was rendered liable, upon non-pro-  
duction of papers, to arrest as a vagrant.

Absentees from work without leave or some unavoidable cause, besides forfeiting claims  
to wages and rations during such absence, were to pay to their employer a daily indemnity,  
calculated at the rate of  $\frac{1}{2}$ d. per shilling of the labourer's monthly wages, an indemnity  
which is hereinafter described as "the double cut." And it was declared that, no month  
in which the immigrant had been absent for more than six days, should be reckoned as  
part of the industrial residence: employers of New immigrants being ordered to forward  
a return monthly of such absences as had occurred, in the previous month, to the Stipen-  
diary Magistrates. Penalties were prescribed against impersonation, and the improper  
use, as well as the falsification of tickets and other documents. Lastly, it was provided  
that the Ordinance should remain in force for one "calendar year."

279. A month later the other Ordinance, No. 24 of 1847, was passed, which embraced  
most of the enactments contained in Ordinance No. 1 of 1846, freed from the objections  
which had been urged against that Ordinance by Earl Grey, in his Despatch, No. 38 of  
29th September 1846.

280. Thus the unnecessary severity, and the disproportion of which his Lordship had  
complained, between the penalties against a servant making complaints, which were  
merely frivolous and neither vexatious nor malicious, and those against a master preferring  
a malicious complaint, were reduced as shown:

#### Under Ordinance No. 1 of 1846, Articles 1 and 2.

Penalties to which plaintiffs are liable in cases where their complaints are  
dismissed as

#### Penalty.

|                         |                             |                                                                                                                                                |
|-------------------------|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Frivolous or vexatious. | if a servant<br>if a master | {<br>Fine not exceeding 20s., or an im-<br>prisonment, with or without<br>hard labour, not exceeding one<br>month.<br>Fine not exceeding £5.   |
|                         |                             |                                                                                                                                                |
| Malicious . . . . .     | if a servant<br>if a master | {<br>Fine not exceeding £2, or an im-<br>prisonment, with or without<br>hard labour, not exceeding three<br>months.<br>Fine not exceeding £20. |
|                         |                             |                                                                                                                                                |

1847.

Ordinance 22  
of 1847.Article 1.  
"Old" and  
"New" immi-  
grants.Article 2.  
Registry of  
New immi-  
grants.Articles 5 to  
7.  
Industrial  
residence.Article 22.  
Articles 3, 4,  
and 8.Right to re-  
turn to Indi-  
passports.Articles 9 to  
11.Articles 10 to  
21.  
Tickets.Article 21.  
Tickets to be  
produced.Vagrancy.  
Article 28.Absentees—  
how to be  
punished.First enact-  
ment of "The  
Double Cut."Article 29.  
Monthly  
return of  
absences.Article 28.  
Duration of  
Ordinance.Ordinance  
No. 24 of  
1847.Penalties  
under No. 1  
of 1846, and  
No. 24 of 1847  
compared.

## Under Ordinance No. 24 of 1847, Article 1.

## Penalty.

|                         |              |                                                                                                       |
|-------------------------|--------------|-------------------------------------------------------------------------------------------------------|
| Frivolous or unfounded. | if a servant | Fine not exceeding 10s.                                                                               |
|                         | if a master  | Do. do. £5.                                                                                           |
| Malicious or vexatious. | if a servant | Fine not exceeding £2, or imprisonment, with or without hard labour not exceeding one calendar month. |
|                         | if a master  | Fine not exceeding £20.                                                                               |

Ordinance No. 24 of 1847. Article 2. Re-enacts Article 4 of Ordinance No. 1 of 1846. Amendment of contracts.

Article 2 substantially re-enacted the provision of Article 4 of the former Ordinance, notwithstanding that Lord Grey had shown that its effect on a person in the position of an Indian immigrant, ignorant alike of the language and habits of the country, would probably be to subject him to a perpetual engagement, since he might find great difficulty in giving the necessary notice in the form required by law.

Instead of engagements of servants being voidable, on their conviction for "theft, or any other offence against the law," which words Lord Grey had pronounced "unnecessarily vague and general," such annulment is restricted to the consequences of convictions of "misdemeanour or felony."

Article 7. Illegal harbouring of servants. "Guilty knowledge" necessary.

The 7th Article revived Article 12 of the disallowed Ordinance, dealing with illegal harbouring or employment of servants. A guilty knowledge of the previous engagement was, for the first time, declared essential to constitute the offence, and the clause providing that the fact of such servant being lodged or allowed to remain without employment on the premises of any person, should be "*prima facie*" evidence of his being so, or harboured—was now omitted; Lord Grey having suggested that such a provision might become an instrument of injustice, since it required the accused to prove a point which must be, in many cases, scarcely susceptible of proof.

Article 8. Trial by Magistrate of another district.

A clause was added in the 8th Article, empowering the Governor to appoint any other Magistrate, for the trial in the same district, of any complaint by a master or a servant, thus removing Lord Grey's objection to Article 13 of Ordinance No. 1 of 1846, that by restricting the jurisdiction of the Magistrate of the particular district, it took away all redress, in the event of the negligence or prejudice of the Magistrate.

Article 9. Punishments, alternative.

Article 9 made the infliction of the £10 fine for neglect of work by the servant, or ill-usage by the master, an alternative of, instead of an addition to, the compensation receivable under sections 7 and 8 of the 4th clause of the Order in Council of September 7, 1838.

Illegal use of certificate.

The accumulation of penalties for making an illegal use of a certificate, sanctioned by Article 10 of Ordinance No. 1 of 1846, was limited in the Ordinance of 1847, to an imprisonment of one month.

Desertion. Article 7 of No. 1 of 1846 omitted.

The Article against desertion, with its severe penalties, was omitted, while several new articles were added. Article 10 makes the non-payment of wages for three months beyond the date of their becoming due, such a breach of contract, on the part of the master, as to entitle the servant to claim cancellation thereof.

Article 10. Cancellation for non-payment.

Article 11 was added at the second reading, in consequence of repeated breaches of trust, to the prejudice of Indian labourers, leaving their wages in the hands

Article 11. See remarks of Mr. D'Epinay upon this Ordinance forwarded by Sir W. Gomm to Earl Grey, No. 138 of 1847, having become due.

of their masters or managers of estates, and receiving in exchange bonds, or notes purporting to be for money lent or deposited, and thereby, in the case of their debtors' insolvency, losing the privilege attached by law, to wages

Privilege for wages.

By the 18th Article, the 20th Article of Ordinance No. 1 of 1846, was, in substance, re-enacted, making the decision of the Magistrate final, in all cases where the penalty did not exceed £2, if awarded against a master; or a month's wages or 10 days' imprisonment, if awarded against a servant: notwithstanding Lord Grey had remarked that, in such cases, even an illegal sentence must be executed; and that, although appeals from sentences of greater severity did lie to the Court of Appeal; such a remedy would be, in the case of the labourer, in reality nominal and unavailing.

Article 18. Decisions without appeal.

Article 18. By the 18th Article, the 20th Article of Ordinance No. 1 of 1846, was, in substance, re-enacted, making the decision of the Magistrate final, in all cases where the penalty did not exceed £2, if awarded against a master; or a month's wages or 10 days' imprisonment, if awarded against a servant: notwithstanding Lord Grey had remarked that, in such cases, even an illegal sentence must be executed; and that, although appeals from sentences of greater severity did lie to the Court of Appeal; such a remedy would be, in the case of the labourer, in reality nominal and unavailing.

Lord Grey's opinion of the Ordinance.

Despatch No. 237 of 1847. Parliamentary Papers, No. 61 of 1848, p. 176.

281. This Ordinance, though not confirmed, was not disallowed by Lord Grey, who continued to entertain an objection, for the reasons already mentioned, to the Articles requiring a discharged servant to obtain a certificate, on leaving his master, and production of the same, as a requisite for a fresh contract with another master, and to the Article enacting that appeals against the

Articles 4 and 5 of No. 24 of 1847. Despatch No. 38 of 1846. Parliamentary Papers, No. 419 of 1843, p. 143.

decision of the Stipendiary Magistrates, should be made to the regular Courts of Appeal, instead of to a Petty Session of Stipendiary Magistrates; and he desired that these provisions should be reconsidered, at the same time intimating his readiness to advise the confirmation of the Ordinance, should the practical experience of the future prove that these Articles were not really objectionable.

282. In the month of May, Mr. Anderson was succeeded at the Immigration Office by Mr. Hugon, whom a long residence in India, and a consequent knowledge of the native dialects, had pre-eminently qualified to fill the post of Protector of Immigrants.

283. Repeated complaints were made, during the year, of the depressed condition of the agricultural body, and of the insufficient supply of labour; notwithstanding the continued increase in the production of sugar, and of favourable seasons; so that Sir William Gomm, reporting in the beginning of the year, stated that, barring unforeseen contingencies of bad weather,

Sir W. Gomm to Earl Grey, No. 28 of 1847.

"No spot on earth presents a more cheering prospect of abundance for the coming year, than the surface of Mauritius;" that wages were moderate, and the conduct of the labourers was good; and he denied that there would be any want of labourers for getting in 120 millions of pounds of sugar at the ensuing crop. He complained of the inertness or unwillingness of the planters in furnishing the Government with returns called for, and expressed a fear lest the proceedings of the "Branch Association" clubbing together for the reduction of wages, should disgust the Indians, and so check immigration.

284. In the meantime a protracted correspondence had been carried on between the Colonial Office and the Board of Control, upon the modifications in the immigration system, involved in the Ordinances Nos. 22 and 24 of 1847. The Court of Directors of the East India Company was strongly opposed to any measures of which the tendency was to limit the perfect freedom of the immigrant in his choice of labour, by compelling him to devote it to sugar cultivation.

285. They maintained that the purpose for which emigration had been sanctioned by the Indian Legislature was, that of increasing the supply of labour in Mauritius; but that the labourers proceeded thither, unfettered by any engagement, and free to seek as high a remuneration as they might be able to obtain for their labour.

286. The Court viewed with much suspicion the proposed extension of immigration, in order to reduce wages, by creating a competition for employment; and observed that, in the event of the sugar of Mauritius being unable, owing to the expense of producing it, to compete with the sugars of other colonies, the Indians might be thrown into a state of destitution, and the resources of the colony be unequal to send them back to India. They further,

"earnestly hoped that the suggestion (of the monthly tax) would not be acted upon."

Mr. Melville to Right Hon. G. Byng, 29th April 1847, enclosed with Despatch No. 255 of 1848.

They deemed it essential that the right to return passages should be maintained in its integrity, upon the conditions laid down in Lord Stanley's Despatch of January 22, 1842.

287. In the end, however, they yielded assent to the monthly tax: "in compliance with the urgent representations of Her Majesty's Secretary of State."

at the same time insisting as an indispensable security against injustice and oppression, that the proposed tax, in commutation of "industrial residence," should not be leviable from the immigrants themselves, but only in the mode provided by Article 13 of Ordinance 22 of 1847, from any person employing a new immigrant, otherwise than under a stamped engagement; (a requirement which was subsequently waived, on the receipt of the assurance of Sir William Gomm, of the satisfactory working of the principle), and further, that any distinction, in favour of the sugar cultivation, over other kinds of industry should be abolished.

288. These, with several suggestions of Earl Grey, were by him sent to Sir William Gomm, with instructions not to permit the renewal of the Ordinance without a strict and complete execution of the same; an order that was subsequently carried out by the passing of Ordinances 25 and 26 of 1848.

289. The former of these is an amendment of Ordinance 22 of 1847. It abolished the special protection of the cultivation of sugar, substituting "an engagement to labour for

Mr. Hugon becomes Protector.

The planters complain of the depressed condition of agriculture.

Sir W. Gomm denies the truth of their complaints.

Sir W. Gomm fears trade-unions among the planters may disgust labourers.

The Indian authorities opposed to confining immigrants to sugar cultivation.

The Indian Government's view of the objects of emigration.

Fears of the Indian authorities.

They object to the monthly tax.

The Indian authorities yield.

The monthly tax.

Privileges of sugar cultivation to be abolished.

Ordinances 25 and 26 of 1848.

Ordinance 25 of 1848.

Ordinance No. 25 of 1848. "hire," as the condition constituting the industrial residence; and in the event of departure from the colony, before its completion, reduced the rate of annual payment, for the time deficient, from £1 10s. to £1.

Commutation of industrial residence. Stamp duty upon engagements abolished. Reimburse-ments by deserters, abolished. Monthly tax. The stamp duty on engagements was abolished; the Immigration Committee being of opinion that the emigration fund was in such a condition as to render its continuance unnecessary; as also, was the reimbursement by deserters of a proportionate part of the stamp duty. An Article was added, requiring New immigrants remaining eight days or longer unengaged, to make a declaration, and pay the monthly tax; while a clause was added to Article 16 of Ordinance No. 22 of 1847, declaring landlords to be responsible for any amount of monthly tax that might be due by an immigrant, previous to, or during his residence on his premises.

Article 27 of Ordinance No. 22 of 1847, which permitted engagements to be cancelled, under particular circumstances, and Article 27, requiring employers to report absentees to the Magistrates, were both omitted.

Ordinance No. 26 of 1848. Articles 5 and 6. Certificates of discharge. Certificates of engagement to be produced. Monthly tax. 290. Ordinance 26 of 1848 was, with few alterations, a re-enactment of Ordinance 24 of 1847, and retained, notwithstanding Lord Grey's objections, the certificate of discharge, adding an Article requiring all immigrant labourers on entering into a fresh engagement to receive a certificate of the same, which they were bound always to carry about them; non-production thereof, on demand, subjecting them to the payment of the monthly tax.

291. In both Ordinances the monthly tax was retained, leviable in advance upon the immigrant himself. This Sir William Gomm yielded to "in deference to the unanimous vote of the Legislative Council, confirming the resolution of its Committee, after having witnessed, and reported, the beneficial operation of the law."

292. Both Ordinances were confirmed by the advice of Lord Grey, the Court of Directors having waived their objections to the monthly tax. Lord Grey in announcing the confirmation of Ordinance No. 25, expressed a regret at the abolition of the stamp duty, so deep as to prevent him from acquiescing in the propriety of carrying on immigration without the aid to be derived therefrom; and he instructed Sir William Gomm not to sanction any fresh immigration unless some such provision were made for paying part of the charge. He added, however, that if the emigration was to be renewed, he was of opinion that the Committee had shown sufficient reasons for the re-opening of the port of Madras to emigration, and that he had communicated with the Lords of the Treasury, and the East India Company, in furtherance of that object.

293. The year 1848 had opened with great commercial distress to Mauritius, owing to the recent failure of several of the principal houses of agency in London; and a petition was presented to Sir William Gomm by numerous planters and merchants, praying for relief from payment of the export duty on the sugars of the present crop, as well as for the suspension for a space of four months of the stamp duty on the engaging of labourers.

294. The Report of a Committee for the revision of the existing taxation, coupled with the adverse tidings from home, induced the Governor to propose for the special relief of the agricultural body,—1st, The reduction of the export duty from 1s. to 9d. per 100 lbs.; and, 2ndly, That the stamp duties on first engagements should be reduced by one-half for the remainder of the time during which Ordinance No. 22 of 1847 would be in operation; a proposal which was extended at the second reading of the Ordinance, to the total suspension of the duty, on the understanding that the increased immigration for which it was intended to provide out of the funds arising therefrom, should be also suspended.

295. A petition followed immediately, praying that the reduction of 3d. per 100 lbs. on the export of sugar might be retrospective, taking effect from the commencement of the crop, and that the difference which had been paid, should be refunded to the shippers, to which Sir William Gomm declined to accede.

296. Further, an Ordinance (No. 18 of 1848) was passed—

297. Of these measures, the first, suspending the stamp duty (Ordinance 5 of 1848), was disallowed; Lord Grey having expressed it as his opinion that, with a view to the real relief of the planter, the stamp duty was the very last tax that ought to be remitted.

298. With regard to Ordinance No. 18 of 1848, his Lordship, though disapproving of the principle which it involved, was so sensible of the difficulties with which proprietors had had to contend, that he would not advise that the Ordinance be disallowed, but left it to expire.

299. A considerable agitation took place towards the close of the year, through attempts made by certain parties to form an association, for the alleged purpose of setting forth grievances, and petitioning for their redress.

Public meetings were held, with the sanction of the Governor, on the 28th September, and 5th and 17th October. But, when they proceeded to organise a representative body, to be elected by ballot for three years, in every district of the island, and to pass regulations, establishing a property qualification of the electors, Sir William Gomm, acting under the advice of the Procureur-General, issued a proclamation, forbidding any such elections to take place.

300. The objects of the association, as declared at the meeting of the 17th October, were to obtain:—

1st. A protection for the principal production of the colony in the British market, for otherwise that production would soon cease, and Mauritius be reduced to a mere military station.

2ndly. Municipal institutions and an elective Legislative Council.

3rdly. Diminution of the taxes and reform in the colonial administration.

301. A committee of fifteen was elected under the style of the "Central Provisional Committee," to prepare an address to the Throne, and procure signatures thereto: for which purpose, they obtained the sanction of the Governor for another meeting, which was held accordingly on the 9th November.

302. A petition to your Majesty was then submitted and adopted, and another petition was addressed to the Governor, in both of which the position of the colony, and its inhabitants, was represented as unhappy in the extreme, and the Local Government was charged with having involved it in ruin, by inconsiderate legislation, and by total disregard of the urgent representations of the inhabitants: while that, to your Majesty, concluded with praying for the measures above mentioned, and further, for the abolition of the penal laws, restricting public meetings; for relief from the expenses of the fortress and garrison, for a Commission to examine into the state of legal procedure in the local courts, for the repeal of all laws relating to any special class of men, and for the revision of the immigration laws, both in Mauritius and in India, with a view to a further introduction of labourers into Mauritius.

303. It was, however, somewhat remarkable that, at the same time the petitioners were loudly declaring that the planter was harassed by "pampered and ill-disciplined labourers," and was "debarred from obtaining cheap or satisfactory labour by vexatious laws" regulating immigration, and which compelled him, among other things, to pay them high wages, &c., the official returns of wages transmitted by the Governor to Earl Grey, entirely failed to corroborate these statements, but showed the rate of wages to be moderate, and a steady increase in engagements, at 10s.\* per mensem, with a corresponding decrease of engagements at a higher rate; and, in the returns for the month of November, Sir William Gomm pointed out "the further advance towards extinction of the higher rates," while the reduced ones of 9s. 2d. and 8s. had attained a higher proportional figure than at any former period, and he consequently denounced the petition as exaggerated and inaccurate.

304. The Despatches intimating the disallowance of Ordinance No. 5 of 1848, repealing the stamp tax on engagements of immigrant labourers, were laid before the Council on the 30th March, and Sir William Gomm, at the same

\* See Parliamentary Papers;—1. No. 280 of 11th May 1849, p. 137; 2. Ibid, p. 152; 3. Ibid, p. 181; 4. Ibid, p. 309; 5. Ibid, p. 375.

Ordinance 18 of 1848.

An Association formed.

Objects of the Association.

Protective duties in England.

Representative institutions.

Decreased taxation and reform.

Petitions to the Queen and the Governor.

Charge against the Government of having ruined the colony.

Changes asked for.

The petition denounced Sir W. Gomm as "inaccurate."

1849.



time, announced his intention of forthwith submitting an Ordinance, in conformity with the instructions of Earl Grey, the draft of which was accordingly published in the 'Government Gazette' of the 7th April.

305. A protest against the measure followed almost immediately from Messrs. Chapman and Hunter, and the "COLONISTS' ASSOCIATION," in spite of which, the draft Ordinance came on for second reading on the 23rd April, when Sir William Gomm addressed a minute to the Board, announcing his intention to propose that the projected stamp duty should not be required to take effect before the 1st July; thus deferring the operation of the Ordinance till the commencement of the crop, which promised to be an early one. The Ordinance was nevertheless rejected by a majority of one, owing to the defection of one of the official members, who, notwithstanding the remonstrances of the Governor, voted against it.

306. Four days later, Lord Grey's Despatch, No. 421, was received, forbidding the continuation of immigration without the stamp duty. This Despatch was duly published in the 'Government Gazette' of the 2nd May. Before, however, he could act upon the instructions conveyed in the last-mentioned Despatch, Sir William Gomm had left the colony, and the duty of carrying out the measures devolved upon his successor.

307. Sir George Anderson landed in Mauritius, and assumed the government on the 8th of June; and representations appear immediately to have been made to him, with much urgency, that one of the main causes of the inefficiency of labour was, the restriction of engagements to a period of one year; and on the 25th June, he laid before the Council the draft of an Ordinance, which was carried on the 2nd of July, as No. 3 of 1849, by which contracts for three years were legalised.

308. On the 11th August, the stamp tax was once more imposed by Ordinance No. 5 of 1849. This did not pass without much discussion and some difficulty, the Immigration Committee of the Council having reported in favour of an increase of the export duty on sugar, as an immigration tax, in preference to the stamp duty on engagements. To this course Sir George Anderson was much opposed, and persisted in passing the measure, as he had proposed it. By it a duty of 20s. was imposed on every engagement with a new immigrant for the first year, and of 10s. for every subsequent year with the same employer. The option was left to the employer, either to pay the duty at the time of making the engagement, or to delay for a certain period; paying the one-half on the 5th January, and the other half on the 5th August. This was a concession to meet the convenience of the planters, so as to make the duty payable during the crop time, when they were in funds from the sale of their sugars; and thus doing away with the force of the argument against the tax, that the majority were unable to raise money for paying it, unless at ruinous interest, between the seasons of the crop.

309. An address presented to the Governor, complaining of the non-assistance of the police in apprehending deserters from estates, led to the passing of Ordinance No. 7 of 1849, which gave authority to every officer, or agent of police, on the declaration of any employer of the desertion of a labourer from his employment, to arrest such labourer, without warrant, in any public place in which he might be found, provided that he were taken, as soon as possible, before the nearest Stipendiary Magistrate; and, in order to guard against abuse, subjecting the declarant, in case of his failing to prove the desertion, to the penalties for false arrest and imprisonment.

Lord Grey to Sir George Anderson, Nos. 31 and 105 of 1849, and No. 127 of 1850.

310. These Ordinances severally received your Majesty's approval.

311. In compliance with the authority given by Lord Grey for the re-opening of immigration from Madras, Sir George Anderson, following the recommendation of the Immigration Committee, addressed a letter to the Supreme Government of India, and to the Government of Madras, for their sanction to the proposal.

312. It was considered far preferable, and not more expensive, to have a special agent at Madras, instead of periodically removing Mr. Caird from Calcutta to superintend the emigration from that port. It was recommended that 2000 should be the number to be introduced from Madras, and that the annual salary of the agent should not exceed £500.

313. During the greater part of the year, wages continued low, and in September, Sir George Anderson reported them to be lower than in the corresponding month of 1848.

314. At the end of the year a considerable rise in wages had taken place, owing to the demand for labour for carrying on the "coupe," which Sir George Anderson had reported as proceeding briskly, while, at the same time, the money market was well supplied, and prices better than in the preceding year.

315. On the 2nd July 1849, Sir George Anderson had addressed a Minute to the Immigration Committee, recommending that it should proceed to consider and report upon the expenses attending immigration; enumerating the causes occasioning such expenses; and how immigration could be satisfactorily relieved from any of these causes, always keeping in view the fair and just provision for the immigrant on his passage down, and all that might be required in India for guarding him against deception in his contract on emigrating, as well as what was required in the colony for his full and perfect protection.

On the 23rd January 1850, the Committee submitted their Report to the Council. A great portion of it is devoted to considering the question of the free return-passage, which was pronounced objectionable, not only in a financial point of view, but still more so, as militating against the permanent settlement of the island. They were not only of opinion that the Indians would be willing to emigrate to Mauritius in sufficient numbers, without any such promise, but even went so far as to express a doubt whether the holding out such a promise had not rather a deterrent tendency, especially with the better sort of Indians with families, by impressing them with the notion that a sojourn in Mauritius could not be very advantageous to them, else that a bribe would not be offered to obtain their assent to it—a somewhat startling theory—but one which had some years before been suggested by no less an authority than Mr. Hugon.

316. The reforms suggested by the Committee were the following:—

1st. Liberty to any individual colonist to engage labourers in any number, but with a due proportion of women, in any country in which slavery did not exist, and where a Government emigration agent had been appointed.

2nd. That there should be no obligation on the part of the employer or the Government to provide return passages.

3rd. Liberty to contract on any terms with regard to remuneration, and for any period not exceeding five years—to which employers and the labourers might mutually agree.

4th. That immigrants might be carried in vessels of any size, provided that such accommodation as is required by regulation for the conveyance of your Majesty's troops were afforded therein.

317. With regard to the consideration of

"what was required in the colony for the immigrants' full protection,"

they indignantly replied that—if, by these words His Excellency meant to invite them—to show how the protection afforded to the immigrant in the colony has worked out the end in view, that is, the fair treatment of the immigrant by his master,—they were not careful to attempt the proof in question; wholly repudiating the idea of there being any necessity at all for such protection, and declaring their perfect conviction that as it was

"not the servant, but the master who really (then was) wanting of protection, that

"as the former not only enjoyed liberty, but indulged with impunity,

"in license, while the latter paid high wages, and was served with

"contumely and neglect, an attempt to prove that the former was

"fairly dealt with by the latter, would be to beget and justify a

"suspicion, that the contrary was the case, in short, be like a gratuitous attempt of

"one, who is altogether innocent, to prove himself not guilty."

318. At the next meeting of the Council, Sir George Anderson submitted a Minute upon this Report, in which he pointed out the risk, that would be incurred by an excessive immigration, of lowering the price of labour to such a point, that the Indian would become dissatisfied; and that, if the idea were to spread to India, that no more money was to be made at Mauritius, the stream of immigration would at once cease.

319. After giving his opinion on the manner in which Indians were treated, to which we shall refer hereafter (Chapter XXV., *Treatment of Indians*), he in conclusion, concurred with the Committee, in urging that the accommodation on board ship should be reduced, and that the height between decks should be 5½ feet instead of 6 feet. He did not concur in the recommendation that the return-passage, as guaranteed, should be cancelled, but suggested that a small deduction, not exceeding 6d., should be made monthly from the wages of the immigrants in aid of that object. He dissented

1850. Report of the Immigration Committee, 9th January 1850, upon the cost of immigration.

They object to return passages.

Reforms suggested by Immigration Committee.

Free-trade in immigrants.

No return passages.

Free-trade in contracts.

Free-trade in the transport of immigrants from India.

They say that protection is needed, not by the immigrants, but by the planters.

Sir George Anderson's fears of excessive immigration.

From the Magistrates' weekly reports, Sir G. Anderson considers the position of the immigrants to be very good. Accommodation in immigrant ships.

1850.

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Return pas-  
sages.Disapproves  
of unlimited  
immigration.Disapproves  
of five years'  
contracts.Views of the  
Indian Go-  
vernment.Object to re-  
duction in  
ships' accom-  
modation.Consent to in-  
crease in  
annual immi-  
gration.They reflect  
upon the  
attempts to  
reduce wages  
and curtail  
the advan-  
tages of immi-  
grants.Re-opening of  
immigration  
from Madras.  
Quarantine.Sir George  
Anderson  
leaves Mauri-  
tius.

1851.

Ordinance  
No. 9 of 1851.Arrival of  
Governor Hig-  
ginson, 8th  
January 1851.  
His progress  
through the  
rural districts,  
and impres-  
sions as to the  
condition of  
the popula-  
tion.Contentment  
and cheerful-  
ness of immi-  
grants on  
estates.Highly satis-  
factory rela-  
tions between  
employers  
and employed.No general  
scarcity of  
labour.Wages mode-  
rate.Rice reason-  
able, but  
supply not  
regular.The former-  
time slaves  
and the immi-  
grants.The emanci-  
pated do not  
work on plan-  
tations.

from the proposal of an unlimited immigration, and that immigration should be taken out of Government management; but recommended that the numbers to be introduced should be extended to 9000 annually; and lastly, he disapproved of any application for the extension of contracts to five years.

320. These several papers were referred by Lord Grey to the Court of Directors of the East India Company and the Emigration Commissioners, who consented, subject to the approval of the Indian Government, to the proposed reduction of the height between the decks of the emigrant ships; a change which, however, the Indian Government refused to sanction. The increase of the numbers of immigrants to 9000 annually, was also assented to; though the Court of Directors thought it proper to remark, that the avowed object and direct tendency of every modification in the system of immigration suggested by the colonists, was with the view of reducing the price of labour and to curtail the advantages of the immigrants.

321. The year 1850 presents no change in the labour law of the colony: the most remarkable incident connected with immigration being the re-opening of the port of Madras, from which two ships arrived early in June. The breaking out of small-pox on board some of the vessels from Calcutta, necessitated the detention of a large number of immigrants in a protracted quarantine, the effect of which was to cause a dearth of labour, and consequent rise in wages.

322. On the 16th of August Mr. Higginson was appointed to succeed Sir George Anderson in the Government of Mauritius, the latter having been transferred to that of Ceylon, for which island he sailed on the 19th October, leaving the administration of the Government in the charge of General Sutherland.

323. The year 1851, likewise, presents no very marked incidents in the history of immigration. The only legislative enactment directly connected with it being Ordinance No. 9, of 1851,—

Article 1. "To provide for the delivery of newly arrived immigrants in the colony."

By it the Governor was to determine annually, according to the number of immigrants intended to be introduced, what number of such immigrants each employer should be permitted to engage without any additional payment; this number was to be calculated, if the employer was a sugar planter, upon the average annual export of sugar produced on his estate during the three preceding years; and if not a sugar planter, upon the number of servants or labourers in his employment. The Governor,

Article 2. before the close of each year, was to publish in the 'Government Gazette' the number of immigrants to which each class of employers would be entitled for the ensuing year: employers wishing to engage a larger number than that to which, under this rule, they would be entitled, being at liberty to do so on paying an additional tax of £1 12s. for every man so engaged in excess.

Article 3. Article 4. 324. Mr. Higginson assumed the Government on the 8th January. In the course of the year, he made the tour of the rural districts; and, writing on the 14th October, he gives an interesting account of the impressions produced thereby. After noticing the spirit of self-reliance and enterprise observable among the planters, he describes the condition of the labouring population in these words:—

"I saw the Indian immigrant in the field, working steadily and with good will; and when at rest, cheerful and contented in his camp."

"As it is by him and through him that the Mauritian planter must rise or fall; to the character of the relations subsisting between them, the utmost importance ought, I conceive, to be attached. So far as I could judge, and I took the pains to ascertain correctly, these relations are highly satisfactory. Complaints on either side grow more rare, as the language, the character, and habits of the Indian become better understood; and from what I heard and witnessed, I believe that he and his employer are mutually pleased and satisfied. There appeared no general scarcity of labour; although, in some less favoured localities, it was represented that additional hands were required. Wages continue moderate, and our now open port generally keeps down the price of rice and other grain to a reasonable average. The market, however, is not supplied with sufficient regularity, but it may be expected that free competition will soon cure this defect."

325. He also gives some interesting information respecting the condition of the former slave population, and, of the relations between them and the immigrants.

"The almost total absence of the emancipated race, from plantation labour, is a striking feature in our social economy."

"They are now to be sought for in the principal towns, and their neighbour-

"hood, or in retired spots, where they have located themselves, in straggling hamlets, deriving an easy subsistence from the produce of the ground, which they cultivate, and from the rearing of poultry and other stock, which, they carry to the market of Port Louis; sometimes from very distant quarters of the island. They also traffic in firewood and charcoal, and huckstering and peddling are favourite pursuits. I visited some of these settlements. They wear an appearance of comfort and independence,—their inmates are generally orderly and well-conducted, but, they prefer ease to work—and, unstimulated to labour, beyond what their limited necessities demand, they abandon all field-work for hire, which, unfortunately, they consider to be a degraded occupation, and which in their own minds, they cannot disconnect from the old system of compulsory labour. This feeling is imbibed by their children, whom they bring up to follow callings similar to their own, or some trade or handicraft; so that, until the immigrants become denizens of the soil, to which every possible encouragement is given, planters may be said to be entirely dependent on foreign labour, for the cultivation of their estates. There is usually a church or chapel within reach of these settlements, at which, the attendance is, I understand, pretty regular; but, I fear, that the opportunities for secular instruction are exceedingly limited. Inter-marriages between Indians and Creoles are very rare, but, more frequent now than formerly.

"The great disparity between the sexes amongst the former, is an evil, which I have frequently noticed, and which is, I hope, in course of being mitigated. The liberality shown by the local government, and the readiness with which, they sanction the additional expenditure, involved in the attempts made to remedy this defect are, I think, highly creditable to their foresight and philanthropy."

326. Governor Higginson appears very early to have arrived at the conclusion, that the promise to immigrants, of the right of a free return passage at the end of five years, was unnecessary, and recommended its abolition; or, in default, its modification so far, that, if immigrants on the expiration of their five years' industrial residence, when they became free from all restrictions imposed by their previous condition, should not claim the privilege, they should not be entitled to demand it subsequently.

327. The Immigration Committee was convinced that a system which encouraged the male emigrant to look forward to a return to his home, after an absence of five years, must discourage the emigration of the females of his family. They proposed that either the Government should confer "A PATENT OF CITIZENSHIP" on such Indians as should be willing to forego the right of the return passage and to remain in the island; stating their belief that, in such an event, thousands would avail themselves of the privilege, *whatever that might be*; or, that the return passage, should be given at the end of three or five years, but, only in the event of the immigrant, wishing to return, and not possessing the means of doing so.

328. The Emigration Commissioners were prepared to consent to these proposals; their only objection to the "PATENT OF CITIZENSHIP" being that they did not understand what it meant, or what rights would really be thereby conferred, to which the Coolie, when discharged from the obligation of industrial residence, would not as a British subject, be, as a matter of course, entitled.

329. The Court of Directors of the East India Company, though adhering to their original opinion in regard to immigrants already in Mauritius, consented to refer the modified rule on the subject, as proposed by the Governor and Committee for consideration as a prospective arrangement, to the Governor-General in Council.

330. The Government of India, after consultation with the Government of Bengal, Captain Rogers, Protector of Emigrants, and with Mr. Caird, the emigration agent at Calcutta, consented to the existing arrangements being so far modified as that Coolies, on the expiration of their five years' industrial residence, should be allowed to remain in the colony, or to claim their back-passages; and, if they should not, within six months, elect to claim their back-passages, they should be held to have forfeited their right, but that, in cases of destitution and sickness, the back-passage should at all times be reserved to the emigrant.

Both Captain Rogers and Mr. Caird grounded their assent, upon the facilities for returning to India, afforded by the incessant intercourse maintained between Mauritius

Live in  
straggling  
hamlets.Market-gar-  
deners.Huckstering  
and peddling.Their conduct  
orderly and  
good.Prefer ease to  
work.Consider field-  
work for hire,  
degradation.Planters en-  
tirely depen-  
dent upon  
foreign labour.Attendance at  
church pretty  
regular.Very limited  
opportunities  
for secular in-  
struction.Inter-mar-  
riages of  
Indians and  
Creoles very  
rare.Indian fami-  
liarity.Disparity be-  
tween sexes of  
Indian popu-  
lation.Liberality and  
philanthropy  
of Mauritian  
Legislature.Proceedings  
resulting in  
the abolition  
of the return  
passages.Return pas-  
sages hinder  
females from  
emigrating."Patents of  
citizenship."Free return  
passages only  
to those un-  
able to pay for  
them.The Emigra-  
tion Commis-  
sioners unable  
to understand  
the meaning of  
"patents of  
citizenship."

1852.

Decision of  
the Governor-  
General of  
India respect-  
ing return  
passages.Grounds of  
the opinion of



and that country, and Mr. Caird further pointed out the small sum for which a passage could be obtained, anticipating that, even when vessels were scarce, the cost of a return passage would never exceed 15 rupees a head.

331. The Despatch announcing this concession was communicated to the Council at its meeting on the 20th October 1852, and referred to the Immigration Committee, who, before the close of the month, made their Report upon it. The Report commences with the expression of satisfaction, that the Indian Government, had consented even partially, to modify the regulations with regard to the return passages; but, noticed that the change was clogged with a condition, which they viewed with great apprehension, and one upon which, before accepting it, they desired to appeal to the Government of Mauritius, the Government of India, and the Secretary of State, in support of their views.

332. They feared that the offering to the Indian, at the close of his industrial residence, the option of returning free of charge, or of forfeiting that privilege, might lead to much mischief, by provoking in the immigrant a desire of returning under such conditions to India at the end of his term of service, when he had usually accumulated a certain amount of money; and that having spent it, among his relations and friends, he would return to the colony, after a few months' holiday, at the public expense: a device which might be repeated every five years.

333. But a still more serious objection in their opinion, was the interval of six months which it was proposed to allow to the immigrant, in which to decide between returning to India, or forfeiting the free passage. They feared that the effect on the Indian would be to restrain him from re-engaging during the interval, and

"that he would acquire those habits of idleness, or employment in petty branches of labour which, if not injurious to himself, would deprive the colony of those services which it mainly seeks to acquire."

334. They did not advocate the abolition of the return passage on pecuniary grounds, their aim was to obtain a sufficient number of labourers settled in the island; so as to be secure from the changes and interruptions which had, in years past, so greatly interfered with the progress of agriculture.

335. They appealed to the recommendations of successive Secretaries of State for the establishment in the colony of villages on the Indian model, and they urged the extreme improbability of the immigrant population being ever suddenly thrown out of work, and demanding return passages, in numbers greater than could easily be provided for from the fund of £25,000 reserved for that purpose, and concluded with moving that the Governor should be requested to renew his endeavours for the abolition of the obnoxious condition, and that, for the future, the right to return passage should altogether cease, except in cases entitled to special consideration.

336. To this request Governor Higginson acceded; and the result was, that the Indian Government at length granted the concession which had been so long and so ardently desired by the colony of Mauritius.

337. An Ordinance was subsequently passed in conformity with instructions received from the Duke of Newcastle, by which the sum of £25,000 was invested in the name of trustees, as a reserve fund, to secure the return passage of such immigrants as had the right to claim it.

338. In the early part of 1852, a revision took place of the Immigration, and Masters and Servants Ordinances (Numbers respectively 25 and 26 of 1848). The order of their arrangement was changed, giving priority to that relating to agreements between masters and servants, as being of a more general and comprehensive character; and establishing the law upon the footing which still prevails. It was passed as Ordinance No. 15 of 1852, and practically amounts to a re-enactment of Ordinance No. 26 of 1848, the modifications thereon being merely verbal and trifling.

339. Ordinance No. 16 of 1852 repealed Ordinance No. 25 of 1848, and introduced some important changes in it. The "industrial residence" was made to consist of a residence accompanied by labour under contract, or of payment of the monthly tax, instead of as theretofore, of a residence under an engagement to labour for hire, for the performance of which no sufficient security was provided.

340. It was believed that the Indian attached sufficient importance to the privileges accruing to him at the close of the industrial residence, to exert himself in order to discharge the conditions precedent to their enjoyment. By opening the Immigration Depot to such as had completed their first engagement, and could not obtain employment, and by exempting them while there from payment of

1852.  
Capt. in  
Rogers and  
Mr. Caird.

Immigration  
Committee  
still not con-  
fident.

Minutes of Coun-  
cil of 29. 10. 52.  
Report No. 11 of  
1852.

Minutes of Coun-  
cil of 10. 11. 52.

Fears of the  
Immigration  
Committee.

"Idleness"  
and "employ-  
ment in petty  
branches of  
industry."

Abolition of  
back passages  
advocated, not  
on pecuniary  
grounds, but  
to obtain a  
settled popula-  
tion.  
Extreme im-  
probability of  
a rush for back  
passages.  
Governor to  
renew his en-  
deavours for  
abolition of  
back passages.

Abolition of  
back passages.

Reserve fund  
of £25,000.

Ordinances  
Nos. 15 and 16  
of 1852.

Revision of  
Nos. 25 and 26  
of 1848.

Ordinance  
No. 15 of  
1852.

Ordinance  
No. 16 of  
1852.

Industrial  
residence.

Hopes of im-  
migrant's re-  
engaging.

Immigration  
Depot.

Minutes of Coun-  
cil of 29. 10. 52.  
Report No. 11 of  
1852.

Minutes of Coun-  
cil of 10. 11. 52.

Governor Higginson to Sir J. Pakington, De-  
spatch No. 417 of 3. 12. 52.  
The Duke of Newcastle to Governor Higginson,  
Despatch No. 56 of 9. 2. 53.

Ordinance No. 4 of 1851.  
Duke of Newcastle to Governor  
Higginson, Despatch No. 62 of  
13. 2. 53.

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340. It was believed that the Indian attached sufficient importance to the privileges accruing to him at the close of the industrial residence, to exert himself in order to discharge the conditions precedent to their enjoyment. By opening the Immigration Depot to such as had completed their first engagement, and could not obtain employment, and by exempting them while there from payment of

Articles 16 and  
20.

the monthly tax, it was hoped many men would be induced to re-engage, who would otherwise have preferred remaining as vagrants, or paying the monthly tax.

341. The right of persons emigrating subsequently to the passing of the Ordinance, to the gratuitous return passage at the end of the five years' industrial residence, was abolished. The regulations respecting New immigrants generally were made stricter.

Thus, persons lodging or allowing New immigrants to reside on their premises, were rendered liable to the fine of £1, in addition to the responsibility for the monthly tax previously due by such immigrant. The fee of 2s. payable by Old immigrants neglecting to appear before the Protector, in order to take out their Old immigrants' tickets, within one month of the termination of their industrial residence, was raised to one of 4s.

Power was given to the Magistrates, upon the non-production by an immigrant of his ticket, either to condemn him as a vagrant, or to forward him to the Protector for enquiry. The forfeiture of the "double cut," was re-enacted in cases of Articles 23 and 24. illegal absence; and an Article added empowering employers to refuse a labourer his certificate of discharge if he had not worked the full time specified in the contract, provided that the wages were not three months in arrear, and that the employer had not reimbursed himself by the "double cut." And, the Magistrate might order the labourer to make good to the employer the time of his absence; and, in the event of his refusing, he should be liable to a month's imprisonment, on the expiration of which, however, he should be at liberty to engage. No immigrant should be deemed to have completed his industrial residence until he had made good the days of absence in one of four ways: viz.—

- 1st. By having undergone the forfeiture of the "double cut;"
- 2nd. By re-engaging with his former master for such time as he had been so absent;
- 3rd. By making a fresh contract with another master for such period; or,
- Lastly, By payment of the monthly tax.

But to this was added the *proviso*, that the periods of illegal absences must be notified every month to the Stipendiary Magistrate.

At the same time Stipendiary Magistrates were required to forward monthly to the Protector, a return of the New immigrants who had been required so to complete their terms of service, after the expiration of the original term, for the purpose of being registered at the Immigration Office.

342. Some discussion had taken place at the second reading of the 8th Article, enacting the monthly tax, and an amendment had been proposed abolishing it, and substituting one general redemption tax, to be paid by the Indian, in advance, for the whole remaining term of his residence, to be calculated at about £1 10s. per annum. This was, however, lost, owing mainly to the jealousy with which the Governor feared the Indian Government would regard a scheme which abolished one tax, because it was easy for the Indian to pay it, and substituted another, which it would be more difficult for him to pay.

343. A report of Mr. Hugon, transmitted the month following to the Secretary of State, convinced the Governor of the desirableness of a change.

To the monthly tax Mr. Hugon himself had always been opposed, and Governor Higginson now expressed his opinion that the evils of it as affecting the immigrants were threefold:

Firstly. The temptation which it had been found to give to idleness and vagrancy.

Secondly. The penalties incurred by the frequent attempts made to evade its payment; and

Thirdly. The hardship and restraint to which the honest Indian was sometimes exposed, in being arrested on suspicion when, from the loss of his papers, or other causes, he found difficulty in proving himself not in contravention of the law.

344. He further pointed out that, whereas under the existing system, the Indian paid £2 8s. per annum of the monthly tax, under that suggested, the payment would amount to no more than £1 12s.

As affecting the interests of the planters, the tax had not proved beneficial; while, as a fiscal measure, it had been an utter failure, having during three years cost in collecting £2900 more than it produced.

345. A Despatch from Sir J. Pakington disapproving of the proposed change, called forth a Report from the Immigration Committee, in which compliance with the views of the Protector was strongly recommended, and they also

1852.  
Ordinance  
No. 16 of  
1852.

Abolition of  
back passages.

Stricter regu-  
lations regard-  
ing New im-  
migrants.  
Increased fee  
for Old im-  
migrants'  
tickets.

Punishment  
for not pro-  
ducing  
tickets.

Re-enactment  
of the "double  
cut" for ille-  
gal absence.

Enforcement  
of the fulfill-  
ment of con-  
tract.

Monthly de-  
clarations of  
absence.

Magistrates to  
furnish to  
Protector  
monthly re-  
turns of pro-  
longations.

Article 8.  
Discussion  
upon it.  
Monthly tax.

Mr. Hugon  
opposed to the  
monthly tax.

Governor  
Higginson's  
opinion of the  
evils of the  
monthly tax.

Penalties fre-  
quently in-  
curred.

Hardship  
upon honest  
Indian.

Monthly tax.  
Its excessive  
cost to im-  
migrants.

Monthly tax  
not beneficial  
to planters.

Its excessive  
cost to Go-  
vernment.



1852.

The Immigration Committee in favour of the abolition of the monthly tax. The Immigration Committee advocate five years' contracts.

took the opportunity of, once more, pointing out what, in their opinion, would more effectually ensure the steady and continuous labour of the immigrant during his industrial residence, than the abolition of the monthly-tax: viz., the extension of the term of engagement to five years; in support of which they advanced many arguments, concluding with the one which, nine years later, was chiefly instrumental in procuring for them the coveted privilege, viz.: that five years' contracts were permitted in the case of immigrants to the West Indies, and of British Indian subjects emigrating to the neighbouring French colony of Réunion.

1853.

Governor Higginson not decided as to five years' contracts.

346. With the sentiments of the Committee on the question of the monthly tax, Governor Higginson entirely concurred; but he was not prepared to do so with those relating to the extension of the term of contracts: his experience in the West Indies having led him to form an opinion adverse thereto; one, however, which he admitted had been shaken by his observation of the satisfactory working of the three years' contracts in Mauritius.

The Duke of Newcastle approves of the modification of the monthly tax, but not of five years' contracts.

To this the Duke of Newcastle replied, by sanctioning the modifications proposed upon the monthly tax, but declining to entertain the question of the prolongation of the period of contract.

The Immigration Committee propose the yearly introduction of 10,000 instead of 6000 men. Proposed modification of Ordinance No. 9 of 1851.

347. A Report of the Immigration Committee, made at the end of this year, after noting the great extension taking place in the production of sugar, viz.: at the rate of 20 millions of lbs., or 10,000 tons annually, recommended that, to meet the increased demand for labour caused thereby, 10,000 instead of 6000 men should be introduced. The Governor, after duly weighing the proposal in its financial aspect, seconded the recommendation of the Committee, and consented to modify Ordinance 9 of 1851, with a view to enabling planters to procure any additional number of men that they might require over and above the quota of the complement of the year, brought down at the public expense, to which they might be entitled; on their undertaking to defray the whole charge incident to their introduction.

1854.

The Duke of Newcastle refuses to sanction the introduction of more than 8000 men for 1854. Ordinance No. 15 of 1854.

The Duke of Newcastle, while seeing no objection to the latter proposal, refused to sanction the introduction of more than 8000 men for the year 1854.

Ordinance No. 21 of 1851.

348. In anticipation of such consent, Ordinance No. 15 of 1854 was passed in the month of March, amending Ordinance No. 9 of 1851, and raising the fee payable for the engaging men in excess of the quota to which the employer was entitled, from £1 10s. to £3; in addition to the stamp duty for every man so engaged in excess.

Industrial residence, re-emption of.

349. In conformity with the recommendation above stated (paragraph 345), Ordinance No. 21 of 1854 was passed in the month of June, with the view as stated in the preamble:

"to amend Ordinance No. 16 of 1852, by abolishing the monthly tax therein imposed upon New immigrants not employed under a written engagement to labour for hire, and substituting a commuted payment for such tax, and to make further regulations for encouraging the industry of immigrants."

Failing re-emption, re-engagement within eight days, under written contract.

By Article 1, the right was given to every New immigrant to redeem any portion of his industrial residence at the expiration of any contract under which he might be engaged, by paying a sum, calculated at the rate of £1 12s. per annum, for the whole time required to complete his industrial residence; by which he became entitled to be registered as an Old immigrant; but, in the event of his failing so to redeem, the New immigrant was bound, within eight days of the termination of any engagement, to re-engage under a written contract.

Unlawful absence.

The 23rd and 24th Articles of Ordinance No. 16 of 1852, underwent important modification. Article 3 allowed, as an alternative for the "double cut," in cases of illegal absence, that the immigrant should be required, at the end of his engagement, to make good to his employer double the number of days of such absence. But, while thus enlarging the rights of masters, by the next Article it placed an important restriction upon the right of "cutting double," by declaring that this forfeiture should be exacted only at the time of paying the wages, within 30 days of the expiration of the month in which the unlawful absence had occurred, or provided such absences had been duly recorded and attested in the pay-books by the employer, and had been announced to the immigrant in the presence of the overseer, within a like period.

Alternative for the "double cut."

Employers were required to notify monthly the periods of absence of each immigrant from whom the "double cut" had not been exacted, to the

Restriction upon "double cutting."

Declarations of absences where "double cut" not inflicted.

Stipendiary Magistrates, by whom they were forwarded to the Protector, with the view of their being recorded in his register, and the immigrant barred of his right to an Old immigrant's ticket, except upon proof of his having made good the time so due to his employer.

Lastly, Power was given to the Governor, on sufficient presumption of the complicity of any immigrant in criminal acts, to send him back to India.

350. A severe epidemic of cholera visited the island this year, which, however, did not permanently affect the general prosperity, reported by the Governor at the beginning of the year. The demand for labour continued unabated, so much so, that although 1400 immigrants were, by a mistake of the agents in India, sent to Mauritius in excess of the number ordered, the competition to secure their services kept pace with this unusually large immigration; the chief drawback to which was that, the costs amounting to £101,000, instead of £60,000, as estimated, the export duty on sugar was raised from 3d. to 9d. per cwt.

351. An intimation from the Secretary of State that the immigration could not be tolerated unless the disproportion between the sexes was diminished, excited the alarm of the Immigration Committee, who urged that the disproportion was not so great as his Grace believed, and would become still less as the spread of education broke down the barrier between the children of the Indian and Creole populations.

352. The year 1855 presents one important alteration in the immigration system by the passing of Ordinance No. 12 of 1855, "to enable persons to introduce at their own expense, immigrants from India."

353. A Memorial had been in the preceding year addressed to the Secretary of State by a number of planters, headed by Messrs. C. Wiehe and Gabriel Fropier, praying for,

1stly, The concession to the Governor and Council of Mauritius, of the right to decide on the number of immigrants to be introduced annually.

2ndly, To make five years' engagements optional.

3rdly, That the Emigration Agent in India should be authorised to engage immigrants for the service of individual planters, according to the instructions he might receive from the Governor.

To the two first points Sir George Grey refused to accede, while to the last he assented, subject to certain modifications suggested by Mr. Higginson, then on leave, and to whom the memorial had been referred.

354. By Article 1 of Ordinance 12 of 1855, any person might make a requisition in writing to the Protector for the number of immigrants he required, at the same time giving security for the payment of their passage-money, and of the regular number of females accompanying them, as well as for the payment of expenses incurred in India on their account previous to embarkation; both of which sums were to be paid by the requisitionists before the delivery of the immigrants.

No stamp-duty was to be charged upon contracts with immigrants so introduced.

The immigrant had the right, on arriving in Mauritius, to engage with an employer other than the requisitionist; in which case, however, the employer so engaging an immigrant, if without the consent of the requisitionist, was to refund to the latter the expenses he had incurred, together with a sum equal to 25 per cent. upon the same.

If the immigrant did not serve out the full term of his industrial residence with the person who had introduced him, the latter was entitled to receive from the Government any money which might be paid by any third party engaging the immigrant, by way of stamp-duty, or by the immigrant himself, for the redemption of any portion of his industrial residence.

355. By a regulation of the Governor the proportion of females was ordered to be one for every three males.

356. Ordinance No. 5 of 1855, "for allowing temporarily a priority of claim, on account of provisions furnished for labourers on sugar estates,"

was passed during the administration of General Hay, at the request of a large number of persons connected with commerce, who represented that the critical state of the monetary affairs of the colony at that time, rendered some temporary measure of the kind absolutely necessary;

1854.

Deportation of criminal immigrants.

Cholera.

Demand for labour.

Expenses of immigration.

Disproportion of sexes.

1855.

Ordinance No. 12 of 1855.

Memorial of Messrs. Wiehe and others.

Concession to Mauritius of fixing number to be introduced.

Five years' engagements. Special contracts in India.

Requisitions for immigrants.

Costs.

No stamp duty.

Engagements on arrival.

Where immigrant did not serve out the full term of his industrial residence.

Proportion of sexes.

Ordinance No. 5 of 1855.

Priority of claim for provisions for labourers.

Mr. Labouchère to Governor Higginson, Despatch No. 17 of 18. 12. 55. an assertion the force of which the Secretary of State failed to perceive, and accordingly condemned the Ordinance severely.

1856.

Ordinance No. 3 of 1856.

Marriage law.

Mr. Hugon's Report.

Ordinance No. 3 of 1856.

357. An Ordinance was passed early in the following year, "to facilitate the proof of marriages of Indians contracted in India, and of the legitimacy of children, the issue of such marriages, and also, "to provide a summary punishment for persons enticing away the wives of Indians." Mr. Hugon had drawn attention in the previous year to the great demoralisation produced by the disproportion of the sexes among the immigrant women who accompanied their husbands or fathers to Mauritius: while these, in the event of the elopement of a wife or a daughter, had no redress in the law, marriages contracted in India according to the rites of their religion not being recognised. And even had it been otherwise, the costs attending legal proceedings were far beyond the means of persons in their station of life.

He stated that he had frequently seen men who had brought their families with them, leaving the colony in despair without them; and he, therefore, urged that marriages made in India should be recognised as legal in Mauritius, and, that a special law should secure to immigrants speedy redress, with little or no expense, in the event of the seduction of the wife; by which means he hoped the colony might be able to attract a superior class of immigrants with their families: but of this Ordinance we shall have occasion to write further hereafter. (See Chapter XXVI, *Moral and Physical Condition*.)

Continued demand for labour.

Governor Higginson to Mr. Labouchère, Despatch No. 27 of 7. 2. 56.

358. The year 1856 saw no abatement in the demand for immigrants. Provision was made in the Estimates for the introduction of 6000 men, but the Protector calculated that about 4000 more would be required under the provisions of Ordinances No. 15 of 1854 and No. 12 of 1855. The payments made in 1855, and the Estimates for 1856 for what were termed extra tax-men, aggregated £21,813, which it was calculated would cover the cost of bringing down men, leaving the balance of the 4000 to meet the requisitions of planters under the last-named Ordinance.

Mr. Labouchère's views as to the disproportion of the sexes.

Mr. Labouchère to Governor Higginson, Despatch No. 55 of 6. 3. 56.

359. The question of the disproportion of the sexes was again raised by Mr. Labouchère, who laid it down as a rule that the number of males to be introduced in 1856, must not exceed, under any circumstances, three times the number of females introduced in 1855, and the like rule was to prevail as regarded 1857.

For the year 1858, the number of males was not to exceed twice the number of females introduced in the previous year.

360. This decision produced much disappointment and anxiety in the colony, as, if adhered to, the number of men to be introduced in the course of the year would only amount to 8274 instead of to 10,000.

Colonial feeling regarding the question.

361. A memorial addressed to the Secretary of State as well as a Report of the Immigration Committee, agreed as to the obligation of providing for such a progressive augmentation of females as might be considered essential to the moral and social well-being of the Indian population, but, considering that the disproportion had for some years been decreasing at the rate of about 2 per cent. per annum, they believed that the object might be obtained without unduly restricting the supply of labour and exposing the colony to the disastrous consequences expected to ensue. It was, therefore, proposed that the proportion before fixed for 1856 should be left undisturbed, viz., 25 per cent.; that in 1857, the proportion should be raised to 35 per cent.; after which it should be raised at the rate of 5 per cent. per annum, until it should attain in 1860 the proportion of 50 per cent.; after which it was hoped that the small proportion of females leaving the colony, as compared with the males, coupled with the ordinary laws governing the increase of population, might render unnecessary any further increase in the number of females to be introduced.

Proposed scale as to increase of female immigrants.

Governor Higginson concurring in the requests above contained, Mr. Labouchère, with some reluctance, acceded; but with the distinct understanding that no further relaxation in the rule could be made, and that, in case the number of females thereby required were not regularly introduced, the immigration would be forthwith contracted.

More labourers required.

Governor Higginson to Mr. Labouchère, Despatch No. 153 of 15. 11. 56.

362. Strange as it may appear, this large annual introduction of immigrants failed to supply the deficiency of labourers, for, at the end of the year Mr. Higginson again transmitted, with the expression of his approval, an application from the Chamber of Agriculture for authority to introduce 3000 men in 1857; over and above the complement of 6000 provided for in the budget of 1857;

but before any answer could be returned the colony was thrown into the utmost alarm by the receipt, on the 8th December, of a communication from the Government of India announcing the absolute prohibition of emigration from that country to Mauritius.

1856. Suspension of immigration.

363. The Indian Government had been moved to take this step in consequence of a lamentable occurrence which took place in the early part of the year.

364. In the month of January two immigrant ships had arrived from Calcutta, and though when they arrived there was no sickness in either, beyond a few cases of fever, there had been considerable sickness and mortality on both during the voyage. The vessels were therefore placed in quarantine: an institution held in the highest esteem by the population and Council of Mauritius as the most effectual preventive of cholera, and consequently enforced with the utmost strictness.

Two ships placed in quarantine.

Some fresh cases of sickness occurring, although none of cholera, the ships were ordered by the Board of Health to proceed to Gabriel Island, a small and desolate island situated some 8 miles from the mainland of Mauritius, and there to land the immigrants, to remain in quarantine for an indefinite period.

The ships proceed to Gabriel Island.

Immediately after their landing cholera broke out, and they remained there for 16 weeks, until the 6th of May. The sickness was aggravated by exposure to the very inclement weather that prevailed during the early part of the quarantine, with no other shelter than tents to protect them from its effects.

Cholera breaks out.

Want of proper shelter.

The only medical man, too, who could be found to take charge of the lazaret, proved wholly unequal to the crisis, until superseded by the appointment of Dr. Finimore, of whose conduct honourable mention was made by the Governor, in voluntarily consenting to discharge a duty so unpopular in the colony that it was with difficulty that any medical man could be induced to undertake it, even at extravagant rates of remuneration. The sickness raged with such virulence that out of 697 immigrants landed on the island 284 died.

Medical care.

Great mortality.

365. The Government of India were of opinion that, considering the importance attached by the Government of Mauritius to the observance of quarantine, the accommodation provided for the purpose was wholly insufficient, and consequently determined that until they were satisfied that suitable provision had been made the prohibition should not be withdrawn.

Opinion of the Government of India.

366. It was not, however, continued long, for the Government of Mauritius had, by the 27th of April 1857, satisfied the Indian Government of the adequacy of their quarantine arrangements, and the prohibition was withdrawn; and, before the month of July, a Coolie ship had once more arrived from Madras.

1857. Immigration resumed.

367. About the same time was passed Ordinance No. 22 of 1857, to amend the law relative to the engaging of newly arriving immigrants.

Ordinance No. 22 of 1857. Engagements.

Under the Articles 5 and 7 of Ordinance No. 15 of 1854, which was now repealed, parties were entitled to engage immigrants, in excess of the annual quota assigned to them, by paying a tax of £3 in addition to the ordinary tax of £2 levied on each triennial engagement. This amount being frequently less than the entire cost of introduction; and, moreover, a bond at 12 months' date being accepted by Government in lieu of cash; the gain to parties engaging labourers on such terms was stated by the Protector to have aggravated the evils arising from an increasing competition for men at the Immigration Depot, whilst the delay in payment of the extra tax caused a similar delay in the importation of fresh men in lieu of those so taken.

Repeal of No. 15 of 1854.

368. By the new law, employers desirous of engaging newly arrived immigrants in excess of the quota assigned to them were bound to pay to the Protector, before the immigrants left the depot (instead of £3 in addition to stamp-duty), the passage-money and all other expenses chargeable for the introduction of such labourers, together with the due proportion of females as required by Regulations at the time being.

Engagements in excess of quota.

369. Two Ordinances were passed in this year, viz., Ordinances No. 23 and No. 26 of 1857, relating to the introduction of immigrants; which were called forth by some suspicious circumstances and irregularities connected with the ships 'Glancœur' and 'St. Germain.'

Irregular introduction of immigrants. Ordinances Nos. 23 and 26 of 1857.

370. On the 22nd July 1856 the French steam-vessel 'Glancœur' arrived at Port Louis from Aden, having on board 130 labourers (of whom 115 were males and 15 females) shipped at that port.

Case of the 'Glancœur' and other French ships from Aden.



1857.

Contracts entered into at Aden.

The Procureur-General's opinion.

New contracts in Mauritius.

Clause in contracts as to payment in the event of not re-engaging.

The Home Government suspicious of the immigration from Abyssinia.

20,000 Africans contracted for.

Ordinance No. 23 of 1857.

Regulation of general immigration.

Ships to be licensed.

Immigrants subject to Protector and to regulations.

Case of the 'St. Germain.'

Arrival of the 'St. Germain' from Bombay with passengers.

The passengers engaged with the Mauritius Dock Company.

371. These had entered into contracts of service with Messrs. Thenon and Lambert of Mauritius, which were witnessed by the Assistant Political Agent and Magistrate at Aden. They were not, however, shipped under Regulations governing immigration either from India or other places, but as ordinary passengers, at the expense of the shippers: in consequence of which, the Procureur-General was of opinion that it was not competent to the Government to prevent their disembarkation or to subject them to the control of the Protector of Immigrants.

372. Upon their arrival at Mauritius new contracts of service were passed before the Stipendiary Magistrate between them and new masters, the validity of those passed at Aden not being recognised in the colony.

In these contracts, a clause was inserted binding them, in the event of their not re-engaging with the same employer, to pay him a sum of \$32 (£6 8s.), as representing two-fifths of the cost of their introduction.

373. Some doubts appear to have been entertained by the Governor as to what amount of passage-money was "*bona fide*" paid to the owners of the 'Glaneur' by the planters with whom the men engaged; but the sum of £16, on which this proportion of two-fifths was calculated, appeared to him excessive, though, as this clause was held to be legally void, he contented himself with informing the contracting parties of the fact, and with instructing the Stipendiary Magistrates for the future to pass no engagements containing such a condition.

374. The Acting Procureur-General, moreover, doubted whether, considering the circumstances of the introduction, the engagements were valid for more than one year, under the Order in Council of 1838.

375. This case, as well as those of two other French ships, the 'Immaculée Conception' and 'Berthe,' which arrived from Aden with Indian immigrants, also shipped irregularly, on the 20th November and 4th December respectively, was reported to the Secretary of State.

376. Mr. Labouchère and the Emigration Commissioners were of opinion that such proceedings were to be regarded with much suspicion, on the ground that any continuous and extensive supply of labourers shipped at Aden, could only be procured from Abyssinia or other parts of Africa; countries which notoriously were the seat of barbarous wars for the sake of procuring slaves for sale: a suspicion which was strengthened by the disclosure made by the agents in England of Messrs. Thenon and Lambert, that they had entered into contracts with private persons for the delivery of no less than 30,000 African labourers in the course of three years: that, considering that in five years during which permission had existed to import Africans from places in Africa where there was an efficient superintendence only 219 had been up to that time introduced, it was not to be doubted but that some new and much more effective mode of procuring labourers must have been contemplated in this extensive contract.

Sir James Higginson was accordingly instructed to procure any change in the law which might be deemed necessary to put an end to such irregularity.

377. Ordinance No. 23 of 1857 amended the law as to the introduction and engagement of immigrants from territories not under the Government of the East India Company.

By it such immigrants might be

Article 2. introduced and engaged for three years in ships specially licensed for the purpose, either by the Governor, if chartered in Mauritius, or, if chartered elsewhere, by the British Consul or Agent.

Immigrants thus introduced were to be subjected to the control of the Protector of Immigrants and to rules generally similar to those in force for regulating the Indian immigration and Indian labourers.

378. On the 23rd July 1856, the French ship 'St. Germain' arrived at Port Louis from Bombay, having on board 172 males and 26 females, embarked there as ordinary passengers at the charge of the shippers, and without the intervention of the Emigration Agent, from whom the Protector at Mauritius received no intimation of shipment; but, presumably, with the knowledge of the authorities of Bombay, as the master of the vessel produced a regular port clearance with the number of passengers entered in the manifest.

379. It appeared that the agents of the Mauritius Dock Company, experiencing difficulty in obtaining a sufficient supply of labour in the colony to carry on their extensive operations, chartered two vessels for the purpose of bringing down labourers from Bombay (of which the 'St. Germain' was one), in the expectation that, although contracts of service passed in India were not valid in Mauritius, the immigrants would be

induced to accept engagements with them after their arrival, and which in fact they did in the usual manner before the Stipendiary Magistrate, and at the prevailing rate of wages; a condition, as in the case of the labourers from the 'Glaneur,' and, of course equally invalid, being annexed, binding them, in the event of their refusing to re-engage for two years longer on the expiration of the first three years, to reimburse two-fifths of the expenses alleged to have been incurred by the Dock Company on account of their introduction; which, it was remarked, were reckoned at £16 per adult, while the freight paid at the time by the Government amounted to only £4 10s.

380. The Governor, uncertain apparently how so novel a case was to be dealt with, took the opinion of the Acting Procureur-General, Mr. Douglas, and instructed the Magistrate not to engage the Indians, without special authority; but to these orders that official did not conform, having, as he alleged, misunderstood the oral communication made to him. Guided by the opinion of Mr. Douglas, the Government confined its interference to satisfying itself that the people were made fully aware of their privilege to choose their own employer, and perfectly to understand the terms of their engagement. Mr. Douglas held them to be immigrants within the meaning of Ordinance No. 3 of 1849, and considered that, consequently, the engagements for three years were good.

381. The Governor considered it anomalous and inconsistent to treat them at the same time both as free passengers and as immigrants: but, whatever might be the true condition in which they should have been regarded, the Government was unable to punish the offenders, as it was found that Ordinance No. 11 of 1842 had, as before stated (see Chapter IV., *Early Immigration*, paragraph 209), lapsed, owing to not being confirmed by your Majesty; and its penal provisions, which would have met the present case, had never been re-enacted. Pending the receipt of instructions from the Secretary of State, the Governor issued a proclamation forbidding the repetition of such proceedings.

382. Mr. Labouchère expressed his strong disapproval of the whole affair, and especially of the conduct of the Magistrate, which he described as "countenancing an evasion of the law, to the detriment of the weak," and desired that the defects of the law should at once be remedied.

383. Ordinance No. 26 of 1857, "for preventing the illegal introduction of Indian immigrants," imposed a penalty of £20 on the introduction of each native of India, emigrating from any port in India except Calcutta, Madras, or Bombay.

A similar penalty was enacted against masters of vessels conveying emigrants without a license; and power was given to the Governor to direct the immigrants to be delivered to the Protector, who should take such steps for their protection as the Governor might direct, and, if so ordered, should send them back to India at the expense of the master of the vessel or of any other person by whom they had been introduced.

384. In the month of July of this year an Ordinance was passed for rendering compulsory the education of the children of the colony, which, had it been allowed to continue in operation, would probably have proved a measure most beneficial to the Indian population of the island: but the details respecting this Ordinance we shall give hereafter, when treating upon the subject of education (*vide* Chapter XXVIII., *Education*).

385. On the 11th September Sir James Higginson left Mauritius, Mr. Stevenson his successor in the Government arriving on the 20th of the same month.

One of the latest acts of Sir James Higginson was the appointment of a Special Committee to inquire into certain charges made by Mr. Napoléon Savy, an advocate, in a letter addressed by him to the Governor-General of India, by whom it was transmitted to the Governor of Mauritius. In this letter Mr. Savy represented that impartial justice

was not administered to Indian immigrants in the colony. While admitting the general good treatment of Indians by the planters, he nevertheless stated that there were unfortunate exceptions: men who did not pay their servants their wages, who acted with bad faith towards them and ill-treated them in every way. He stated that in such cases the law was allowed to remain a dead letter, owing to the inefficiency or the want of independence of the Magistrates, whom he asserted to be selected without discretion, some having business connections with employers. He alleged that wages were allowed to run six, eight, and twelve months into arrears; and that, in the event of Indians applying to the Magistrates, delays "ad infinitum" were granted to the defendants. He described the local Govern-

1857.

Cost of introduction reckoned at £16 a-head.

The Government act upon the opinion of the Acting Procureur-General.

Engagements held to be good.

Ordinance No. 11 of 1842 having lapsed, Government unable to punish offenders.

Proclamation forbidding repetition of proceedings.

Mr. Labouchère denounces the proceedings.

Ordinance No. 26 of 1857.

Penalties upon emigration from Indian ports other than named.

Penalty against unlicensed ships.

Protection to the immigrants.

Ordinance No. 21 of 1857.

Compulsory education of the lower orders.

Sir James Higginson leaves Mauritius.

Charges made by Mr. Napoléon Savy in a letter to the Governor-General of India.

Impartial justice wanting.

Admits general good treatment, but unfortunate exceptions.

Law a dead letter against abuses.

Want of independence of Magistrates. Great arrears of wages.



Local Government rotten, Commissioners asked for.

1858.

Report of the Commission of Inquiry.

Lord Stanley censures the practice of allowing wages to be in arrear.

Lord Stanley's opinion that "no arrears of wages should be allowed."

Arrears of wages.

The Procureur-General's opinion.

Immigrant should have power to ask for cancellation when wages unpaid for one month after becoming due.

Governor Stevenson's opinion upon arrears of wages.

Dissolution and order for payment to be decreed when wages a month in arrears.

Circular to Stipendiary Magistrates, 22nd August 1858.

Royal Commissioners' views of the question.

ment as a "rotten institution," having no energy for good, and he concluded with praying the Governor-General to send Commissioners to the colony to investigate the charges he made.

386. The Committee consisted of the Procureur-General, Mr. Dickson, the Treasurer, Mr. Bedingfeld, and of Messrs. Fropier and Antelme, both members of the Legislative Council. They were empowered to take evidence on oath, and the unanimous conclusion to which they came was, that, notwithstanding instances of erroneous conduct discovered against some few of the Magistrates, the letter of Mr. Savy contained a false and groundless libel against the Stipendiary Magistrates in a body, and the Government as responsible for their selection.

387. This Report was transmitted by the Government of India to Lord Stanley, Sir J. C. Melville who passed some severe comments upon the practice of allowing wages to be in arrear, which seemed to be, if not general, by no means uncommon, and to the evils and injustice of which he thought the Committee of Investigation did not seem to be alive; as they justified, so it appeared to Lord Stanley in Council, in far too general terms, the conduct of the Stipendiary Magistrates in granting delays to the masters to enable them to make payment. His Lordship expressed it as his opinion that, as a rule, *no arrears of wages should be allowed*: an opinion in which Lord Carnarvon entirely concurred, and desired Governor Stevenson at once to issue such instructions as would ensure a punctual compliance on the part of the planters with regulations in this respect.

388. Both the Despatch and its enclosures were referred to the Procureur-General, who returned his opinion on the 11th July 1859, which will be found in full in Chapter XVI., *Contracts*, paragraph 1405.

He suggested that the law (Art. 11 of Ord. 15 of 1852) which permitted wages to remain overdue for three months before the servant could demand cancellation of his contract, should be amended, to the effect, that, any servant whose wages should be in arrear for one month after becoming due, should have a right to insist upon, and the Magistrate should be bound to grant, the cancellation of the contract; instead of his being left with the merely discretionary power which he possessed under the Order in Council.

389. Governor Stevenson appears to have entertained a very strong opinion on the injustice of by law compelling a labourer to work when his wages were unpaid, as we find in his Minute upon the above-quoted opinion of the Procureur-General the following words:—

"The Magistrate may now dissolve it, if he thinks fit, under the Order in Council, "when wages are in arrear, and he always should think fit when the wages have "been a month in arrear, and are not at once paid on the complaint of the labourer, "and if forced to work while wages are in arrear more than a month, there should "be no discretion about the matter, but a decree of dissolution and order of payment should at once be pronounced, unless the labourer plainly consent, in "presence of the Magistrate, to another short delay, all previous absences being "excused."

Such we hold to have been the intention of the Legislature, when, less than three years later, it passed the 19th Article of Ordinance 16 of 1862 (see paragraph 429 of *Adoption of the Present System of Contracts*); as we find a circular addressed to the Stipendiary Magistrates on the 22nd August of that year directing them

"to put a stop to the too prevalent practice of allowing such wages to remain for "long periods in arrear;" and going on to declare that

"the only circumstance which should deter the Magistrate from carrying out the "law in such cases would be the consent of the immigrant to delay—a consent "however, to be given freely, after due explanations by the Magistrate."

390. We must be permitted to doubt how far, in the great majority of cases, such consent has been free, or how far the conditions have been duly explained to the immigrants by Magistrates, wholly ignorant of Indian languages; but certain it is that advantage has been taken of this exception for the inveterate practice to re-assert itself, until, at the present day, the consent of Indians to meet the convenience of embarrassed employers has been impudently advanced as a proof of a predilection, on their part, in favour of payments at protracted periods.

## CHAPTER VII.—Adoption of the Present System of Contracts in India.

1857.

391. Mr. Stevenson having assumed the Government in September 1857, in a very short time became satisfied of the necessity for a reform of the immigration system and the consolidation of the laws thereon, with the view also of preventing the confusion attendant upon the distribution of immigrants on their arrival.

392. The rules of allotting immigrants at that time were laid down in Ordinances No. 15 of 1854, No. 12 of 1855, and No. 22 of 1857.

393. Ordinance No. 15 of 1854 provided that the immigrants of each year should be divided among the planters in proportion to the produce of their estates; but, subject to the condition (contained in the 6th and 7th Articles of the Ordinance), that those who desired an extra share of the Government immigration might obtain it by paying £3 additional for each extra immigrant allotted to them.

Ordinance No. 12 of 1855 provided that extra labourers might also be procured by payment of the full cost of introduction: which labourers were supposed to be introduced not as part of, but, in addition to, the Government contingent.

Ordinance No. 22 of 1857 repealed the 6th and 7th Articles of Ordinance No. 15 of 1854, and so left the introduction of extra immigrants to be effected under Ordinance No. 12 of 1855 only.

394. The system, however, did not work well. The great extension of the sugar cultivation in the island led to so keen a competition for labourers among the planters, as to make it worth their while, not only to pay the cost of introducing immigrants, but, also, to send out native recruiters to collect emigrants in India, each for his own employer. And these recruiters, instead of employing themselves honestly in the work of collection, found it easier to seduce (as it was fairly called) into their employer's service, immigrants who had been collected by the Government or by other men's recruiters. The law then in force required that every immigrant landing in Mauritius should be at liberty to choose his own employer. While, therefore, the Coolies were on board the emigrant ships, or at the depôts at Calcutta or Port Louis, they were open to the influence of the rival sirdars, who struggled for the power of directing their choice of employer, and, which having obtained they used for the purpose of making their own profit, both out of the planter and out of the Coolie.

Thus it happened that men of substance sent out *bond fide* recruiters in order to secure to themselves a supply of labourers adequate to carrying out the operations they had commenced. This supply was intercepted by the agents of more needy and less fair-dealing persons, who, by the law (Ord. No. 12 of 1855, Art. 6) were only bound to pay the real introducer the expenses he had incurred in the collection of his people, with an addition of 25 per cent.—a wholly inadequate compensation for the disappointment of his expectations.

395. The competition to secure the services of those immigrants on their arrival who had during the voyage been so entrapped by sirdars, rendered the Immigration Depôt at those times a perfect bear-garden: the competition being so keen as to have led the Protector to apply to the Government for the presence of an inspector and constables of police at the depôt, in order to prevent acts of violence being committed upon the immigrants by parties who conceived that they had a right to the services of the latter at rates below the market price, in virtue of the promises so made; and the confusion was still further aggravated by the interference of crimps and middlemen bidding against the planters and each other, and by the corruption and dishonesty of the clerks of the Immigration Office.

An amusing picture of these times was drawn by Mr. de Chazal when examined before us, who described the manner in which planters used to remain sometimes three or four days at the depôt, watching their bands of men, previous to their distribution, and how, notwithstanding all this vigilance and expense, they frequently found their men enticed away by another planter; proceedings which, on one occasion, Mr. de Chazal informed us, led to a duel between two planters behind the wall of the Immigration Depôt; so that we can readily believe that another honourable and peaceably disposed man, such as Mr. Antelme, might well, as he told us, be sickened at the scene of ruffianism and disorder that then prevailed.

Governor Stevenson thinks reform of the immigration system needed.

Allotting immigrants.

Distribution of immigrants under Ordinance No. 15 of 1854.

Ordinance No. 12 of 1855.

Ordinance No. 22 of 1857.

System did not work well.

Competition for labour.

Recruiting by planters.

Crimping.

Scandalous disorder at the Immigration Depôt. Police applied for by the Protector to keep order.

Mr. Hugon unjustly blamed. 396. The blame for this scandalous state of things appears to have been imputed by the public to Mr. Hugon, but the Records of the Immigration Office prove that no man was more alive to the defects of the system, or denounced its abuses more energetically, or bestowed more thought upon the means of reforming them, than he: and, he observed, apparently with some bitterness, that the planters who complained of the influence of the sirdars and the traffic they made of it, and who called for measures of severe repression, were the first to uphold and defend that influence when any attempt was made to interfere with it.

Influence of sirdars. 397. The influence acquired by these sirdars over immigrants may appear to Englishmen almost unaccountable. The immigrants were persuaded that they were obliged to engage at 10s. per mensem; and Mr. Hugon reported a case in which the influence was so strong that an Indian artisan, a ship carpenter, though offered an engagement at £3 per mensem, was, notwithstanding the remonstrances of the Protector, induced to engage as a field labourer on an estate at 10s. only.

Mr. Hugon's views as to freedom in engagements. 398. Mr. Hugon appears not to have desired any interference of Government in the price of labour in the colony, but only that the immigrant should not arrive there ignorant of his rights, and that he should be well cautioned against hastily binding himself to anyone by accepting presents of sweetmeats and fruits, without knowing first what wages he could command or for what length of time he was to bind himself.

System of bribing sirdars, how advantageous to planters. He pointed out that, great as the competition was likely to be for some years among the planters to secure the services of the immigrants on their arrival, the return immigrant, or self-constituted sirdar who influenced and guided the latter, would alone profit by it, as the planter would deal with the labourers only through him. He showed that it was cheaper to give this middleman a bonus of £1 for every man that he led to engage for three years at 10s. per mensem, than to pay nothing to the middleman and engage men at 12s. per mensem for three years; the market value of labour being then (1857), for two or three years, been about 12s. per mensem. The loss to the immigrant on the three years' engagement had been £3 12s., while the gain to the employer, after deducting the bonus paid to the influential middleman, had been £2 12s. on each man; and further, that if the market value of labour rose and kept up at 16s. per mensem, which Mr. Hugon considered as almost certain, the loss to the labourer would be £10 16s., and the saving to the planter on each man £8 or £9 for the three years.

1858. Modifications suggested by Governor Stevenson, and supported by influential planters. 399. As a remedy for these abuses, Governor Stevenson, supported by addresses from the Chambers of Agriculture and Commerce, suggested several modifications in the law, some of which were urged upon Mr. Labouchère about the same time by Mr. Macpherson, an influential planter and merchant long resident in the colony and at that time in England.

Terms of engagements. 400. The principal changes recommended were:—  
1st. That Indians should be allowed, under proper precautions, to make binding contracts in India, either with a particular person or with the Government, and that on their arrival in the colony they should be bound, as a matter of course, in the first case, to the person they had contracted to serve, or in the second to the person to whom the Government should allot them.

Five years' contracts. 2nd. That the option should be left of contracting engagements for five years, determinable at the expiration of the third or fourth year, after due notice given, and on the payment of a certain proportion of the expenses.

The Secretary of State's decision. The first proposal was conceded without demur, the principle involved in it having been already admitted in the case of emigration to the West Indies; but both Sir E. B. Lytton and the Court of Directors of the East India Company concurred in refusing their sanction to any extension of the term of contracts.

The East India Company's. 401. A draft of the proposed Ordinance, together with the Despatch of the Secretary of State, was laid before the Council on the 5th October and passed as Ordinance No. 30 of 1858, on the 20th of the same month.

Ordinance No. 30 of 1858. Article 1 legalised contracts of service for three years, made in India to be performed in Mauritius.

Three years' contracts. Employers so contracting with labourers in India were to pay to the Government of Mauritius the expenses of introduction, together with the proportional expense chargeable on account of females accompanying the immigrants.

Payment of expenses. Article 3.

No stamp duty was to be chargeable on contracts so made; but, if not re-engaging at the end of the three years, the immigrant was bound to complete his industrial residence, either by engaging with another employer, subject to a stamp duty of £1 12s. per annum, or by redeeming the residue by the payment of a like sum.

Article 5. at the end of the three years, the immigrant was bound to complete his industrial residence, either by engaging with another employer, subject to a stamp duty of £1 12s. per annum, or by redeeming the residue by the payment of a like sum.

Article 6. to a stamp duty of £1 12s. per annum, or by redeeming the residue by the payment of a like sum.

Article 11. the payment of a like sum.

Contracts so made might, with the consent of the parties and the concurrence of the Government, be transferred, with all rights and obligations, to a "substitute employer."

Article 13. The Government was authorised to allot immigrants arriving at Mauritius, not having entered into a special contract in India, to any employer desirous of engaging their services.

Wide powers were conferred on the Governor in Executive Council of making regulations for the carrying out of the Ordinance;

Article 15. And lastly, Ordinance No. 12 of 1855 was repealed.

Article 16. 402. Great care was bestowed upon the consideration of the regulations by the Executive Council. The Governor invited all the members of the Legislative Council, as well as the Protector of Immigrants, to assist at the discussion; and, before their final completion, they were published for general information and comment, and copies were sent to both the Chambers of Agriculture and of Commerce, who suggested some practical improvements.

Governor Stevenson to Sir E. B. Lytton, Despatch No. 243 of 17th November 1858. First. As regarded engagements in India:—

It was ordered that every person desiring to engage emigrants in that country should deposit with the Protector a requisition, together with security for payment of expenses, available for twelve months, and stating all particulars respecting wages and allowances; a copy of which requisition was to be transmitted with all possible speed to the Government Agent in India, together, if necessary, with the name of any special agent selected by the requisitioner.

Regulations 1 to 5. Special agents might recruit for their principals in Mauritius under certain conditions, viz. that the special agents were duly licensed, on the recommendation of the Protector of Immigrants in Mauritius, by the Emigration Agent, under whose control they were to be, and who had full power, in case of their misconduct, to suspend and withdraw the licence.

Regulation 6. The Emigration Agent, before the signing of any contract, was to explain the same fully to the intending emigrant (if necessary, with the aid of an interpreter), and take all proper precautions to prevent the emigrant from being induced to contract by any fraudulent or false representations.

Regulation 13. On the arrival at Mauritius of the immigrant engaged to an individual employer, the Protector was to publish the same, and further, to register the contract in his books and deliver a copy thereof to the employer, transmitting the original to the Stipendiary Magistrate of the district in which the service was to be performed, and to deliver to the immigrant a ticket bearing his name, number, and marks, along with the name of his employer, the place where he was to be employed, and the date of the registration of his contract.

Regulations 18 to 21. Transfers under Article 11 of the Ordinance were to be made before the Protector or the Stipendiary Magistrate of the district, either of whom had power to sanction the same, if satisfied with the reasons assigned for the transfer, but not otherwise; and never, when the transaction appeared to be a speculation, or a trafficking in the services of immigrants, through the medium of a pretended employer.

Regulations 24 to 29. 403. Secondly. As regarded the allotment of immigrants not specially engaged in India:—

The wages and allowances for the first period of service: three years or under: were to be on the scale fixed by the Government; no alteration of the scale, coming into operation after such allotment, having any effect upon the wages, &c., of those allotted previously.

Regulation 29. Precautions were to be taken against the intervention of middlemen.

Regulations 37 to 42. 404. Minute rules were laid down as to the proportion in which such immigrants were to be allotted to employers wishing to engage them; the general rule being a proportion at the rate of three men for every 100,000 lbs. of sugar produced on the estate of such employer.

405. In the cases both of immigrants specially engaged to individuals, and of those engaged to Government for subsequent allotment, the form of contract is substantially the same; viz.:

Ordinance No. 30 of 1858. No stamp duty. Industrial residence. Redemption. Persons not specially engaged in India. Wide power to make regulations. Ordinance No. 12 of 1855 repealed. Regulations under Ordinance No. 30 of 1858. Framing the regulations.

Engagements in India.

Requisitions.

Special agents might recruit.

Terms of contracts to be explained to immigrants.

Proceedings upon arrival at Mauritius of immigrants.

Transfers.

Immigrants not specially engaged in India.

Middlemen.



"To serve for [ ] years, with double the time of unlicensed absences, and on the expiry of the contract, to enter into new contracts of service, one or more, until they should have completed the full period of five years' industrial residence in Mauritius, together with double the time of unlicensed absences."

406. The last nine regulations contain general rules for the periodical transmission, through the Governor, by the Protector to the Emigration Agents in India, of a statement as to the average rates of wages and allowances for different kinds of agricultural labourers, tradesmen, artisans and domestic servants, from which there should be fixed, under the authority of the Governor, the rates of wages and allowances of ordinary agricultural labourers, to be engaged or allotted during the ensuing year, which scales of wages were to be posted up in different dialects, in and near the depôts, both in India and at Mauritius.

407. All communication by or on behalf of any intended employer, with newly-arrived immigrants, previously to their arrival at the depôt, was strictly prohibited; and the Protector of Immigrants was authorised to refuse to allot immigrants to any employer on its being proved to his satisfaction that the preference declared by any immigrant for any particular employer had been induced by such communication; and also to exclude from the depôt every person who, he should have reason to believe, had come there for the purpose of inducing immigrants to engage with an employer other than the one for whom they had been recruited in India, or whom they should not have selected before arrival at the depôt.

408. Both Ordinance and Regulations were confirmed by the Secretary of State, with exception of the form of contract in Schedule D of the Regulations, which bound the labourer to serve "double the time of unlicensed absences."

To this regulation the Emigration Commissioners had demurred. They considered that much might be said in point of policy (though not of law) for requiring the immigrant to work a number of days equal to that of his unlicensed absences. But to double that number might, in many cases, give the employer an interest in promoting irregularities which he ought to have an interest in preventing.

The law, as it appeared to them, while furnishing the means of enforcing contracts, should yet have a tendency to make quarrels inconvenient, not only to the person guilty of actual misconduct, but to the person whose care and judgment, if properly exerted, might have averted it; and, therefore, they recommended that provision to be expunged from the form of contract.

409. They had, however, overlooked the fact, that the obnoxious provision was no new feature in the immigration system of Mauritius, but merely gave more specific notice of a liability to which all newly-arrived immigrants were subjected by Ordinance No. 21 of 1854; and it had been thus prominently brought forward, in the new form of contract, in order that intending immigrants might be fully aware, before leaving India, that they subjected themselves to this liability in entering upon an engagement of service.

The Duke of Newcastle admitted the oversight, but suggested that the words "as provided by law," should be inserted into the form of contract after the words

"with double the time of any unlicensed absence," in order to make it clear that the obligation would not arise in virtue of the contract, unless the preliminary report to the Magistrate, required from the planter by Ordinance No. 21 of 1854, Article 6, were duly made.

410. One other Ordinance bearing on immigration was passed; viz., Ordinance No. 7 of 1858, to modify Ordinance No. 5 of 1849, as to the tax payable on engagement of New immigrants. It was felt by planters as a hardship that on entering into new contracts of service with their labourers (being New immigrants), before the expiration of the contract upon which the proper stamp duty had been paid under Ordinance No. 5 of 1849, they were required to pay the stamp duty a second time, although the period comprised in their subsisting contracts had not expired.

"Article 1 provided that no stamp duty should be paid for any period of time comprehended in a subsisting contract, when the re-engagement should be made with the same employer."

Article 2 empowered the Magistrate to pass the engagement of New immigrants, free of stamp duty, in case they should be willing to continue to work the remaining portion of their previous engagement, with the master who had lawfully purchased or otherwise acquired the estate to which they belonged.

411. On the 6th May 1859, Governor Stevenson reported that, in consequence of the sudden and extreme illness of Mr. Hugon, he had appointed Mr. Beyts to act as Protector of Immigrants; and of the high opinion entertained by the Governor of this gentleman, and of his special qualifications for the office, we shall speak hereafter (see Chapter XII.).

412. The Government of India (in a correspondence with the Colonial Office, before the appointment of Mr. Beyts could have been known to them) had shown some inclination to assert the right of appointing the Protector, which it possessed under the agreement of 1842 between the Government of India and that of Mauritius (*vide* paragraph 208) and which it considered that the unhappy events connected with Indian immigration to Mauritius that took place in 1855-56, called upon it now to put into force; though expressing at the same time no wish to disturb Mr. Hugon therein. Mr. Beyts therefore continued to act for him.

413. Shortly after, Governor Stevenson appears to have conceived the idea of making several important changes in the immigration system, the result of which would be to put such additional duties upon the Protector as Mr. Hugon, in his shattered state of health, would be unequal to perform; and he consequently urged the confirmation of Mr. Beyts in the office: a proposal which, after being referred to the Governor-General of India, was acceded to.

414. One of the first objects of what has been termed his new institution, the asylum for the care and education of orphan children. Up to that time Indian orphans, though by law under the guardianship of the Protector, had generally been handed over to any private individual who would undertake the manner in which these orphans were treated, and they appear to have been practically to have been lost sight of.

415. In the early part of the year a few orphan children of a nucleus of a future asylum, under the care of Mr. Ansorgé, a missionary, and his wife, who had resided for several years in India; when a letter from Mr. Beyts, of the 6th June, suggesting the foundation of a permanent asylum at which orphans of the receive the elements of industrial and general education, and from which they might afterwards commence their career in life with fair chances of benefiting themselves and becoming useful members of the community, determined the Governor at once to found one on a large scale.

The result was that, in the month of August following, the Governor proposed in Council that for board, clothing, and instruction, an average sum be voted of £10 per annum for each orphan boy, and £8 per annum for each orphan girl, received into the asylum, together with suitable allowance for the superintendent, assistants, and servants. These several sums being voted, the institution was settled in a house belonging to the Government, near the old powder-mill, now the prison, at Pamplémousses.

416. The full effect of the law of 1858 became apparent in 1860 in the very large increase of the immigration, the arrivals in 1859 having reached the enormous number of 44,397 persons, as against 5117 departures; thus showing an increase of population from immigration alone of 39,280, irrespectively of the casualties of births and deaths.

But, large as was this number, it does not appear to have been too large for the immediate wants of the country, as all were promptly engaged, nor for the objects which the Governor had in view: viz., to satisfy the planters, appease the long-sustained cry of insufficiency of labour, and, if possible, settle, for some time to come, the condition of the labour market; and, after having thus satisfied the first large demand for labour, the Governor anticipated that future demands would, of course, become less exorbitant, and enable him to execute the intention he had for some time entertained of discontinuing the Government contingent, which, in 1859, had been fixed at 9000 men.

417. This extensive immigration was not without disadvantages; one of which was a difficulty in procuring the requisite proportion of females; and, on the 14th April 1860, we find the Secretary of State and the Emigration Commissioners remarking, that the proportion of females to males emigrating from Calcutta had in 1859 only been 30.8 per cent., instead of 45 per cent., as had been laid down by Government authority (*see* paragraph 361, N 2).

1859.

Appointment of Mr. Beyts as Acting Protector.

The Protectorate.

Governor Stevenson contemplates reforms.

Establishment of the Powder Mills Orphan Asylum.

Care of orphan children.

Foundation of the Orphan Asylum.

Letter from Mr. Beyts.

Legislative sanction, and vote of money.

Great immigration in 1859.

State of the labour market.

Disadvantages of the great immigration.

Difficulty of procuring the requisite proportion of females.



*Contingent System*): and, as the Duke of Newcastle considered it absolutely necessary that the regulations laid down in that respect should be strictly adhered to, he instructed Mr. Caird to despatch no ship from Calcutta to Mauritius, without the full proportion required by the then existing rule.

418. Governor Stevenson in answer pointed out that, although the proportion of females introduced in the previous year from the three Presidencies had fallen short by 5 per cent. of that required by Mr. Labouchère, the average proportion of female Coolies introduced during the years 1857, 1858, and 1859, had amounted to 42 per cent., whereas it would only have reached 40 per cent. had the full latitude been taken which the regulations allowed; and that he, therefore, had considered that the objects which your Majesty's Government had in view, in fixing definitely the proportion of females to be introduced during 1857 and the three following years, would be sufficiently carried out by requiring that no relaxation whatever should be admitted in the exaction of the proportion fixed for the year in 1860; and that he had instructed the agents accordingly. He, at the same time transmitted communications received from Mr. Caird, from Mr. Beyts, and from the President of the Chamber of Agriculture, which indicated that the rigorous application of a rule requiring that in each ship-load of immigrants females should bear the proportion of 50 per cent. to the males, would be not only prejudicial to the agricultural interests of the colony, but unfairly restrictive of the intending immigrants' freedom of action; and the Government ports of call, allowing them to dispense with a rigid application of that rule, wherever it would be productive of hardship, to the Indians themselves; while, as a power subject, respectively, to the condition that the proportion of 50 per cent. should be allowed to fall below one-third, and, if the deficiency were not made up in other ships during the season, that a yet larger proportion of females should be introduced, without any such discretionary power being allowed.

419. To this the Secretary of State replied, by observing that the conclusion drawn from it was, not that the proportion of females was unreasonable, but that so large an immigration as that of 1859 could not be carried on under the sound and healthy conditions which your Majesty's Government considered it their duty to prescribe; and, therefore, that he could not consent to relax the instructions contained in the Despatch of the 14th April.

More than a month elapsed before this decision was modified, in consequence of the convention with France, under which immigration was permitted to the Island of Réunion, and by which the proportion of females required was only 25 per cent.; a proportion nevertheless to be raised, in the event of that emigration continuing, until it equalled that required in the British colonies. It was, therefore, notified to the emigration agents that, for the present, they would be at liberty to despatch any ship in which the number of females should be equal to one-fourth of that of the males, in case of their finding themselves unable to obtain a greater number.

This decision, when communicated to the Council, gave general satisfaction, and, it was stated, relieved the planters of very serious apprehensions.

421. On the 29th February 1860, Mr. Beyts submitted to Governor Stevenson his first annual Report upon the working of the immigration system for the preceding year, and in it recommended one fundamental change in the law, viz.:—

"An alteration of the form of the first contract of service, with the view of rendering its duration co-extensive with the industrial residence of the immigrants; the continuance of the contract beyond three years being expressly rendered, not only liable to a continuing increase of wages, but, contingent on the due fulfilment, by the employer, of all his obligations towards his servant; and subject, likewise, to the immigrant's being free to redeem the residue of his industrial residence, as he now is, after his first three years' service."

Mr. Beyts proceeded to show that this measure had already been to some extent adopted, with the sanction of the Secretary of State, in Jamaica, where the immigrant on arrival was assigned for a period of five years, subject to certain restrictions whereby it might be determined at an earlier period (Article 20 of Immigration Act of Jamaica, passed in November 1858), and he expressed his opinion that all parties in the colony would benefit by the change, which would further considerably simplify the administrative machinery through which immigrants were governed.

422. Governor Stevenson, in consequence, was induced to re-open the question of five years' contracts, which, as we have seen (paragraph 399), he had urged without success upon the Home Government in 1858. He was inclined to adopt the belief generally held, that there would be something in the first engagement being for the full industrial term that would make both parties feel more settled in the probable duration of their reciprocal connexion, than could be the case where, under any circumstances, it must determine at an earlier given time, and might only be renewed after the first engagement came to an end: a system under which the immigrant remained undecided up to the last moment, as to whether he would re-engage or not, and uncertain whether he would be re-employed or not; while the master remained uncertain whether he were to retain the services of his immigrants (or possibly a large band of them, if all their engagements happened to expire, as often did happen, about the same time), or to look out, perhaps at a critical moment of his crop, for their immediate replacement by others, who possibly might not be obtainable at any price.

It was at such critical times, too, that employers of more elastic consciences were busily on the look out for fresh hands, whom they directed their sirdars to entrap into their service, regardless of any pledges and promises of continuing services which the immigrants might have made with their first masters.

423. There was, in addition, a financial difficulty in the existing system regarding the receipt and payment of the money to be paid by the new and returned to the first master, who had advanced the whole expenses of introduction. A proportionate part of the latter the old master was entitled to receive from the second employer of his immigrant, who paid it in the shape of stamp duty on his engagement; so that the difficulty ran through no fewer than four Offices, viz.: the Magistrate's, the Collector of Internal Revenue's, the Protector's, and the Auditor's. For these reasons the Governor warmly seconded the recommendation of Mr. Beyts, expressing the hope that the Duke of Newcastle would, after reference to the Secretary of State for India, sanction his making the proposed alterations.

424. On the 17th August Governor Stevenson laid before the Council the answer in which His Grace stated that the reasons adduced by him, and by Mr. Beyts, did not appear to him to afford sufficient reason for placing Mauritius in a position of exceptional advantage in comparison with other Coolie-employing colonies, and declined to sanction the extension of the term of contract; but, as a remedy for the alleged inconveniences, he suggested the adoption of a system similar to that of British Guiana, which provided for the tacit renewal of the three years' contract, in case of the immigrant's failing, three months previous to the termination of the original contract, to apply to the Immigration Agent, with a view to commutation or to re-indenture with a different master. This suggestion was embodied in Ordinance No. 65 of 1860.

425. The Ordinance did not pass without opposition, for the 8th Article extended its provision to the New immigrants in the colony, at the date on which it should come into operation, as well as to those to be introduced subsequently; thus making the Ordinance retrospective. From this provision the Hon. Mr. Kerr, the Auditor-General, dissented; and his reasons were recorded in the Minutes of Council. His chief objections were, that it was sought by the 8th Article to introduce into an already subsisting contract a fresh obligation, of which the party more peculiarly to be affected thereby had, at the time of entering into his contract, no knowledge; the impossibility of making the Ordinance known to all New immigrants, and the hardship with which the consequences of non-compliance would be regarded; leading possibly to irritation of feeling amongst the Indian population generally.

426. To this Ordinance there were, however, several objections, which were immediately pointed out by Mr. Beyts in his second annual Report of 28th January 1861; the chief being the complications attendant upon the right conferred by Article 7 of Ordinance No. 12 of 1855, on those introducing immigrants at their own expense to receive from Government, in the event of any such immigrant electing to redeem the last two years of his industrial residence, or of his engaging to another master, any sum paid by such immigrant so redeeming, or by such master by way of stamp duty on the engagement. This rendered necessary the keeping of an account current by the Government between every New immigrant not imported at Government expense, and the employers who successively became entitled to reimbursements in respect of introduction;

1860.

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Higginson's  
suggestion.The Secretary  
of State will  
not relax rule  
to proper.

Proportion

State of 21.9.  
60.First annual  
Report of the  
Protector.Five years'  
contracts re-  
commended  
by the Pro-  
tector.

1860.

Governor  
Stevenson re-  
opens the  
question of  
five years'  
contracts.Financial  
difficulties.His Grace  
Newcastle's  
decision.Guiana  
system.Ordinance  
No. 65 of  
1860.Mr. Kerr  
opposed to  
Article 8.Mr. Kerr's  
reasons for ob-  
jecting to  
Article 8.

1861.

Objections to  
Ordinance  
No. 65 of 1860,  
pointed out in  
the Protector's  
second Report.

1861.

Mr. Beyts' remarks upon its working.

and Mr. Beyts ended the 64th paragraph of his Report with these words, which Governor Stevenson adopted as precisely expressing his views on the subject:—

"Let the engagement appear to be what in reality it is, viz.: an engagement for five years, subject to its determination at the end of the third or fourth year, if the immigrant at either of these periods wishes to leave his employer, and refunds, or procures another employer to refund for him, either two-fifths or one-fifth of the actual cost of his introduction, according to the time of service he may still have to go through."

He proceeded to recommend that Ordinance No. 65 of 1860 be not carried into operation, and further called attention to the fact that permission to enter Mr. Beyts' Report into *absolute five years' contract* had been granted to the French colonies employing immigrants.

Governor Stevenson urges the allowance of five years' contracts.

427. Governor Stevenson, in transmitting Mr. Beyts' Report, urged upon the Duke of Newcastle to re-consider his decision of the previous year, and submitted that the advantage might

"be conceded to Mauritius, not as a special boon, but as the fair and reasonable privilege of a British colony, which spares no pains to make the condition of the immigrants perfect, to be put on a par with a foreign rival."

The Duke of Newcastle approves of five years' contracts.

This Despatch produced the result which had so long been desired by the colony; and, on the 2nd July 1861, Governor Stevenson submitted to the Council a Despatch of the Duke of Newcastle, stating his intention of advising the confirmation of an Ordinance which should give effect to the views embodied in the 64th paragraph of Mr. Beyts' Report.

1862.

Passing of Ordinance No. 16 of 1862.

Observations of the Chamber of Agriculture.

428. The draft of the new Ordinance was laid before the Council on 15th November 1861, and it was duly published in the 'Government Gazette' of the 30th November, with the usual intimation that observations thereon would be receivable until the 16th of December. In compliance with this notice, the Chamber of Agriculture made several observations, the most important of which referred to Articles 6 and 19. Article 6 proposed that contracts should be for five years,

"subject to any one or more breaks, after the third year thereof, according to regulations existing at the time."

To this right of determining the contract the Chamber objected, and urged that a continuous engagement for five years being allowed in the case of Indians emigrating to Réunion, Mauritius, a British colony, should not be placed in a less favourable position.

The Chamber further pointed out that the option left to the labourer to break his first engagement, and to serve a second employer, offered a premium to crimping and the disorder attendant thereon; and, therefore, proposed that the final clause above quoted should be withdrawn from the Article:

Article 19.

By Article 19 of the draft Ordinance, unlawful absences were made punishable by the following penalties, and no more:—

1st. The employer may lawfully withhold the wages and allowances for the whole time of such absences.

2nd. The immigrant shall, at the option of the employer, be sentenced by the Stipendiary Magistrate to imprisonment for a period not exceeding 14 days, or to a prolongation of his service for such absence.

Article 25.

By Article 25, the 3rd Article of Ordinance No. 21 of 1854 was repealed, thus abolishing the forfeiture of the "double cut," together with the alternative indemnity requiring the immigrant to make good double the time of his absences at the end of his engagement.

This proposed alteration of the law the Chamber described as being, "in fact, the 'protection of indiscipline,'" and pronounced the first of the remedies proposed to be substituted as too remote to exercise any deterrent influence upon the Indian, and the second as serving to fill the prisons, which would have to be enlarged, and as being of no value as a pecuniary compensation for the injury inflicted by the labourer upon the employer; and, after alluding to the reproach of irregularity in the deduction of this penalty which had sometimes been put forward by those opposed to it, proposed to place the pay-books and pay-lists under the control of the Protector, and invoked a strict execution of the provisions of the law protecting the interests of the labourer; concluding by

"earnestly entreating the Governor in Council to maintain the principle of the existing law, which experience had shown to be the promoter of order and discipline."

429. The second reading of the Ordinance commenced on 11th February following,

Appendix to Minute of Council No. 9 of 1862, page 39.

when the consideration of the 6th Article was deferred, and it did not pass until the 4th of April, when, after the receipt by the Governor of a communication from your Majesty's Consul at Réunion, informing him that all contracts with Indian immigrants from British India were made for five years, without break; exceptions only being made in cases of ruptures of engagements between masters and men by special and mutual consent; the Article was passed in an amended form which simply bound the immigrant to a service of five years, without power of redemption. At the same time, Article 19 of the draft Ordinance was withdrawn, and two new Articles numbered 18 and 19 were substituted. By the former, the forfeiture of the "double cut" was re-enacted with the alternative penalty of fourteen days' imprisonment, or (at the option of the employer) of a prolongation of the contract equivalent to the time of absence.

At the same time the right was reserved to the immigrant so sentenced of redeeming such prolongation by a payment to his employer at the rate of 6s. for every calendar month so prolonged.

Article 19 takes away the power to inflict any of the above penalties, if the wages of the immigrant shall have been unpaid for any period longer than two calendar months before his absence, or if more than two calendar months shall have elapsed between the immigrant's return from such absence and the application of the forfeiture, or the lodging of the complaint against him, as the case may be; or, if the employer shall have refused an application for payment of the wages lawfully due to the immigrant before the time of such absence.

The object of this Article, as stated by the Procureur-General, is to provide that no employer shall be

"entitled to have his labourer punished for unlawful absence, if he has not himself

"performed the obligations under the contract; a provision just and equitable in

"principle, and which will tend to check the present too common practice of

"allowing the wages of Indian labourers to run into arrear."

An excellent provision on the part of the Legislature, but one which, as we shall see, has failed, either from what is admitted by the planters to be their own fault, or from the law, and from the unavailability of the law enforced.

A further object of this Article, as with Article 4 of Ordinance No. 21 of 1854, is to us to be, to ensure that the charge of absence shall be brought to the notice of the immigrant within such a reasonable time as would enable him to rebut it in case of being unjustly laid.

The remaining Articles define the rights and obligations of planters and of immigrants, in the event of the alienation of the estate during the currency of the contract.

Contracts with women are sanctioned, whether entered into in India or Mauritius, with the proviso that they shall not be made for any period longer than one year, and that they shall be subject in special cases to modification, or even suspension, by the Protector or the Stipendiary Magistrate.

Power is given to the Protector to visit and inspect personally, or by deputy appointed in writing, any estate or premises (except private dwelling-houses) in which any immigrant is employed, and any person obstructing him is rendered liable to a fine not exceeding £20, or to an imprisonment not exceeding one month.

The penalty of three months' imprisonment is incurred by any one impersonating an immigrant, or obtaining or attempting to obtain a ticket by fraudulent means, as well as for improper use of any such ticket.

430. This Ordinance was read the third time and passed as No. 16 of 1862 on the 22nd April, and by it the law of immigration was placed upon the footing on which it stands at the present day.

431. A few weeks before this Mr. Beyts had submitted to Sir William Stevenson his Report upon immigration for the previous year, in which he gave his opinion upon the matters then under the consideration of the Council, and he indulged in reflections on how far the laws in their then present shape, and the mode of administering them, effectually held out relief to the immigrant; a reflection suggested by the large number of convictions obtained against employers for non-payment of wages; and he came to the conclusion that in several material points they were defective.

The right of appealing to the Supreme Court he pronounced perfectly illusory, owing to the attendant difficulties and expenses; and he suggested that the want of an easy

1862.

Second reading of Ordinance No. 16 of 1862.

Article 6.

Article 19 of draft.

The "double cut."

Prolongation.

Redemption of Prolongation.

Article 19.

Where penalties cannot be enforced.

The Procureur-General's opinion.

Failure of provision through general non-observance.

Provision for alienation of estate.

Contracts with women.

Inspection of estates.

Impersonation of immigrants.

Third reading and passing of Ordinance No. 16 of 1862.

Five-year contract legalised.

The Protector's annual Report for 1861.

Laws defective in protecting immigrants.

Right of appeal illusory.



1862.

Suggestions  
as to appeal.

means of appealing from the decisions of the Stipendiary Magistrates might be remedied by investing a Bench of Magistrates in Port Louis with a summary appellate jurisdiction, and by giving the Protector the right of moving the Court so constituted, on behalf of any immigrant who might appear to him to be aggrieved by the judgment below.

He further suggested that the Protector should be invested with full powers of inspection and enquiry, extending even to the proceedings of the Stipendiary Court, so that he might fully ascertain that the obligations of the master were fulfilled towards the servant. These, together with certain recommendations as to the mode of dealing with illegal absences, he considered indispensable precautions, without which he could not approve of the extending the contract to a period above three years.

Continued by  
the Home  
Government.

432. The Duke of Newcastle, though expressing some doubt as to the propriety of allowing the master,—

Despatch No. 794  
of 11th October,  
1862, page 222 of  
Minutes of Council  
of 1862.

“in any case to constitute himself the judge between himself, and his servant, and to mulct the latter’s wages for his own benefit,”

confirmed the Ordinance, subject to the adoption of the modifications recommended by Mr. Beyts.

1863.

Ordinance  
Nos. 11 and 28  
of 1863.

433. In compliance with these instructions a draft Ordinance “to amend Ordinance ‘No. 16 of 1862,’ was prepared and published in the ‘Government Gazette,’

and came on for the second reading on the 13th February, when observations on the draft were read, which had been received from the Stipendiary Magistrate of Pamplemousses and the President of the Chamber of Agriculture. Both of

Observations  
of Mr. Renouf,  
and of the  
Chamber of  
Agriculture.

these regarded the proposed extension of the powers of the Protector, to initiate appeals on behalf of Indians, with considerable jealousy; the

Appeals.

Chamber of Agriculture describing them as “unnecessary and somewhat dangerous;” and Mr. Renouf pronouncing them, if sanctioned, an “humiliation” to the

Stipendiary Magistracy, and expressing his fear that such a proposition would weaken the influence by which they were

“enabled to maintain order and discipline on the estates.”

The double  
cut.

The Chamber of Agriculture also took exception to the use of the word “punishment,” in connection with the forfeiture of the double cut for illegal absences, on the ground that,

“it is the amount of damages, assessed beforehand to avoid the necessity of daily

“applications to the Stipendiary Magistrates; and the employer, by accepting it,

“waives his right to have the Indian punished for his breach of contract.”

Proposed  
repeal ofArticles 18  
and 19 of  
Ordinance 16  
of 1862.

434. The first Article of the draft Ordinance was then withdrawn by the Procureur-General, and the remaining Articles referred to a Committee consisting of the Procureur-General, the Treasurer, and the non-official Members of the Council.

The first Article thus withdrawn proposed the repeal of Articles 18 and 19 of Ordinance No. 16 of 1862, relating to the punishment of illegal absence, and ran as follows:

“Any immigrant who shall unlawfully absent himself from work (besides losing

“all claim to wages and allowances during such absence), shall be liable to any

“one of the following punishments, at the option of his employer, viz.: Forfeiture

“to the employer of one half-penny for each shilling, of his monthly wages, for

“each day of absence.”

“Imprisonment for a period not exceeding fourteen days.”

“Prolongation of his contract of service, for a period equivalent to the time of

“absence.”

“Such punishment may, and shall be, inflicted by the Stipendiary Magistrate of

“the district, on complaint by the employer, lodged not later than two calendar

“months from the last day of the alleged absence.”

Laying of  
complaint.Punishment  
of unlawful  
absence.

435. It will be seen that in the amendment thus proposed stress was laid upon the alternative character of the several penalties to which the absentee would render himself

liable; and that the imposing of them is restricted to the Stipendiary Magistrates, instead of permitting the forfeiture of the “double cut” to be applied in the first

instance by the employer, subject to justifying the same to the Magistrate, only in the event of the complaint of the immigrant.

Report of the  
Committee of  
Council.Minutes of Council,  
No. 6 of 1863,  
paragraph 5, page  
85.

436. The Report of the Committee upon the remaining Articles was settled at a meeting held on the 19th March, when there were present Mr.

Dickson the Procureur-General, as Chairman, and Messrs. C. W. Wiéhe and F. H. Pitot, both unofficial members and leading planters in the colony;

and submitted to the Council on the following day.

Objection was taken in it to the latitude allowed in appeal cases by Article 2 of the draft Ordinance, in the matter of receiving evidence additional to, or in lieu of, that adduced before the Magistrate, and the opinion was expressed that the new Court of Appeal should consider and decide the case upon the same evidence as that taken before the Magistrate. The Committee further objected to the power given by Article 3 of the draft Ordinance to the Protector, of promoting appeals, considering

“that such a power would open the door to much abuse, and to an unnecessary

“interference by that officer, in cases which the parties concerned would be content

“to leave to the adjudication of the Magistrates; that a power of this nature, if

“entrusted to a man of a peculiar temperament, or of an officious and meddling

“disposition, would tend to produce discussion between master and servant, while

“it would weaken materially, without any corresponding advantage, the influence

“of the Stipendiary Magistrates, on whom, rather than on the Protector of Immi-

“grants, the labourers should rely for justice between themselves and their

“employers.”

They, therefore, proposed that the right of intervention of the Protector should not accrue until after the appeal had been made.

The Report concluded with a statement of nine reasons why, in the opinion of the Committee, the proposed change in the system of appeals from the Supreme Court to a Bench of Magistrates was inexpedient; though, at the same time, not thinking it of

sufficient importance to justify the rejection of the draft Ordinance, and thereby postpone the bringing into force of the system of five years’ engagements

“so long and anxiously sought for.”

437. On the 27th March the draft Ordinance as thus amended was passed as Ordinance No. 11 of 1863.

438. In deference, therefore, to the above opinion, supported by that of the Officer administering the Government (General Johnstone), and that of the Law

Officers of the Crown, the Duke of Newcastle authorised the repeal of this last Ordinance, provided that the 2nd and 3rd Articles, which seemed

calculated to meet a substantial evil, were re-enacted. Of this permission

advantage was promptly taken by the passing, on the 2nd October, of Ordinance No. 28 of 1863.

This Ordinance, which is still in force, enacts:

Article 2. In any case of appeal against any judgment of any Stipendiary Magistrate, the Protector of Immigrants shall have the right to intervene, and

appear on behalf of any immigrant labourer having an interest in the cause.

Article 3. When any action of damage shall lie at the instance of any immigrant aforesaid against any persons chargeable with any official duty, in relation to any

complaint by, or against, such immigrant, or in relation to any matter arising out of any contract of service of such immigrant, such action being grounded on any

neglect or misconduct in relation to such duty, the Protector of Immigrants shall (subject to the orders of the Governor) have the right to institute and carry on such

action and to obtain and cause to be executed judgment therein, for and on behalf of the said immigrant.

Any such action, at the instance of the said Protector, shall not be challengeable on the ground that it embraces the rights of action of two or more immigrants

concerned,—provided the said rights are founded on the same facts and law; but, without prejudice to the Court, or Judge, before whom such action may be brought,

directing that such proceedings in the same be conducted in such manner, by way of division or separation of the said rights or interests, as may be deemed just by

the said Court or Judge.

439. But, though by this Ordinance certain powers were nominally conferred upon the Protector, no provision was made for communicating judgments to him, nor was any

power given him to refer to the records of the Magistrates, to see what the judgments were; and the law, consequently, remained a dead letter until April 1872.

1863.

Appeals.

Objections to  
the Protector's  
promoting  
appeals.Interference of  
Protector  
allowable only  
after appeal  
instituted.Ordinance  
No. 11 of 1863  
passed.Ordinance  
No. 28 of 1863.Prot  
inter  
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tector may  
institute  
action for  
immigrants.Where want  
of form not a  
bar.Ordinance re-  
mained a dead  
letter until  
April 1872.



## CHAPTER VIII.—State of the Colony from 1862 to 1867.

1862-63.

Retrospect of  
the history of  
immigration.Ordinance  
No. 4 of 1864.Legislation  
between 1862  
and 1867.Bounty  
System,  
1842 to 1844.The Contingent  
System.New and Old  
immigrants.

Industrial residence.

Abolition of  
return pas-  
sages.Modification  
in Order in  
Council, 7th  
September  
1838, chap. ii.  
sect. 4.Contracts  
made in Ma-  
uritius for three  
and five years  
legalised.Position of Old  
immigrants  
previously to  
Ordinance  
No. 31 of 1867.Repeal of  
Court  
Ordinance  
No. 12 of 1855.

440. As we have mentioned before, by the passing of Ordinance No. 16 of 1862 the law of immigration was placed upon the footing on which it subsists at the present day; and the principle of that law was extended by Ordinance No. 18 of 1864, so as to allow similar contracts of five years' duration to be made in the colony; and at the same time certain contracts of service for that period, which had been entered into before Magistrates upon the erroneous supposition that they were sanctioned by the Ordinance at the time, were legalised; a measure necessary for public order, no less than for giving effect to the true intentions of the parties.

441. Between 1862 and 1867, when the New Labour Law was passed, Ordinances were enacted which have exercised an important influence upon the condition of immigrants in the colony, and which will be found specially noticed in other chapters of this report (as Ordinance No. 4 of 1864 on "Vagrancy," paragraph 1998 and following; Ordinance 29 of 1865 on "Hospitals," paragraph 2124 and following), but there was no alteration in the law regulating the introduction of immigrants, nor modifying the conditions of the contract.

It may, therefore, be well, at this point, very shortly to review the different phases through which immigration to Mauritius had passed since its re-opening in 1842, before it assumed its present form.

442. From 1842 to 1844 the Government of Mauritius paid a bounty upon each male immigrant to his introducer, to which sum the planter added a premium.

443. After Mr. Anderson's mission to India (paragraph 218 and following of *Early Immigration*) this system was changed for the "Contingent System," according to which immigration was conducted exclusively under Government agency; the Government fixing by conjecture the number required to be introduced annually, without, however, knowing accurately beforehand what would be the wants of the colony; and hence arose the disorder already described, at the dépôt. Further, no contracts could be made until 48 hours had elapsed from the landing of the immigrant, Order in Council and not then for a period longer than twelve months, at the expiration of which the immigrant was bound by no further obligation, but was free, if he pleased, to abandon field-work altogether, and to return to India; the only privilege which he forfeited being, in the latter case, that of the return passage. This period was quite insufficient to reimburse the colony, or the planter, for the expenses of the introduction, and gave rise to a system of crimping throughout the island, as discreditable to those who connived at, as it was injurious to those who suffered from it.

444. By Ordinance No. 22 of 1847 and the subsequent Ordinances based upon it (Ordinance No. 25 of 1848, and Ordinance No. 16 of 1852), the distinction was created between the status of New and Old immigrants, and an industrial residence of five years was made a condition for the attainment of the latter position; and by Ordinance No. 16 of 1852, the right to the return passage was abolished.

445. By Ordinance No. 3 of 1849 contracts made in the island for three years were legalised, a privilege which, after many ineffectual efforts, was, by Ordinance No. 16 of 1862, further extended to five years; thus rendering the duration of the first engagement co-extensive with that of the industrial residence. And by Ordinance No. 30 of 1858, passed in consequence of the scandalous system of crimping and abduction which prevailed on board the Coolie ships and in the dépôt, contracts made in India, to be performed in Mauritius, were declared legal.

446. Thus an immigrant who had completed his industrial residence and obtained his ticket of Old immigrant, was thenceforward left perfectly uncontrolled, so long as he could prove himself not to be a New immigrant. And so long as he abstained from crime, or any breach of the Vagrancy Laws, he had full liberty to re-engage on an estate or to betake himself to any other branch of industry which he pleased, and which he might change again when, and as often as, he thought proper; or, further, he might live upon his friends, if they were content to receive him, and not work at all.

Ordinance No. 30 of 1858, or rather Ordinance No. 12 of 1855, had removed all restrictions as to the numbers of immigrants to be introduced in each year.

447. We have drawn attention (paragraph 416 of *Adoption of the Present System of Immigration from Contracts in India*) to the enormous immigration that took place in 1859, which the following Table will show, as well as the numbers that arrived in the succeeding years:—

| YEARS.                               | MALES. | FEMALES. | TOTAL.  |
|--------------------------------------|--------|----------|---------|
| 1859                                 | 31,643 | 12,754   | 44,397  |
| 1860                                 | 9,070  | 4,216    | 13,286  |
| 1861                                 | 10,232 | 3,753    | 13,985  |
| 1862                                 | 7,440  | 2,453    | 9,893   |
| 1863                                 | 3,667  | 1,587    | 5,254   |
| 1864                                 | 5,649  | 1,926    | 7,575   |
| 1865                                 | 14,910 | 5,373    | 20,283  |
| 1866                                 | 3,702  | 1,894    | 5,596   |
| Total Immigration in the eight years | 86,313 | 33,956   | 120,269 |

The immediate result of this immigration was the production of an amount of sugar hitherto without parallel.

The crop of 1862-63 was the largest ever made in the colony, having been computed at 165,000 tons, an excess of more than 50,000 tons over the crop of the preceding year; and notwithstanding that the construction of the railroads had consumed £300,000 reserve balances, which would require the financial matters of the colony to be managed with much circumspection, its general condition was reported to be favourable.

448. Such was the condition of Mauritius when, in November 1863, Sir Henry Barkly assumed the Government; and such it appears to have continued through the first half of the year 1864; for, writing on the 18th July of that year, Sir Henry Barkly described his first impression of the island as having been one in the main

"of unbounded surprise and admiration." He added, however, that there could not but be cause for anxiety as to the future of any country which depends solely on a single staple: especially one which, as the sugar-cane in Mauritius, is also peculiarly exposed to injury from hurricanes, as well as from insect plagues, by one of which (the "*pau à poche blanche*") the crop of 1865 was at that very moment being menaced with destruction.

449. There were not wanting, likewise, discordant elements in the social and political condition of the island. Nevertheless, he regarded its position as sound and satisfactory, and he expressed himself sanguine

"that it will pass through any trials that may be in store, if not unscathed, at least without serious permanent injury."

Such a period of trial Mauritius was then about to undergo.

450. The year 1864 was by no means a prosperous year to the planters, owing to a short crop,

"not compensated, as at its commencement, by a continuance of high prices."

It might, indeed, be described, Sir Henry Barkly wrote, "as a year of disappointment rather than of ruinous loss."

451. In the two days preceding the 12th of February 1865, there had been a considerable fall of rain, although nothing unusual for that season, which had caused the level of streams and rivers to rise gradually, when, on the evening of that day, there occurred a storm of rain so violent, that the rivers suddenly rose several feet, and an inundation, nearly general, was the result; the effects of which were most seriously felt in and near Port Louis and the lower parts of Pamplémousses and the Black River districts.

452. By this sudden visitation the unhealthiness of Port Louis, always great, was seriously increased.

"Throughout the lower part of the town exhalations of the most noxious character emanated from decaying animal and vegetable matter which had been deposited by the floods in the streets, the drains, and even the lower stories of the houses. Agencies that are recognised as the most fruitful in generating epidemic disease, were operating on all sides,

1865.

"not in the hidden manner by which man's efforts to ward off the approaching pestilence are so often baffled, but with an undisguised virulence that left no doubt where the danger lay or what should be the means taken to avert it."

So wrote Sir Henry Barkly in transmitting for confirmation an Ordinance "to extend the powers of the Board of Health to borrow money on the security of the rates."

Blamable apathy of the municipality of Port Louis.

Within the limits of the municipality it was almost impossible to stir without the cordial co-operation of the civic authorities, and these appear to have shown an apathy to which must be ascribed a large measure of the calamity of 1867; for, notwithstanding the state of things described by Sir Henry Barkly in the Despatch quoted, and notwithstanding a report made by Dr. Edwards, the General Sanitary Inspector, in which he drew attention to the state of the town in terms which ought to have alarmed the most careless and insensible, and demonstrated that some 2000 lives might have been saved in the year in a town of only 80,000 inhabitants, if the death-rate had but been the same as in the adjacent district of Black River; yet neither the Mayor nor his Councillors showed any sign of being roused to active exertion.

Drought and consequent short crop.

453. To the inundation above mentioned there succeeded a drought, and the effect of the two causes combined was seriously to reduce the crop from what at its commencement was estimated at 140,000 tons, to a quantity but little over 120,000 tons.

Causes of the agricultural crisis.

454. A crisis in the fortunes of the colony which occurred in 1865, is thus described by Sir Henry Barkly:—

Calamities in India press on Mauritius.

"Although a third unfavourable season in succession, combined with low prices, presented serious difficulties to the planting interest, such a reaction as the above would not of itself have sufficed to turn the disastrous consequences which ensued, had its effects were intensified by the state of things which affected this colony in two very opposite ways, each tending to hasten the numerous failures which occurred towards the close of the year.

1865-66.

The crisis of 1865.

Death of the...

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hurricanes and inundations which happened both in the Madras and Bengal Presidencies were attended with such destruction of the grain crops, that prices rose rapidly, and exportations to other countries greatly declined.

"As the annual consumption of imported rice in this island, not to speak of dholl, grain, &c., is but little short of a million bags of 164 lbs. each, a rise of some two dollars a bag was extremely serious; and the expenses of the planters, who have to provide food for the labourers on their estates, were largely increased.

"Simultaneously with this rise, multitudes were driven by the pressure of want to emigrate from India to Mauritius, as already described; and the planters, who, from the slowness with which their requisitions for labour had of late years been complied with, had acquired the habit of applying for twice as many hands as they really wanted, found themselves unexpectedly called to defray the expenses of introducing, as well as of supporting, a large number of additional people.

"The prospective advantage of this extra supply of labour was so evident that the earlier arrivals were hailed with acclamations; and even when ship after ship continued to pour in from Calcutta during the last quarter of the year, every effort was made by those in whose names the immigrants had been engaged to provide the necessary funds to pay for their introduction; but as this must have amounted in the aggregate to nearly a million of dollars, the strain on the resources of the planters, already struggling against the drawbacks previously enumerated, may be conceived; and it will be easily understood that the credit of many of them did not prove eventually equal to the exertion.

"These causes, combined with a want of confidence in the future on the part of capitalists, prompted apparently by a growing conviction that the cultivation of beet-root in Europe is spreading to an extent which must prevent the price of cane-sugar from ever rising for any lengthened period much above the cost of its production, even in the most favoured localities, led towards the close of 1865 to an agricultural crisis in Mauritius of greater severity than has, I believe, prevailed since that which followed, in 1847, the equalisation of duties on foreign and colonial sugar.

Want of confidence in the future of cane-sugar.

"A large number of proprietors were ruined; many properties changed hands; many others were thrown into sequestration, and it can scarcely be said that reliance on the stability of all who had weathered the storm was fully re-established, when the news of the commercial panic at home came to create fresh alarm and revive forgotten apprehensions.

"Fortunately the season has been most favourable, and the crop now commencing cannot be calculated at less than 150,000 tons. An excellent market for about a third of this quantity is open in Australia, and if the remaining two-thirds meet but the present low quotations in England and France, the results will still, on the whole, leave a fair margin of profit.

"I confidently trust, therefore, that the danger is over, and that, as usually happens, after a violent commotion of the sort, matters stand upon a sounder footing than they have done for several years."

455. Unfortunately this hope was not destined to be realised; for, though the prospects of the colony at the opening of the year (1866) appeared brighter than they had been during the unfavourable seasons of 1864 and 1865, they grew gradually gloomy as the scarcity of rice in Bengal raised that article to a famine price in the island, and the long-continued drought reduced the sugar crop to two-thirds of what had been expected by the planters."

Such was the report made by the Governor, and should corroboration be required, it is amply borne out by a reference to the newspapers published at that time; and, notwithstanding that Dr. ICery when before us retained no precise impression upon the point, we must accept it as a fact that the close of the year 1866 was one of very general distress, as we find that the Government received information which it considered sufficiently serious to call forth a circular on this subject, which was issued on the 5th January 1867, in which allusion is made to

"the large number of immigrants whose engagements have recently been broken, and in such cases, therefore, it is the duty of the Magistrates to see that immigrants understand their rights, and have it explained to them that rice is likely to continue dear and work scarce for some time to come" (see also paragraphs 472 and 532 and following of *The New Labour Law of 1867*).

About the same time too, several estates on the coast and in the northern part of the island which had formerly been flourishing properties, owing to the increasing drought ceased to be productive, and were withdrawn from cultivation and sold, and the men then paid off, while owing to the general depression and consequent cessation of demand for labour, the immigration establishments in India were cut down in every way that was practicable, as we learn from a Minute of Mr. Beddingfield, the Colonial Secretary, dated the 18th January of this same year.

456. The drought further pressed with great severity upon the small cultivators and market-gardeners, an industry carried on chiefly by Old immigrants, and one which, therefore, had now to be restricted to the very limited areas in the colony, where the supply of water still allowed the watering of vegetables, and thus many Old immigrants were reduced to destitution. Above 4000 returned to the sugar estates; but many others, being compelled to abandon gardening, came to Port Louis, or congregated in the various villages, where they could receive assistance from their friends and acquaintances. Many planters too,

"owing to those financial difficulties, and to the shortcomings of their crops, had reduced their expenditure, by sending away a large number of their unengaged labourers, and these flocked into the town and increased to an amazing degree its already too crowded condition."

457. Thus the condition of Mauritius at the opening of 1867 was but melancholy. A succession of bad years culminating in a serious agricultural crisis had caused widespread distress among all parties, while the existence of the same causes in India had contributed to swell an immigration whereby thousands were introduced into the island debilitated from previous starvation, and therefore peculiarly liable to suffer from any unhealthy influences to which after their arrival they might be exposed. Such influences existed in abundance, owing to the natural unhealthiness of Port Louis, of its suburbs, and of the villages which had been allowed to spring up regardless of the most elementary sanitary precautions, and intensified at that particular time by an overcrowding, caused by the influx above mentioned of destitute persons from the country.

Many proprietors ruined.

Good prospect for 1866.

1866 a year of general distress. Rice at famine price. Sugar crop only two-thirds of what anticipated.

Circular issued by Government.

Dearness of rice. Scarcity of labour.

Estates thrown out of cultivation.

Great drought.

The market gardeners suffer severely.

4500 Old immigrants returned to the sugar estates. Many Old immigrants thrown upon their friends.

1867. State of the colony at the beginning of 1867.

Enfeebled state of the New immigrants.

124612



Under such circumstances it is no wonder that pestilence should have broken out; nor that, when it did break out, it should have been, relatively to the population and the area subject to its ravages, one of the most terrible on record.

458. Towards the end of 1865 intermittent fever occurred simultaneously in various parts of the district of Black River, which became aggravated in January and February following. On the "Albion" Estate, a band of labourers employed to remove a bank of black mud which impeded the entrance of one of the tidal back-waters (locally termed *Barachois*), was first struck down by it; thence it spread to the adjoining estate "Gros Cailloux," and further southwards for some three miles to the village of Bambous; while northwards, passing through Port Louis, it stopped at the village of Pamplémoussés.

The disease was not of a severe type, and the mortality, except at Petite Rivière and in its vicinity, did not exceed the average; and, in the months of October and November it had so far diminished as to lead to the supposition that it was about to become extinct.

459. In the month of December 1866 the disease, however, recommenced; but, though it spread all along the leeward shores of the island, Port Louis being especially affected,

"nothing much was thought of the matter" until the beginning of February; matters then were evidently growing serious.

Apart from the usual bad condition of the town, intensified by the causes above mentioned, the season was most unfavourable, the unusual drought having been succeeded by an unusually hot summer; and, when fever became rife in Port Louis, it was clear that no human skill or forethought could avert a terrible devastation; though even then, the full measure of the calamity was not anticipated, even the most apprehensive.

460. To increase the evil, the authorities at that time were in a very little prepared to encounter a visitation such as that which was then imminent.

461. By an Ordinance passed in November 1866, but which only took effect on the 1st January 1867, the Local Boards of Health, as constituted under Ordinance No. 18 of 1860, with the exception of that of Port Louis, had been abolished, and the General Board of Health invested with the sanitary charge of all the rural districts of the island.

This change necessarily, at first starting, occasioned some difficulties; and, unfortunately, the Local Boards (whose administration appears to have been distinguished by an inefficiency only to be equalled by its costliness and negligence), with scarcely a single exception, left their affairs in such confusion, and so burdened with debt, that some little time was needed to enable the General Board to introduce a more regular and effective supervision and to organise a proper sanitary staff.\*

Further, owing to the previous singular exemption of Mauritius from marsh fever, the whole quantity of sulphate of quinine at the disposal of the Government did but suffice to supply the hospitals and dispensaries for a month, and to give some little assistance to the municipality, whilst the

"scarcity among the general public became so intense that the few bottles which could be procured fetched in some instances the almost fabulous price of £27 sterling per ounce at public auction."

462. The details of this fearful pestilence have not come within the scope of our enquiry, further than may have been necessary for the just appreciation of its influence upon the subsequent legislation which has so seriously affected the position of the Indian population.

Such details may be found in the ample Report of the Fever Enquiry Commission, made in 1868, the year following the epidemic.

463. It is enough for us to report that we find Sir Henry Barkly bearing ample testimony to the exertions made on every side after the calamity had actually fallen upon the community.

"The attitude of the population was calmer and more self-reliant than it is reported to have been on former occasions of the sort. The municipality, under the guidance of an active and intelligent Mayor, Mr. Charles Pitot, ably seconded by the Deputy-Mayor, Mr. François, did all in its power to provide medical assistance and material relief for the poorer classes."

\* Some idea of the disorganisation which prevailed in the colony at the outbreak of the epidemic may be formed from the Correspondence in the Records of the Colony, respecting the burial of paupers picked up on the roads in the districts by the police.

Notwithstanding the hardness of the times, a sum of £3000 was raised in Port Louis by private charity and distributed by a committee instituted for the purpose, while similar subscriptions were set on foot in most of the rural districts affected, contributions to which were collected in small sums among even poor Indians, and transmitted through the Magistrates to the committees.

The clergy of all denominations, and the religious societies of the Roman Catholic Church, displayed that zeal and self-devotion which we do not believe has ever been found wanting on their part in seasons of similar trial.

The members of the medical profession, encouraged by the influence and example of Dr. Reid, exerted themselves most earnestly to cope with the emergency, until, in too many cases, they succumbed to the virulence of the disease.

In the police force,

"from the nature of their duties and the unhealthy localities in which they were often stationed,"

the mortality was terribly severe.

"upwards of fifty men, inclusive of some of the best European non-commissioned officers, having, at the beginning of May, succumbed to the fever."

The Superintendent, then Acting Inspector-General, Mr. Prince,

"was most indefatigable in his efforts to preserve order and promote the cause of humanity, both as an ex-officio member of the General Board of Health, and as having charge of the prisoners and vagrants."

"Unhappily, the epidemic raged on too grand a scale to be much restrained by human efforts. Whole households were at once attacked; entire villages simultaneously affected; and in Port Louis itself, the population of which was reckoned at about 80,000 before the fever broke out, 20,000 persons were at one time laid sick of it."

Not with this appear incredible when we consider that in the month of April the death-litterality estimated its inhabitants; and that, of the 25,824 deaths which occurred in Mauritius from the fever alone in the first six months of 1867, no less than 14,387 occurred in the capital.

464. Mr. Prince relates the following, among the measures he adopted to promote the cause of humanity, when the supplementary hospital was first opened for paupers not under sentence, who were discharged a few days after admission, to be picked up again by the police in a worse condition. The only means he had for saving these poor creatures from dying in the street was to have them sentenced as vagrants to 14 or 25 days imprisonment by the Stipendiary Magistrate. This, he reports, was not intended as a punishment, but, on the contrary, proved a boon to many of these unfortunate, by having enabled him to keep them under observation at the Depot and have them properly fed in the event of their being discharged from hospital before the expiration of their sentence.

465. The Protector of Immigrants visited the establishment, when no less than 102 vagrants were picked out, unfit for further service in the colony, namely,—

|                                        |    |
|----------------------------------------|----|
| Paupers in hospital not under sentence | 4  |
| Prisoners                              | 47 |
| Prisoners under observation            | 51 |

466. The same idea had been sent to the Immigration Depot, and Mr. Prince said he believed it was the intention of the Protector of Immigrants to send them to India by the first opportunity; and he naively added—

"I am not aware how far the Indian Government will be pleased with this arrangement."

467. The following extracts from the 'Post-Mortem Returns' will give a melancholy

The following Return, framed by Colonel O'Brien, the present Inspector-General, shows the casualties which occurred in the general Police Force of Mauritius in the year 1867:—

|                             |      |
|-----------------------------|------|
| Average strength of Force   | 607  |
| Number of men enlisted      | 218  |
| Hospital admissions         | 1968 |
| Dismissed                   | 63   |
| Resigned                    | 46   |
| Died                        | 98   |
| Greatest number in hospital | 177  |
| Least number in hospital    | 12   |

Annexed also to Colonel O'Brien's letter to the Royal Commissioners of 24th August 1872, Appendix II, No. 6.



1867.  
Post-mortem  
returns.  
Paraph.  
1867.  
Case No. 122,  
27th September,  
1867.

Case No. 121,  
12th March,  
1867.

Case No. 128,  
19th March,  
1867.

Case No. 139,  
13th March,  
1867.

Case No. 137,  
25th July,  
1867.

Case No. 130,  
12th November,  
1867.

Post-mortem  
returns.  
Case No. 3,  
13th July,  
1867.

Case No. 77,  
12th February,  
1867.

Case No. 79,  
10th February,  
1867.

Case No. 80,  
29th February,  
1867.

Case No. 82,  
13th February,  
1867.

Case No. 92,  
25th March,  
1867.

idea of the misery which prevailed before and during this time; and we regret to find that the subsequent legislation has not apparently diminished the recurrence of such cases.

*Unknown.*—The deceased was found lying in some brushwood on Mr. Collard's premises at Roche Terre, and close to a bush-road. From the autopsy it appeared that death had been caused by fever; and, although all the persons in the neighbourhood declined knowing him, it is probable he had been harboured by some of them, and that, on finding he was in a dying state, they had placed him in the brushwood to die.

*Unknown.*—The deceased was found lying on the road-side, and is not known to any of the people in the locality. It is supposed that he was a vagrant, and had died from fever and exhaustion.

*Tugamala.*—The deceased was found in the Stipendiary Courthouse in a sickly state, and before he could be conveyed to hospital he died. The deceased was a very old man, and apparently destitute. From the autopsy it appears he died from congestion of the brain.

*Unknown.*—The deceased was found among some brushwood at Roche Bois. Several days previously to her death she was seen in the neighbourhood, and complained of fever. From the autopsy it appears that death was occasioned by fever.

*Nunkar.*—The deceased was found on the roadside near the "l'Unité" Estate. No inquiry: death was caused by fever.

*Unknown.*—This man was seen strolling about near Mr. Harel's estate, "Belle Vue," and appeared to be suffering much from fever. He was not known by any one near the spot where he died, and could not be identified.

*Unknown.*—Deceased was found by one Carpen, a guardian on the "Unité" Estate, about six o'clock in the morning, lying on the roadside in a field adjoining "St. Antoine" Estate, and a little distance from the body a two years old, apparently child of deceased. Deceased was unknown to the ants on or about the said estate, and was apparently a pauper labouring under consumption for some time. Deceased was quite reduced to a skeleton, and his lungs were completely gone. No clue could be obtained as to the identification of the body, and the child could not talk. No suspicion of crime.

*Saturan.*—This man was picked up on the public road at Poudre d'Or village in a very sickly state, and brought to the station, where he died about half an hour afterwards. This man was without employment, and had evidently been sick for some time previously.

*Unknown Female.*—The body was found lying in the public road near "Belle Vue" Estate, and sitting by the side of the body was found a female child about two years old, apparently a daughter of deceased, who gave her name as Mardayé, but was not able to give any information as to who the deceased was, or where she came from. The body was reduced to a skeleton. It was supposed that deceased came from Flacq, as the body was found immediately on the boundary of the two districts. There was no suspicion of crime.

Mardayé was sent to the Orphan Asylum on the 25th February, and died there on the 4th April following. (Protector of Immigrants Letter No. 43, dated 16th January, 1873.)

*Vengarasalon.*—The deceased was picked up on the public road sick from fever, and brought to the station, where he died three days afterwards. No autopsy: as it was quite certain that death was from fever. This case was reported to Mr. Hardy, Secretary of the Poor Relief Committee, who refused to do anything for the man; although, having no employer, he was a fit subject for the Poor Relief Committee.

*Nektsunden.*—Deceased had been a deserter from "Poudre d'Or" Estate for about twelve months. About a fortnight or so previously to his death he used to come to the camp of the estate at night to get food. He was then very thin, and complained of being ill. No suspicion of crime.

*Anousail.*—The deceased was discharged from the Board of Health hospital at "Poudre d'Or" at 2 p.m. on the 29th instant. He was again picked up at 6 p.m., and taken to the hospital, and the Guardian refused to receive him, stating that he had been that afternoon discharged from hospital by order of the Magistrate, and that he could not receive him. He was found dead on the roadside next morning, and his death was doubtless hastened by exposure to the night air; he being in a

high state of fever when sent to the hospital on the morning of the 22nd instant. No suspicion of crime.

*Ramsamy.*—Deceased was an old man, and formerly in the employ of Chinamah, a job-contractor; but since his discharge, he has been loitering about without employment, and died from sheer want. His body was found on the "Schönfeld" Estate.

*Moonia.*—Deceased was formerly a labourer on "Riviere Creole" Estate, and latterly, through sickness, became reduced to beggary. The evening preceding the finding of his dead body, he was seen by one Gorkhool going in the direction of the cemetery in a very weak state, and he said then he was going to die near the cemetery.

*Rainasevamy.*—Deceased was formerly under engagement to Mr. Chauvin, of "Mon Tresor" Estate. He left there four months ago and went to Port Louis in search of work. He there got fever; and, after wandering about for some days, died.

*Deegan.*—Deceased, who was supposed to belong to the district of Flacq, died in a field of "embrayades" on "Union Vale" Estate, after having been wandering about the district for several days.

Indian girl; supposed name, *Sarcolary.*—Deceased, an orphan, had been wandering about the district in a very destitute condition for several days previously to her death; died from want and exposure.

*Chinamah.*—This child died from want and exposure. Its mother Ceerash having no home, had been wandering about in a very wretched condition. She herself brought the dead child to the Police Office.

*Grandoss.*—Deceased was picked up in the street sick and destitute, on the 22nd July, 1867. Died from want and exposure.

*Gros Cailloux.*—Deceased was apparently a Maroon, and had taken shelter in an old hut, being too ill to move, remained under the ruins until the morning, when one of the employees discovered him, and had him removed, but he died shortly afterwards.

*Ela.*—Deceased was the wife of one Mostoo, formerly in the employ of Mr. Trousset, but who had died in hospital about a month before with fever. Since then the woman had been wandering about without a home, and was suffering from fever and dysentery. She was found lying in a cane-field on the "Welmar" estate.

*Seedam.*—The deceased had been a vagrant for a long time, and got his living by begging. He was found dead in a road leading towards the "Corps de Garde" mountain. Alongside of him was the dead body of his daughter. From evidence, and the circumstances under which he died, there is no doubt but that he died from starvation and dysentery.

*Somar.*—From inquiry made on the spot and in the neighbourhood, it results that the deceased came by her death from exposure and a protracted career of vagrancy, and want of proper food.

*Ramsamy, Petite Gorimah, and Naraina.*—From inquiry into the circumstances of the death of these three persons, it appeared that for some time Ramsamy and his wife Buchoonce and family had been in a very low state from sickness and poverty. On the 14th February, Ramsamy, the father, died from fever. The following night his two daughters died; one from dysentery and worms, the other from pure want of proper nourishment, the mother being no longer able to give it the breast, being herself in a very low condition. They were found on Mr. Bonnefin's estate of "Good End," Vacoa.

*Chellumbun.*—Found dead at Camp Benoit. It appeared from inquiry that deceased died from fever, after an illness of some time; and having no friends residing with him, he remained several days in his hut before his corpse was discovered.

*Bhogroo and Anonymous.*—The two deceased were found at Camp Benoit, and had been sick with fever previously to death. Alongside the corpse of the mother was an infant, about eight days old, dead. They had been dead several days before they were discovered, and were much decomposed.

*Unknown.*—The body was found in a cavern on "La Flora" Estate; it is supposed it had been there for two or three months; the flesh had been completely eaten by dogs, so it was impossible to get the body identified, or to ascertain the cause of

Post-mortem  
returns.  
Paraph.  
1867.

Case No. 117,  
29th June,  
1867.

Grand Port,  
Case No. 119,  
20th November,  
1867.

Case No. 132,  
26th May,  
1867.

Case No. 138,  
25th June,  
1867.

Case No. 139,  
2nd July,  
1867.

Case No. 163,  
10th July,  
1867.

Case No. 163,  
22nd July,  
1867.

Case No. 43,  
10th December,  
1867.

Case No. 77,  
12th July,  
1867.

Paraph.  
Case No. 18,  
1st July, 1867.

Case No. 80,  
1st July, 1867.

Case No. 73,  
12th February,  
1867.

Case No. 80,  
11th April,  
1867.

Cases No. 97  
and 98, 22nd  
April, 1867.

Seamen's  
Case No. 51,  
1st October,  
1866.

Post-mortem  
report.  
Sarama.  
Case No. 58,  
3rd December,  
1864.  
Mofa.  
Case No. 48,  
1st April,  
1867.

1868.

Great hurri-  
cane of 12th  
March, 1868.

*Rutnaje.*—It appears that deceased, a labourer on "Constantine" Estate, died from want and exposure. He had been absent twenty days, and was picked up in a cane-field by a guardian, in a very emaciated state, and died whilst being conveyed to hospital.

*Apparao.*—Deceased was found on the road, with his father and one of his brothers, quite destitute, and they were brought to Bishopgate Police Station. The child's death was caused by fever, accelerated by want of nourishment.

468. Thus, Mauritius, at the close of 1867, had been for some years exposed to continuous adversity; namely, to a succession of five very indifferent sugar crops and a destructive and protracted epidemic, when, on the 12th March, 1868, a hurricane of extraordinary violence passed over the island, and formed a climax to the preceding calamities, rendering the year

"one of the most dismal in the annals of the colony. Churches, sugar factories, and edifices of every description, including Government House, Reduit, proved equally incapable of withstanding its fury, and were unroofed or utterly reduced to ruins."

Two spans of the iron railway viaduct across the Grand River Ravine, weighing nearly 250 tons, were displaced from the column on which they rested, and precipitated into the gorge below; and, in addition to the severe losses thus immediately entailed, the eventual injury to the sugar crop proved most serious: not more than half the amount at which it had been estimated before the hurricane being realised, the effect of which was to aggravate fearfully the previous sufferings of the community.

Such was the state of the colony when, in May 1868, the New Labour Law—Ordinance No. 31 of 1867—received the confirmation of your Majesty.

#### CHAPTER IX.—The New Labour Law of 1867, and Regulations thereunder.

469. Mr. de Plevitz tells us in his pamphlet (paragraph 17) that the object of the New Labour Law was to compel the Old immigrants to re-engage upon estates, and, that a system was devised accordingly, by which the life of an Old immigrant

"is rendered so miserable, that the vast majority of them are driven in despair to re-engage on the master's own terms."

470. Sir Henry Barkly reported that the law in question was

"universally looked upon as the commencement of a new era of social improvement. Hitherto, from a fear lest immigration might be stopped in case the slightest restriction were imposed, this class (i.e. the Old immigrants) has been suffered to live precisely as it thought proper; and there can be no doubt, that not only the increase of crime, but the deterioration of the sanitary state of the island, are

"mainly due to the licence thus permitted. The epidemic brought matters in this latter respect to a crisis, and with the aid of the Protector of Immigrants and of the Superintendent of Police, the late Procureur-General, Mr. Sholto Douglas, succeeded in framing the enactment in question."

471. With two such opposite statements before us respecting the objects of the law and the intentions of the Government which passed it, it becomes important to examine into its origin.

472. The first notice that we can find expressed as to the necessity for a New Labour Law, occurs in Mr. Beyts' Annual Report, dated 15th February 1867, on the Immigration of 1866; in the 66th paragraph of which he says:

"The existing legislation regarding immigration, and masters and servants, very much requires to be consolidated and freed from the uncertainty which hangs over many points involved in it. In some details it requires to be amended. I should strongly recommend that this labour be undertaken by the Legislature."

He also notices (paragraph 6) the "interruption of demands" by the planters for New immigrants from India, consequent upon the high price of rice and the severe drought; and goes on to express his opinion (paragraph 7) that

"the labourers who will be displaced from those estates on which cultivation will be either partially relinquished or totally abandoned under the pressure of the present adverse circumstances, will probably suffer for the wants of our agriculture for some time hence, without further immigration."

Conflicting  
opinions upon  
the object of  
the New  
Labour Law.  
Statement of  
Mr. de  
Plevitz.  
Sir Henry  
Barkly's re-  
port.

First notice of  
the demand  
for a new law.

Protestant  
Report upon  
1866.  
Law requires  
consolidation.

Displaced  
labourers  
will suffer for  
wants of  
planters.

In paragraph 10 he remarks that,

"it is a general complaint amongst planters that their share of the expenses of immigration has hitherto been too heavy for them to bear," and he admits there is some ground for the complaint.

Absenteeism and desertion had diminished from 11,571 cases in 1864 to 6793 in 1866, showing, as Mr. Beyts observed, a progressive improvement in the conduct of immigrants towards their employers.

473. On the other hand he notices (paragraph 4) how, of 200 immigrants who had probably been driven to emigrate by the hard times in India, and who themselves defrayed the expenses of their passage, most of them having been in Mauritius before; very few returned to agricultural labour, but scattered themselves over the island, taking employment not subject to written contracts; almost all of them becoming either traders on their own account, or settling as cultivators on small patches of land taken on lease:

This fact, he adds,

"would justify the conclusion that free—that is unassisted, and therefore uncontrolled—immigration could not be depended upon for any important accessions to the labour of our sugar estates;"

or, in other words, that Old immigrants could not be depended upon to take service upon them.

474. This Report was issued to the public early in June, and on the 18th of that month we find the "Commercial Gazette" in its "Overland" Number, after commenting upon the Report, concluding its remarks as follows—

"Be all this however as it may—we do not think that there would be any large demand for fresh labour if the Government were to adopt stringent legislative measures to force the thousands of idle Old immigrants who infest the colony, to earn their livelihood, in place of continuing to permit them to agglomerate with their more industrious comrades, to the danger of public security and public health. The prevailing epidemic has shown that there is a vast number of unemployed Indians in the colony, and if their idleness were not encouraged by our present laws, they would soon be compelled to accept work."

475. In the same number are reprints of two articles which had been published respectively on the 13th and 14th of June, in the first of which, after deprecating

"any such arbitrary or coercive legislative measures as would in the least degree interfere with the personal liberty of an Old immigrant, whom we have always declared and shall continue to think to be in every way as much entitled to his entire freedom as any other British subject,"

the writer states that there could be no doubt that there was a large number of Old immigrant Indians, who followed no calling and were without the means of proving their identity, and who, not working themselves, lived upon their more industrious friends, and who "agglomerating with these, in disproportionate numbers, in small filthy huts, help to spread disease."

The "Gazette" concluded, therefore, that something "must be done, not, be it remarked, to force idlers to work, not to coerce Old immigrants into engagements on estates, but to induce them to accept regular employment. So long as they are permitted to lead a life entirely after their own inclinations, so long as the law tacitly encourages their idleness, all the coaxing in the world will be without any effect. But if the law insisted on every Indian giving proof of his working either on his own or another's account, or that he has property—and failing this, that he should be treated as one without ostensible means of livelihood, and therefore a suspicious character, or in plainer terms a vagabond; then we might hope for the advent of a better state of things."

476. And, on the following day, in treating further upon the question of immigration, we find the most stringent regulations urged:

"in regard to the occupation of Indian dwellings either in town or country: if the Government insisted that no house, or hut, or out-house should be inhabited by more than such a number of Indians as its dimensions—speaking in a sanitary sense—can properly accommodate, the idle vagrants who encumber them, and whose sole means of existence—as they do not work—depends on the generosity of their industrious comrades, would have to 'turn out' and seek employment, if only to provide themselves with shelter. And it is by such a course, among others, that we believe the thousands of 'far niente' Old immigrants, who infest the town and the districts, would be

Protector's  
Report upon  
1866.

General com-  
plaint among  
planters as to  
cost of immi-  
gration.

Decrease in  
absenteeism  
and desertion.  
Return immi-  
grants do not  
take to agri-  
culture.

Free immigra-  
tion not to be  
depended  
upon.

Opinions ex-  
pressed in the  
newspapers.

No large de-  
mand for  
labour, if idle,  
Old immi-  
grants forced  
to work.

Vast number  
of unemployed  
Indians,  
whose idleness  
encouraged by  
law.

Old immi-  
grant as  
much entitled  
to his entire  
freedom as any  
other British  
subject.

The agglom-  
eration of  
Indians  
spreads  
disease.

Old immi-  
grants must  
be induced to  
accept regular  
employment.

Indians to  
give proof of  
their means of  
subsistence,  
otherwise to  
be treated as  
vagrants.

The regula-  
tion of dwell-  
ing by  
Indians to be  
regulated.



Remarks in  
the 'Commercial  
Gazette.'

"induced, not coerced, to go to work. Again, no house should be permitted to be  
"let to an Old immigrant, who shall not have—besides his ticket—a certificate to  
"prove that he is either employed on his own account, or on that of others; or  
"possesses property on the income of which he can support himself. No such  
"thing as subletting of rented houses should be permitted, unless on the authority of  
"the chief or district Sanitary Inspectors, who will have taken count of the capacity  
"of the dwellings in question, and who will have satisfied themselves of the  
"number of individuals, who might, without danger to their own health and that  
"of their neighbours, occupy them. Above all, no house should be allowed to be  
"inhabited unless its sanitary condition shall be to the satisfaction of the officials we  
"have mentioned; and no house should be permitted even to be built, except in  
"conformity with sanitary principles. A frequent inspection of all dwellings rented  
"by, or lived in by, Indians, should be a *sine quâ non*, and whenever illegal over-  
"crowding, the agglomeration of human beings with domestic animals, the  
"accumulation of filth, the presence of stagnant water, an insufficiency of ventila-  
"tion, or any other breach of the primary laws of public health shall be established,  
"—it should be punished in an exemplary manner. Take away the power, the  
"licence of the Indian to live under the revolting and dangerous conditions which  
"he affects, and you moralise him in a measure; and when he shall by experience  
"have found, that by encouraging the squatting under his roof of idle, mendicant  
"comrades, he runs the risk of contravening the law and so rendering himself  
"liable to severe punishment, he will have little hesitation in refusing them shelter  
"and support, and will thus induce them to seek work on the penalty of their being  
"treated as vagrants.

"The law properly carried out in these respects, an additional supply of effective,  
"productive labour would be brought on the market; and while the condition of the  
"Indian would be bettered, while the sanitary condition of the colony would not  
"fail to be improved, the planter would be enabled to obtain, for yet some years  
"to come, the full amount of labour he may require, without the loss of time, the  
"risk and the expense which attend its introduction from India."

477. It is but just to remember that in the two months immediately preceding that  
in which these Articles were written, 11,194 deaths had occurred in Port  
Louis alone, and therefore great allowance must be made for those who  
recommended measures which they might regard as necessary, under the  
pressure of a terrible crisis, if "properly" carried out; but which, if im-  
properly or indiscreetly carried out, could not fail to result in great hardship  
and oppression.

It may be urged that the Articles above quoted, being the production of irresponsible  
persons, represent the opinions of the individual writers only, and are no evidence of the  
feelings prevalent at the time. This objection, however, vanishes if we find that the  
measures eventually passed by the Legislature were in strict accordance with the opinions  
and recommendations put forward by these writers, and if we show, as we shall (para-  
graphs 664 and following), that, as a matter of fact, they were largely participated in by  
the public generally.

478. No further mention occurs of the matter until the 30th August, when Sir Henry  
Barkly laid before the Council the draft of an Ordinance

"to consolidate and amend certain of the laws relating to Indian immigrants and  
"other labourers within this colony and its dependencies, and to make better  
"provision for the protection of claims for wages, and for other purposes."

479. The draft was introduced by a short Minute of the Governor, as—

Appendix F 4.  
Minute No. 34  
of 1837. Ordinance  
introducing the  
draft of the  
New Labour  
Law.  
"a complete revision of the whole of the enactments by which the rela-  
"tions between employer and employed are regulated. \* \* \*  
"The provisions of the Code regarding privilege for wages have been  
"rendered more clear and effectual; *unlawful absence* and *desertion* have,  
"for the first time, been legally defined; and numerous other improve-  
"ments made in the interest of the labourer."

"The opportunity also," it announced, "had been taken to establish a comprehensive  
"system of the registration of the place of abode and occupation of Old immi-  
"grants, with a view to pave the way to a more stringent sanitary supervision  
"of their dwellings than has hitherto been practicable; as well as to aid the police  
"in the prevention and detection of crime."

480. Mr. Douglas, Acting Procureur-General, then, in a speech of considerable length,  
explained the draft, and the objects aimed at thereby. The restrictive provisions, he

said, were shown by experience, during the epidemic, to be necessary in the interests of  
the colony, which had proved that Indians were not fit to control themselves, and that  
certain checks upon their way of living were absolutely necessary for their own sake and  
that of the colony: thus giving expression for the first time to what has since apparently  
grown into a fixed belief in Mauritius, and one put forward in support of all  
the subsequent legislation, which has pressed so heavily upon the Indian  
population, viz., that the

"Indians require to be protected against themselves."

He also dwelt upon the increase of crime, as shown by the gang robberies which had  
been committed, and of which we shall speak hereafter (*vide* paragraphs 537, and follow-  
ing), and the inability of the police to deal with them unless invested with additional powers.

481. The draft Ordinance was then read the first time, and duly published for general  
information in the 'Government Gazette' of the 3rd September, with the announcement  
that observations thereon would be received for three weeks.

Before, however, considering the observations upon the draft, it may be well to  
mention the grounds upon which—certainly a part of—the draft itself was founded.

482. On the 30th July a Circular had been sent confidentially to the Inspectors of the  
several districts by the Superintendent of Police, Mr. Prince, in which the  
following four, somewhat vague, questions were put respecting the condition  
of the Indian population:—

1. Can you state from experience whether vagrancy exists chiefly among the Old  
or New immigrants?
2. Are gang robberies committed by Old or New immigrants?
3. Can you form an idea of the number of Old immigrants who are living in your  
district without known residence or visible means of subsistence, i.e. men who  
*sui-disant* work *à la journée*, or as gardeners, &c.?
4. Contrast the number of Old immigrants in your district who are under engage-  
ment or having licences, with the proportionate residue (*s. l. o.*) of Old immi-  
grants.

483. Two of the answers to this Circular were from Mr. O'Connor, Inspector of Police  
in Moka, and from Mr. Bell, in Savanne. Both reported:—

- 1st. The extensive existence of vagrancy, but chiefly among the Old immigrants.
- 2nd. The occurrence of gang robberies, the perpetrators of which belonged generally,  
if not invariably, to the same class.

484. Mr. Bell reported that there were about 900 Indians living in his district as  
"gardeners, dayworkmen, &c., and others who have no means of subsistence,"  
and about 200 Old immigrants holding licences. The law, as then in force,  
was in his opinion of little efficacy for the suppression of vagrancy; and he  
recommended that all Indians residing in any district, and not actually  
engaged upon estates, should be obliged to register themselves at the central  
police station of his district; and, that every man applying for his free ticket (meaning,  
we presume, his Old immigrant's ticket), should be able to prove to the satisfaction of  
the Protector that he was in a position to live honestly,  
"otherwise he should be compelled to re-engage."

485. Mr. Bell concluded his report with these words (the only words apparently—  
though certainly they are the most important in the letter—with which  
Colonel O'Brien does not concur):—

1. "I cannot close these remarks without stating my strong belief that the planters  
"have been most the cause of vagrancy; many of them, in the erroneous belief that  
"New immigrants' labour is cheapest, have imported from time to time bands of new,  
"and discharged the old hands, whereas, had they held out sufficient inducements  
"in the shape of higher wages to Old immigrants, they would have retained them  
"on their estates."

486. Mr. O'Connor, in Moka, placed the proportion of vagrants at  
"one-half, or, in plain words, 50 per cent. of Old immigrants (not  
"engaged);"  
an estimate which, when examined before us, he reduced to 30 per cent. He  
recommended,

1. "it is a recognised fact that unrestricted liberty is one of the greatest  
"evils under which Mauritius labours,"  
that the police should  
"be permitted to arrest all persons, without distinction of nationality, who have no  
"visible means of subsistence;"

Allowance to  
be made on  
account of the  
great mortality.

Report of the  
sub-committee  
adopted by the  
Fever-Epidemic  
Commission, p.  
21.

Draft of an  
Ordinance, re-  
sented to the  
Legislative  
Council on  
26th August  
1867.

Mr. Henry  
Barkly's  
Minute.

Complete re-  
vision of the  
Law.  
Wages.  
Absence and  
desertion.

System of re-  
gistration of  
Old immi-  
grants.

Mr. Sholto  
Douglas ex-  
plains the  
Ordinance.

The Indians  
require to be  
protected  
against them-  
selves."

Gang rob-  
beries.

Mr. Prince's  
Circular.

Vagrancy.

Gang rob-  
beries.

Old immi-  
grants with-  
out known  
residence or  
visible means  
of subsistence.  
Old immi-  
grants with  
and without  
engagements  
or licences.

Reports of the  
Inspectors of  
Police.

Vagrancy  
chiefly among  
the Old immi-  
grants.

Gang rob-  
beries by Old  
immigrants.  
Reports of the  
Inspectors of  
Police.  
Mr. Bell's  
views.

Law in-  
firmed to ap-  
proach  
vagrancy.

Compulsory  
registration.  
Proof of  
means of  
subsistence.  
Planters, the  
chief cause of  
vagrancy.

Inspector  
O'Connor's  
view.  
Old immi-  
grants form  
half of  
vagrants.

Police to  
arrest all per-  
sons having  
no visible  
means of sub-  
sistence.



which appears to us the only course that could in justice be adopted, if measures of such stringency are to be tolerated at all.

487. He at the same time submitted a report, at somewhat greater length, in which he, too, strongly urged a system of registration, by which Old immigrants should be compelled to prove to the satisfaction of the Magistrate of the district that they were in a position to earn an honest livelihood, or, in default, should be detained until employment could be found for them,

"being allowed the option of returning to India;" the last being a qualification essential to the justice of the measure, but one which, as will be seen, was in the issue overlooked.

488. The benefits that would result from such a system would, he thought, be threefold:

- 1st. A sufficient number of men would always be obtainable for work on estates.
- 2nd. A considerable reduction of the heavy expenses attendant upon immigration.
- And
- 3rd. A proportionate reduction in the expenditure for police and gaols.

489. Thus, at the time of the drafting of the Ordinance we find:

1st. That complaints had been made by the planters of the expense of immigration.

2ndly. That a preference was manifested by Old immigrants for employments other than working on sugar estates.

3rdly. That at the moment there was no excessive disproportion between the demand and the supply of labour.

4thly. We also find discussed, publicly in the newspapers, and confidentially by the inspectors of police, the policy of enacting measures more or less restrictive or coercive upon the Old immigrants:

- 1stly. To bring labourers to the sugar estates; and
- 2ndly. On sanitary grounds.

490. But, to return to the draft of the Ordinance: this, as we have stated above, was duly published in the 'Government Gazette' of the 3rd of September. It consisted of 76 Articles, of which 45 were new; the remaining 31 being the re-enactment, with or without modification, of laws already existing, but which were to be repealed by the repealing clause.

491. Observations or Reports on the draft were received from the Chamber of Agriculture, the Officer of the Civil Status, Mr. Hugon,\* the ex-Protector of Immigrants, from all the Magistrates, and several Inspectors of Police.

492. The Officer of the Civil Status recommended that it should be made compulsory upon the employer, or some responsible person on his part (in case one or other did not personally declare the death), to send a written declaration of any death, containing all required information:

"and also, at the same time, the tickets of the immigrants who were under engagement or otherwise in their employment."

It had been usual, he stated,

"with all employers to send simply two labourers as witnesses to the office of the Civil Status, to declare the deaths which occur on their estates or premises. These witnesses, through ignorance, are generally unable to give the Officer of the Civil Status the required information on such occasions."

For the purposes of the Civil Status, therefore, it would be well that the tickets of immigrants should bear upon them full particulars as to the marriage, or otherwise, of the owner.

493. Inspector Macpherson, of Plaines Wilhems, made some general remarks upon the necessity for "looking after" those immigrants who arrived as passengers, and who, after receiving their

"passenger passport at the Police Office, are immediately lost sight of, unless when detected for some crime or misdemeanour, or when duplicates were required of their lost or stolen passports."

Why, unless detected in crime, such persons should be "looked after" by the police more than any other members of the community, we should be at a loss to conceive were we not enlightened by what follows:—

"Many Old immigrants go back to India with the gains they have acquired, with the intention of returning to the colony as passengers, knowing right well that a

\* It is a matter of regret to us that the observations of Mr. Hugon on this point, important as they would be found in the office of the Colonial Secretary in Mauritius.

"strict surveillance cannot be kept over them, and may, if so inclined, do a great deal of mischief, either singly or in bands."

He therefore suggested that

"a *pol*"<sup>2</sup>, imposed in a practical way, would hold out inducements to Indians to remain on the estates, and to occupy themselves in what may be considered their legitimate occupation. For instance, all immigrants, Old or New, labouring on sugar estates, to pay a half-rate, those under no engagement to pay a whole rate, whatever that may be;"

or, in plain English, to give a bounty to sugar cultivation: a measure which, twenty years before (*vide* paragraphs 287 and 288 of *The Contingent System*) had been so strongly resisted by the Court of Directors of the East India Company, and had been declared inadmissible by Earl Grey.

494. Article 7 of the draft Ordinance forbade

"contracts with minors under 10 years of age, or with any minor between 10 and 15 years, unless with the consent of the parents."

Upon this the Chamber of Agriculture remarked, that minors rendered effective service to agriculture, and that it was important, moreover,

"in the interests of their morality, to keep them at work;"

and, as they were engaged in India with the consent of their relations, they suggested the addition of words sanctifying the contracts so made in India. With these sentiments the observations of Sir Gabriel Fropier, the Magistrate of Savanne, and of Mr. d'Emmerez de Charmoy, the Magistrate of Black River, substantially agree.

495. Article 13 proposed to declare it lawful for any New immigrant, at any time during the currency of his industrial residence, to redeem the residue thereof, after four months' notice given to his employer, and a payment at the rate of £1 12s. per annum; and, Article 14,—

"Any New immigrant may, in like manner, shorten the duration of his term of service under contract with his employer, by a partial redemption of the same in the following manner, viz.:—He shall be entitled to declare to the Stipendiary Magistrate of the district that he is willing to work for his employer without being paid any wages, or upon payment of any stated reduced rate of wages, for such time as may be requisite in order to accumulate in the hands of his employer a sum sufficient to redeem the residue of his term of service."

496. To the 13th Article the Chamber objected, at considerable length, as introducing a new principle into the law; as Ordinances No. 21 of 1854, and No. 30 of 1858, conferred the right to redeem

"only after the expiration of the contract then current;"

and they gave the following as the grounds of their objections:—

"1st. Because they are contrary to the obligation of a strict and mutual execution of the contract.

"2nd.\* Because the result may be grave disorder, in creating in certain cases underhand dealing (*embauchage*), coalitions, and want of discipline in the work-shops (*ateliers*).

"3rd. Because the inevitable result will be an increase of the number of Indians who, living from day to day by trades more or less lawful, but always precarious, find themselves without means of existence in the event of scarceness and epidemic diseases, and become a heavy burden to the community, and create for themselves much misery and illness.

"4th. Because, instead of diminishing, it will probably increase vagrancy."

497. If however, notwithstanding these observations of the Chamber, it should be decided to pass a measure to allow individual Indians to redeem themselves, they suggested that the following precautions should be taken against the exercise of corrupt influence upon labourers to speculate upon the rise in the price of labour

"to the prejudice of the employer or to public order;"

that it should be lawful to the Stipendiary Magistrate, for clearly defined and personal reasons duly proved, and after hearing the employer, to allow particular Indians to free themselves from their contracts on their refunding to their employers the costs of their introduction, together with a

"just (*légitime*) indemnity for the loss imposed on the employer;"

which should be at the rate of £3 per annum, to be deposited in his name and to his account with the Stipendiary Magistrate, 6 months previous to the date of the

\* "2. Parce qu'il peut en résulter de graves désordres en créant dans de certaines conditions l'indiscipline dans les ateliers, l'embauchage et les coalitions."

Report of Inspector of Police.

Options of back-passages.

Options of back-passages.

Benefits from system of registration.

Summary of opinions.

Expenses of immigration.

Old immigrants prefer not working on estates.

No excessive demand for labour.

Restrictive measures advocated.

Observations on the draft.

Observations on the draft.

Observations on the draft.

Observations on the draft.

Observations on the draft.

Observations on the draft.

Observations on the draft.

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Observations of Inspector Macpherson upon the draft Ordinance. Suggests a police tax upon immigrants.

Observations of the Chamber of Agriculture. Art. 7. Minors to be kept at work.

Art. 13 and 14. Redemption of service.

Objections by the Chamber.

Mode of redemption suggested.

proposed liberation: which sum, in the event of the immigrant's subsequently wishing to withdraw his application, should only be returnable with the consent of the master."

How far this suggestion was equitable we need not pause to consider, but certain we are that, had it been adopted, it would have been tantamount to prohibiting redemption of service altogether.

498. Article 14 they recommended should be suppressed:

1stly. Because of the unsatisfactory character of labour rendered for no wages.

2ndly. The responsibility cast upon the employer for the savings of the labourer.

3rdly. The complications that could not fail to arise in the variation of the amount of wages, owing to the days of absence and sickness, which would prevent the fixing beforehand of any specific date at which a sufficient sum would be saved for the redemption.

499. Sir Gabriel Propier appears to have agreed with the Chamber in thinking that, Appendix F 7. if not limited, this right to redeem might

"be the cause of great uneasiness and trouble at a moment."

500. Mr. Renouf, Stipendiary Magistrate of Pamplémousses, thought the Article would be difficult to carry out properly,

"because if the master be a bad one, as soon as he shall hear that the notice shall

Appendix F 11. "have been given to the Magistrate, he will—if it suit not his purposes—pose that the men redeem themselves—either overwork, or perhaps

"ill-treat the men for having made this declaration."

501. Mr. Farquharson, Magistrate of Placq, very justly remarked that payment at the rate of £1 12s. per annum for the right to redeem would not reimburse the planter, who had besides paid the cost of introducing the number of women and children proportionate to the number of men engaged; and, that, as the planter might be seriously embarrassed by the abrupt departure of a number of men, it could not be deemed exacting to require that the person redeeming should refund the amount actually disbursed for his introduction.

502. Mr. d'Emmerez de Charmoy, Magistrate of Black River, thought that 4 months was too short a notice to the master of the intention to redeem by the servant, and suggested 6 months, on the ground of the scarcity of labour in Mauritius, and he further suggested that the new immigrant redeeming

"should also deposit the cost of the notice to be served upon his employer by the usher."

503. Both Mr. Farquharson and Mr. de Boucherville of Port Louis thought Article 14 objectionable and open to be abused; the former observing, that the savings bank afforded the readiest means for the deposit and the accumulation of the money that might be required for the redemption, for, as he remarks,

"the adoption of this plan would have the advantage of allowing him to keep his

"own secret as to his intention to buy up his time, thereby guarding against any possible injustice on the part of his master."

504. Article 19 proposed that if any immigrant under indenture should become permanently incapacitated from performing his contract

"through infirmity, accident, sickness, or other cause,"

it should be lawful for his employer, upon the certificate of a

"duly qualified medical practitioner,"

to send such immigrant to the Protector of Immigrants; and the contract of such immigrant shall thereupon be deemed and taken as cancelled, the costs of care and maintenance, together with that of sending such immigrant to the dépôt, being defrayed by the employer.

505. Mr. Renouf would not admit the idea

Appendix F 11. "for one instant that an employer can cancel the engagement of a labourer who

"has received an accident in his service, upon the certificate of the medical

"practitioner of his estate,"

and gave it as his opinion

"that great injustice might be caused should this Article form part of the

"Ordinance;"

and, he recommended that the power of cancelling the contract, instead of being thus

"Dans le cas où certain immigrant aurait ainsi déposé l'argent nécessaire pour sa libération, il ne pourroit se désister de sa demande et retirer son argent qu'avec l'agrément de l'employeur."

entirely left to the master and medical officer of the estate, should be vested in the Magistrate, before whom the immigrant should be produced.

506. Police Inspector Shellam drew attention to the difficulties which had sometimes arisen as to the party who was liable for the treatment or conveyance of Indians, "under written or verbal contract,"

found by the police sick and unable to walk: as the Poor Relief Committee objected either to find means of conveyance or to receiving such persons into their hospitals: and the Stipendiary Magistrates

"would not as a rule give the police an order for the hire of a conveyance at the

"expense of the employer—for this latter is most likely to refuse paying for the same,

"under the plea that the immigrant was a deserter; so that the police are obliged

"to get prisoners from the gaol and send the party on a stretcher, which for a short

"distance may not be considered a great hardship; but it is very different when

"sent for miles exposed to a burning sun."

He therefore suggested that an addition should be made to this Article, to enable the Magistrate, or the police, in such case to hire a conveyance which should be charged either to the employer or to the Government.

507. Article 20 empowered Magistrates to refuse to pass contracts, in cases where they had good grounds for supposing that such contracts were not *bona fide*.

Article 21 empowered them to cancel any such that might have been entered into.

These Articles Police Inspector Rice, of Grand Port, thought so good as they stood, that he feared any alteration or curtailment must destroy their efficiency, and added that he had

"known several instances of thieves engaging each other before Stipendiary Magis-

Appendix F 19. "trates, so that they might follow their nefarious calling unchallenged

"by the police, unless of course detected in a crime."

a sentence which we think requires to be further explained, as we do not understand why the calling of these people was to be presumed to be nefarious before detection; and after that, it could certainly be challenged by the police; while, unless they were detected, we do not understand how it could be known that "their calling was nefarious."

508. Article 22 admitted TASK-WORK: to which Mr. Renouf also called attention, as opening the door to abuses; he being of opinion that the power to impose any task they thought proper, was too large a power to be entrusted to masters, and especially to job contractors;

"and if it be not complete, they will (if they be not upright and just) cut off the

"day, or part of the day's work, and the rations of the men; this joined with the

"one day's absence, to be cut off double, will scarcely leave any wages to the men at

"the end of the month."

an anticipation which has been amply verified on many estates, by the practice of marking *malade travail*. (See Chapter XVII., *Work and Wages*, paragraphs 1805 to 1808.)

509. Articles 26 to 30 dealt with the right of priority to payment of their wages enjoyed by labourers and "gens de service," and by the manager and employés over the claims of other creditors.

These Articles the Chamber of Agriculture thought would create a serious danger to mortgage creditors and others:

"If privileged claims were allowed to accumulate by successive payments, the result

Appendix F 9. "would be that instead of limiting, as the law now in force does, the

"privileged claims for wages and salaries to the year past and present—

"the privileged claim might extend over several years.

"Besides, as judicial mortgages no longer exist and these privileged claims might

"be ignored by the public, the result would be a state of uncertainty and mistrust

"which would damage the credit of agriculture.

"For these reasons (motifs) the Chamber is of opinion that a definite delay

"should be fixed for the duration of privileged claims, which might be the result

"of successive judgments, and that provision should be made for having these

"claims entered in a public Register in the Office of the Conservator of Mortgages,

"within the five days following the judgment, and that they be effaced as soon as

"the privileged claim ceases to exist from any cause whatsoever."

They further thought the words

"prevented by circumstances independent of their will"

too vague, and suggested the words which were in substance adopted:

"unavoidably prevented by circumstances independent of their will."

Inspector Shellam suggests that where immigrants under contract were found by the police, the Magistrate or police might charge conveyance to hospital against employer or Government.

Articles 20 and 21. Magistrate to refuse to pass, and to cancel where made, contracts not *bona fide*.

Inspector Rice warmly approves of Articles 20 and 21.

Article 22. Task-work. Mr. Renouf thought the system open to abuse.

Mr. Renouf's anticipation verified.

Articles 26 to 30. Privilege for wages.

The Chamber of Agriculture apprehensive for mortgage and other creditors.



Magistrates' opinions. 510. Sir Gabriel Propier, Messrs. de Boucherville, Messiter, and d'Emmerez de Charmoy were averse to any difference being made in the limit of the "privilege" of labourers, and that of managers and employés, apparently upon the ground that the two latter stood in need of protection against irregular and arbitrary proceedings of masters just as much as the former, for Sir Gabriel Propier wrote:—

"Managers or employés are more able than labourers to protect their rights; but they are not always at liberty to do so, without injuring their situations. It is not rare to see the master owing more than six months' wages. Will the manager be the first to sue his master?"

And the same idea is stated in still plainer language by Mr. d'Emmerez de Charmoy as follows:

"Why not extend the privilege of the manager and employés, and make it the same as the labourer's; viz., one year, instead of six months? Dealing with the matter as you do, I consider it would be better—this being a special Ordinance—to safeguard quite as much the employés as the labourers, the more so that I have invariably found that labourers were paid more regularly than employés."

"It should be borne in mind that very few employés—if unpaid—would be bold enough to sue for payment, sure as they are of being dismissed for this audacity; whilst the Indians run not such a chance, so that on encumbered estates employés are exposed to forfeit their wages, if the provisions of the law be not likewise extended to them."

No change was however made, and the Ordinance on this point passed into law unaltered.

Article 38. 511. Article 38 proposed that, in cases where the sale of chattels should prove insufficient to satisfy any judgment for wages, the Stipendiary Magistrate should be empowered to issue a writ of execution against the real property of the debtor; which writ should not, however, be acted upon without the authority of one of the Judges of the Supreme Court; which the Chamber of Agriculture thought would be made clearer by the addition of the words following:

"and this authority shall only be granted on the proof that the movable property seized has been sold, and that the amount realised by the sale has proved insufficient."

Mr. Renouf thought that after the words "of the Supreme Court" some words should be inserted

"to limit the time: as the labourers will be sufferers if they are made to wait as they have always done in similar cases for sale of estates for their wages."

Police Inspector O'Connor suggested that the Protector of Immigrants or other appointed officer should be empowered to take the necessary legal measures to carry out the provisions of this Article,

"as it would hardly be just to require a labourer to undergo all the formalities and expense before the Supreme or Masters' Court, in order to obtain payment of the wages due to him."

512. Articles 43 to 47 introduce the Pass System, of which more hereafter (*vide* next chapter); and upon these, as affecting the police and public order, rather than the relations between masters and servants, the Chamber of Agriculture made no remarks, beyond admitting the necessity for them, and expressing the hope that the results would be as advantageous as the Government anticipated.

513. Of the Magistrates, Sir Gabriel Propier thought that these Articles might be of great use to prevent vagrancy; but that it would greatly increase the business of the Stipendiary Magistrates' offices, and that, too, at a moment when it was in contemplation to reduce the staff by the amalgamation of the District and Stipendiary Magistracy. He thought, also, that instead of having immigrants' tickets and the pass separate,

Appendix F 7. "it would be more useful to endorse the said pass on the ticket, which bearing the photograph and other designations of the bearer, may serve to identify him; whilst if they are provided with separate tickets and separate passes, they may have greater facility to lend this last to a comrade and so to defeat the ends of the law."

514. Mr. Farquharson suggested that the provisions of these Articles should be extended both to the Indian and other Creoles,

"it being a well-known fact that the villages and suburbs of the towns of this island are replete with numbers of that class, leading a life of disguised vagrancy."

515. Mr. Martindale, Stipendiary Magistrate of Plaines Wilhems, suggested that the declaration of abode should not be exacted from those immigrants who were duly licensed to carry on a trade, or to hawk the produce of their own ground.

Mr. Farquharson would extend passes to Indian and other Creoles.

Mr. Martindale would not exact declaration of abode from tradesmen, &c.

516. Police Inspectors Rice and O'Connor both recommended that, the object of the pass system being to keep the Indians under surveillance, the issue of the passes should be entrusted to the police at the central office of each district, as enabling them thereby to exercise a more efficient supervision than would be practicable for the Stipendiary Magistrates.

517. Mr. d'Emmerez de Charmoy thought that some limit should be fixed within which vagrant immigrants under Article 48 should be brought before the Magistrate, and suggested 48 hours as sufficient to allow the vagrant to be brought up from any part of the district where he might have been arrested.

518. Article 50 defined *desertion* as absence from work and dwelling for three consecutive days.

519. Sir Gabriel Propier called attention to the fact that Article 16 of Ordinance No. 4 of 1864 included *desertion from service* in the definition of vagrants, and that under Article 14 of that Ordinance certain very heavy penalties were enacted against persons repeatedly convicted of the offence of vagrancy within a certain period (2 years), viz.—

Appendix F 7. "not less than six, nor more than nine months' imprisonment;" and that it would be extremely hard to compel a Magistrate to pronounce such a sentence upon those guilty of desertion as now defined, as a labourer must be condemned to six months' imprisonment for two absences of three days each; whilst a number of offences much more detrimental to society were punishable only by a few days' imprisonment.

He further pointed out that, whereas the draft did not repeal Article 18 of Ordinance No. 16 of 1862, giving the master the right to demand the prolongation of contract as an alternative of the "double cut" in cases of illegal absence, it did repeal Ordinance No. 21 of 1854, requiring declarations of absence to be made to the Magistrate as a condition precedent to such prolongation of service; and he therefore thought that if the right to prolongation were retained, it would be also necessary to retain the monthly declarations of absence, at all events from such as intended to avail themselves of their right to claim such prolongation; a suggestion which was also made by Mr. Renouf.

520. Mr. de Boucherville on the other hand thought three months' imprisonment an insufficient punishment in cases of prolonged or repeated desertion, and proposed that the imprisonment should be

three months for the first offence, and not exceeding nine months for any subsequent offence."

521. It was, we presume, in consequence of the above remarks of Sir G. Propier that a clause was added, especially providing that the punishment imposed by Article 13 of Ordinance No. 4 of 1864 for vagrancy should

"not be applied to any deserter as now defined, who should be condemned upon the complaint of his employer."

522. Article 54 proposed that no imprisonment undergone by a labourer for any offence committed by him before the expiration of his contract should interfere therewith; but a clause was added, probably on account of Mr. Renouf's suggestion, specially excepting

"cases of imprisonment for unlawful absence," under Article 18 of Ordinance No. 16 of 1862.

523. Article 60 proposed that any process issuing out of a Stipendiary Court might, under the special order of the Stipendiary Magistrate, be executed by the District Court usher of the district, "who shall thereupon receive fees, to be taxed by the Stipendiary Magistrate in accordance with the tariff of the District Court in such matters."

To this Sir Gabriel Propier objected, that many would be deprived from receiving justice by the imposition of depositing into Court the fees on every proceeding."

Mr. Renouf was of opinion (if fees be hereafter exacted) that the Stipendiary Magistrate be empowered to receive complaints and issue summonses *ex officio*; the fees to be recovered afterwards. In cases of assault, a man might not have money, and be obliged to suffer ill-treatment from his master for want of it. This would occasion the labourers to desert in bands from the estate, to claim justice from the Magistrate, they being accustomed to pay no fees for such complaint."

524. Article 72 proposed that it should be lawful for the Government, subject to regulations, to authorise the Chief Clerk of the Stipendiary Court to perform all acts necessary for the passing of contracts of engagements and discharges of labourers in lieu of the Stipendiary Magistrate.

Inspector Rice and O'Connor would have passes issued from the central office of each district.

Article 48. Mr. de Charmoy thought vagrants should be brought up within 48 hours.

Article 50. Desertion defined.

Sir G. Propier thought, as desertion was now defined, it would be hard for deserters to be liable under Article 16 of No. 4 of 1864.

Illegal absence.

If declarations dispensed with, right to ask for prolongation should be withdrawn.

Mr. de Boucherville suggested increased severity towards deserters.

Penalties for repeated vagrancy not applicable to deserters.

Article 54. Imprisonment for unlawful absence to count as part of service.

Article 60. Process of Stipendiary Courts to be executed by District Court ushers.

Sir Gabriel Propier suggested that the Stipendiary Magistrate should have power to proceed without fees.

Mr. W. J. J. suggested that the Stipendiary Magistrate should have power to proceed without fees.

Article 72. Passing of contracts.

To this Mr. d'Emmerez de Charmoy suggested, that, instead of the  
Appendix F 18. "Chief Clerk of the Stipendiary Court,"

the District Clerk should be appointed to perform the duties mentioned,

"because, generally, the District Clerk is a more efficient officer; and secondly,  
"because he is of greater respectability."

Instead of this very sensible recommendation, we find in the amended draft which  
passed into law, that this most important function, originally exercised by the Magis-  
trate alone, may be entrusted to

"any clerk or officer attached to the Stipendiary Court."

525. To Article 73, investing the Governor with power to frame Regulations, the  
Chamber of Agriculture hoped that the usual formula would be added,—

"Provided nothing contained in the said Regulations shall be contrary to the  
"present Ordinance."

But, as we shall see hereafter, this expression of hope unfortunately did not meet with  
that attention which it undoubtedly deserved.

526. Both Mr. Renouf and Mr. Farquharson recommended that the Stipendiary  
Magistrate should be empowered to punish for contempt of Court; and,  
accordingly, in the amended draft of the Ordinance, we find two new  
Articles inserted with that object.

527. Police Inspector Rice recommended that some provision should be added—

1st. To render it necessary for Stipendiary officials to hand certificates of  
engagement to the engaged.

2ndly. To prevent employers from taking possession of those documents.

3rdly. To punish, by a small fine, Indians found without such certificates:  
Suggestions which were more or less carried out by the insertion of Article 7 of the  
amended draft.

528. Such were the principal observations made upon the draft of the Ordinance,  
which were considered by a Committee of the whole Council, whose recommendations  
thereon were embodied in a report, dated the 25th October 1867, and submitted to, and  
adopted by, the Council when it met on the 5th November; the draft being  
further reprinted in an amended form.

529. As we have seen allusions made in the reports of the Inspectors of Police to  
the alarming prevalence of the crime of "gang robbery," and, as we have seen (para-  
graphs 479 and 480) that vagrancy was regarded as the threshold of more serious  
crime, it may be well at this point to examine how far there existed conditions affecting  
so exclusively the Indian portion of the community, and how far the gang robberies  
and their perpetrators were of such a character as to justify or explain the reasons for  
special legislation on the subject.

530. With regard to vagrancy, we have seen (paragraph 514) the allegation of Mr.  
Farquharson, that it was well known that the villages and suburbs of the towns were  
replete with numbers of Creoles leading a life of disguised vagrancy; and the recom-  
mendation of Mr. O'Connor, that the police should be authorised (as, indeed, they already  
were, under Ordinance No. 42 of 1844, provided an act of vagrancy had been committed)  
to arrest all persons without regard to nationality, who had no visible means of subsist-  
ence; and, when examined before us Mr. O'Connor stated that Creoles were  
frequently vagrants and thieves, although crime generally was not so preva-  
lent among them as among the Indians.

531. Of the idleness and improvidence of the Creoles, we consider we have abundant  
evidence; of the former complaint was made to us by the proprietor of one  
of the finest estates in the colony; and while we have the testimony of the  
Hon. Mr. Pitot to the fact of the Creoles being as much addicted to  
drunkenness as the Indians, we have that of Sir Henry Barkly to their  
improvidence, which was such that

"when a Creole artisan is laid up, even for a few day only, he  
"has not a farthing put by to save himself and his family from  
"starvation."

At once into a condition of pauperism; an imputation against them which  
to us very nearly identical with that brought by Col. O'Brien against the immi-  
grant day-labourers on the wharves of Port Louis, viz., of alternating  
"daily from a state of vagabondage to that of quasi-respectability." (Chapter

X., *Pass System*, paragraph 621.)

532. With regard to the charge made by Mr. Douglas against the Indians in paragraph  
18 of his Report upon the Ordinance, of harbouring deserters and vagrants  
until they become sick, who then

ing upon the high road by those who had previously

subject for deep regret that this shocking inhumanity  
Old immigrants or to vagrants, as will be shown  
urred between 1867 and 1870.

er from Dr. Schmidt, the surgeon of the hospital at the  
13th July 1867, to Mr. Prince, the Superintendent of  
nected with the dépôt, concluding with the following

expression, 'that these people are turned out by their  
their sickness and weakness,' I beg to mention the fact,

a man was discharged by the Central Board of Commis-

from the Government Lunatic Asylum, under my charge. This

employé on one of the estates, was turned out by his employer (who, as

an says, refused to pay him wages due to him), and was picked up by the

police as a vagrant, sentenced, and sent to the Vagrant Dépôt, where he is now in

the hospital, suffering from fever which he contracted by sleeping out during the

"night without home or shelter."

"This is only one case out of many which came under my notice."

Sir H. Barkly desired that the truth of the allegation should be further investigated;

but we cannot find that any action was taken in the matter; and Dr. Schmidt having

le the colony we were unable to examine him.

The next three cases are taken from the 'Post-Mortem Returns,' and are related in the

of Police Inspectors Bell, O'Connor, and Stuart, by whom they were reported:—

533. "*Georgio Gobine*."—On the 4th, Police Sergeant Timms received a letter

from Mr. Staub, stating that an Indian was lying on the roadside near

"his estate in a dying state. He proceeded immediately to the spot,

"and found the Indian dead. Did not observe any marks of violence

"on the body, and left it in the position he found it, placing a sentry

"over the body. The following day, Dr. Tyack performed the autopsy

"in the presence of Police Constable Bacosee, the sentry, and found marks

"of strangulation. Instituted strict inquiry, and up to this time can get

"no evidence to prove that any violence was used. Deceased, some time ago, had been

"in the service of Mr. Staub as guardian, but finding him useless, he turned him away,

"from which time he lived on and about Mr. Staub's estate on the charity of the

"Indians. I forward the statements of Mr. Staub and some of the Indians, which

"go to prove that Mr. Staub, finding the man was likely to die, ordered him to be

"carried to the main road, and left him to be picked up by the police. Ramjee was

"the man employed to take him from the estate to the road, and my belief is, that,

"finding deceased too heavy to carry, he must have tied a rope or capra round his

"neck, and dragged him to the place where he was found. I cannot conceive any

"reason for the murder, as deceased was an old man and had no property whatever.

"Some of the Indians were arrested, but discharged after examination by the Magis-  
"trate."

534. "*Narain*."—The Indian had been sick for some time, and was abandoned

"by his master, Mr. E. Richard, a professor residing at Islôt. The

"deceased was allowed to die without any care being taken of him.

"Information was given to the Stipendiary Magistrate on the 9th

"instant. The deceased expired on the night of the 11th instant; and

"a more heartless and unfeeling case has never been brought to my  
"cognizance before."

535. Whilst the following case, scarcely less cruel, is chargeable against the Colonial

Government itself:—

"*Parhasing*."—Deceased had been formerly a labourer on 'Belle Vue' Govern-

ment Estate, and was discharged therefrom on the 20th October 1869.

"Deceased then wandered about the neighbourhood of Mapou from

"house to house, living on charity: he was unable to work, being old,

"feeble, and suffering from continued attacks of fever. He never applied

"for relief from the Poor-law Board. In his wanderings he came

"along the Balissage Road, leading to some huts of Indian gardeners on 'Belle

"Vue' Estate, he laid down on the roadside, and there died."

"NOTE.—Buried in coffin of General Board of Health. Buried by Inspector of

"Nuisances."



illeged filthy  
habits of the  
Indians.

habits of  
lowest class of  
Creoles as  
filthy as  
habits of  
Indians.

536. Lastly: With regard to the alleged filthy habits we need say more than that, in the opinion of the Hon. Colonial Secretary, a gentleman who has resided many years in acquaintance with India, in consequence of having been sent connected with immigration, the habits of the just as filthy as those of the Indians; a statement made by Mr. Hewetson, the largest employer of labour, probably what we have ourselves observed in every part of of which, if further proof be required, is substantiated by a letter from Mr. Douglas, then Assistant Colonial Secretary to the President of the (Mr. Beyts), in April 1869, the very time when the latter, in O'Brien and Mr. d'Emmerez, was commencing the enquiry which recommendation and passing of the third and most stringent set of Regulations against immigrants (see No. 592 and following paragraphs). In this letter, Mr. Douglas draws attention to "the appalling state of things" in Black Town, a district of Port-au-Prince, inhabited chiefly by the lower class of the Creole population, and the following terrible picture of the filth and misery of their habits and mode of life:—

"Black Town may be said to consist of three parallel paths, contouring the Signal Mountain, the longest and worst of which is 'Rue Commissaire.' Inter-communication between these paths is effected by other precipitous paths, watercourses, as the case may be; and the houses which are situated in the intervening spaces are in general more squalid and unhealthy than I have seen in any town.

"Outside they are enclosed by a mass of prickly pear and 'challis,' into which refuse and excrement are alike thrown: and the sight of the half-starved pigs—the only scavengers—performing their daily task amidst this rubbish, is as loathsome as a one as can be conceived. When the Building Act comes into force, and the keeping pigs within the town becomes illegal, the whole of the side of this impure town must, unless measures are taken to prevent it, become one seething mass of filth, to be washed down into the body of the town whenever heavy rain occurs. Privies there are practically none; at least, I saw but two throughout the quarter.

"The misery of some of the dwellings inside can hardly be imagined. In one, for example, we found a Creole woman with her three daughters; all four had married Chinamen, and had lost their husbands of fever. The house has three rooms, in which the four families live: the roof of two of these rooms admits light, air, and rain freely, the latter fact being evidenced by the mud floor being cracked in all directions by the action of rain followed by heat. There is but one bed in the house, and when it rains, the family, eleven in number, sleep in the third room, the roof of which leaks less, but which is only about eight feet by five, giving, say, 25 cubic feet of air to each individual. The floor of this room is also mud. The house belongs to the mother, the ground to the Government. The people are solely dependent on the Commission for their food, being all too ill to work. There is no privy, and the stench is intolerable.

"In some cases it was found, as had already been reported by a Commission of the Board of Health, that the occupants of huts rented them from parties who had erected them as a speculation on Government land. Surely it could be no hardship to eject these.

"It is hardly surprising, under the above circumstances, to find that fever clings to this locality with a tenacity which happily is not experienced in other parts of the town; the sanitary state of Tranquebar, Rochebois, Ste. Croix, and the Salines, has improved most sensibly during the last few days, but at Black Town there is no improvement, and as the Municipality have no jurisdiction on Government property, I do not see how any such improvement can be expected until either the population dies out, or some measures are taken to clean and improve the district."

"There are many cases which should be drafted, temporarily at any rate, to Beau Bassin; but at present none of the people that I saw would go there; the attractions of a semi-savage life, and the very freedom from all rules of cleanliness and decency, appear to be the sole motives which retain many of these people in their dwellings at Black Town."

Admitting, therefore, to the fullest extent what was advanced in support of the law, the vagrancy and the filthiness of the habits of the Indian population generally, we are

still unable to recognise the justice of the legislation which was directed against them as a class, while other portions of the community were in like manner obnoxious to the same charges of vagrancy, inhumanity to the sick, and unclean habits, and who should, accordingly, have been subjected to like regulations.

537. We now proceed to consider whether the gang robberies furnished any more valid reason for the law than did the idleness, inhumanity, and unclean habits alleged against the Indians; and, it appears to us that, in order to determine this question, three points must be considered:—

1st. What is really understood by the term "Gang Robbery."

2nd. Whether the perpetrators were, as alleged, so exclusively confined to the unindentured Old immigrants—the class against which the Ordinance of 1867 and the Regulations thereunder were specially directed.

3rd. Whether or no there were at that time disturbing causes operating to produce and account for an unusual and alarming increase in the number of crimes generally.

538. The first mention we can find of the evil is, in the Report transmitted with the Blue-Book of 1863, in which (paragraph 87) Sir Henry Barkly noticed the

alarming and well-nigh inexplicable increase of crime of all descriptions which manifested itself in 1863, and constituted a main cause of "the overcrowding"

of the prisons hereinafter mentioned (paragraph 2000, and following), which led to the establishment of the Vagrant Depot.

539. In the similar Report transmitted the year following, His Excellency observed, on the authority of the Procureur-General, that the increase of prisoners had not arisen altogether from minor offences, but that the annual increase in the number of serious cases tried by the Supreme Court still continued. This augmentation was due to larcenies accompanied with violence, which were stated to be

"mainly perpetrated by the Indian portion of the population, generally speaking upon their own countrymen the immigrants—manifesting a strong disposition to introduce the system of "dacoitee" or "gang robbery" so prevalent in India, and being also prone to murder, either for the sake of plunder or from motives of revenge, arising in many instances from quarrels about women."

540. In the following year the total number of cases tried before the Supreme Court was 66, as compared with 72 in 1864, and of persons 135, as compared with 196. This diminution occurs chiefly in the favourite Indian crime of gang robbery."

On the other hand, the number of cases of murder and attempt at murder had assumed larger proportions (viz., 14, committed by 33 persons) than in any preceding year; which was, however, in some measure, accounted for by the fact that 15 Indians were arraigned together for murdering their master. If, therefore, we exclude this case—which was in many respects remarkable—the comparison would stand as 13 cases committed by 20 persons, as against 10 cases committed by 13 persons in the preceding year.

541. In 1866 the criminal statistics were reported by Sir Henry Barkly as "of an extremely unsatisfactory tenor"—the number of prisoners prosecuted before the Supreme Court having risen from 131 to 236—

"the increase being principally due to murder and robberies."—while

"gang robberies, though not really so as in 1863 and 1864 [had] again taken an unaccountable start, the number of cases having been 14, or just double that of 1865, while the number of persons tried for participation in them was 79, or more than treble, giving an average of about five to each crime, and showing that as these bands of midnight marauders usually consist . . . of from 20 to 50, how exceedingly difficult it is to discover and identify the offenders."

542. The year 1867 was altogether exceptional, on account of the misery and disorganisation caused by the epidemic. Moreover, the number of persons tried for gang robbery was only 20, and, as half of these were Creoles or Europeans, we think that the criminal records of that year may safely be left out of the account in stating whether this crime was rife to such an extent as to justify the exceptionally stringent legislation, affecting only the Indians, which followed immediately after.

543. The first point to be settled is, the definition of the term "gang robbery." And

Gang robberies.

Increase of crime in 1863.

Disposition manifested towards "Dacoitee" or gang robbery.

Reported decrease in 1865.

1866.

Increase of crime generally.

1867.

A year of great misery for all.

Decrease in gang robberies.

Definition of gang robbery considered.

Gang robbery.  
Nowhere defined in the Penal Code.

Definitions of gang robberies as defined by Police Inspectors Shellam and O'Connor.  
Timperley.

Col. O'Brien.

Appendix G C.  
Description by Mr. Shellam, Douglas, Acting Procureur-General.

The numbers in gangs probably over-estimated by Mr. Douglas.

Where were the police?

Want of surveillance by the police.

here, at the outset, we are met by the difficulty that no such crime is anywhere defined in the Penal Code; and, consequently, in estimating the value of the evidence of officers of the Police Force upon the subject, it is important to see what, in their opinion, constituted the offence which prevailed in such "immense numbers" as to call for the stringent remedies which were applied: and herein we find a remarkable diversity of opinion.

544. Police Inspectors Shellam and O'Connor define "gang robbery" as robbery by two or more persons, accompanied with violence and by night.

With this opinion Police Inspector Timperley apparently coincides, when he tells us that he only considers as gang robberies such as are of a character sufficiently serious as to be committed for trial to the Assizes before a Judge of the Supreme Court; and, that cases settled by the District Magistrate cannot be dignified with the name, while, on the other hand, Colonel O'Brien defines it simply as a robbery committed by more than two men; and urges that the data furnished to the Police Commission cannot be regarded as a fair statement of the case, because the return submitted to them purported to contain merely the cases tried in the Supreme Court; while, after considerable pressing, he admitted his opinion to be that

"a petty robbery might be committed by a gang just as much as a grave robbery."

and, consequently, we presume he would hold the case (repudiated as a "gang robbery" by Mr. Shellam) of robbing a fowl-house to be a "gang robbery," if committed by three persons acting in concert.

545. The view taken by the Police Inspectors certainly tallies best with the description of this species of crime, as understood by the Government authorities, given by Mr. Douglas, Acting Procureur-General, in his Report on the "Crime of 1866," transmitted with the Blue-Book of that year, and which was as follows:—

"This class of offences is of a very serious nature, and one difficult of detection. It is confined almost, if not entirely, to attacks made by Indians (principally by Madras men) on those of their own nation, usually old and industrious Indians who are known or supposed to have saved money, and to have secreted it in their residence. The *modus operandi* of these gangs is usually the same. Numbers, varying from twenty to fifty, meet by night in the neighbourhood of the Indian but destined to be plundered. They are armed with stout sticks, and several carry lighted torches. Entrance is effected in breaking by main force the outside door; the inmates are beaten till they are nearly or quite senseless, are bound hand and foot to a post, and the hut or shop ransacked of its contents. Frequently great cruelty is inflicted on the inmates to force a confession from them where the money has been buried or secreted. Having obtained their object, the thieves disperse in different directions, and the stolen property is quickly and surely disposed of."

546. The estimate Mr. Douglas has given of the size of the gangs is probably taken from the evidence of those who had been robbed, and who, in their fright, would naturally exaggerate the number of their assailants. The Indians' shops and houses are seldom so large that more than three or four men, with one or two torch-bearers, would have room "to beat the inmates with stout sticks till they were nearly or quite senseless;" and with four or five men on the watch on the roads or paths, and the same number outside the house, to aid if necessary, the full complement would be furnished by, at most, fifteen men: and no gang of systematic robbers would take more than are absolutely necessary, as they would only increase the chance of detection.

But, whether the gangs consisted of from twenty to fifty or from fifteen to thirty only, they would be sufficiently numerous to require suppression; for such a state of things as the Procureur-General describes can only be looked upon as one of open brigandage; and, the only point which requires explanation is, how crimes on such a scale could have been committed without the police, had it been efficient, having any forewarning: were it not that we find that, even when they had warning, they wholly failed to prevent the occurrence of the crime.

547. Thus, we find that, in the case of one band of nearly thirty Indians who had committed serious crimes in Grand Port and the adjoining districts, the leader appears to have been perfectly well known to the police; for Inspector Rice described him as "a most notorious character;" and Mr. Douglas, in his report on the Ordinance, in describing the condition of the gardeners who rented small pieces of land, mentions them (paragraph 19) as being "well known to the police as thieves and vagabonds."

Why, therefore, a discreet surveillance was not kept over such persons we cannot imagine.

548. In another case, quoted by Mr. O'Connor as attended with peculiar violence, the circumstances were still more remarkable.

Appendix F 2. On Saturday, the 31st October, 1863, an Indian named Pirvingadu, a sirdar in the service of Mr. Léon Jauffret, a job-contractor in Flacq employed on the "Sebastopol" Estate, came to his master and informed him that part of his band had left that morning to go and commit a robbery in the adjoining district of Moka on a baker's shop near the "Beau Bois" Estate, and that the rest of his men were to follow that evening for the same purpose.

549. Mr. Jauffret at once hastened to Moka and informed the police of what he had been told. The police laid their plans in such a manner as must have made it plain to the intending robbers, on their reaching the spot, that six or eight police constables were in possession of the place, and therefore they very naturally abandoned the idea, but proceeded to Moka, apparently unwatched by any one of, or belonging to, the constables.

They slept that night at a shopkeeper's near Mr. Robert Telfair's, and probably, in consequence of finding their movements still unwatched, the following night (Sunday, November 1st) they attacked the house of Mr. Brancillon at "Récréation," which is situated (we should say certainly not more than) 500 yards in a right line from the central police station of the Moka district.

550. Two other cases are cited by Mr. O'Connor as instances of this crime.

The first was certainly of a most daring character and was committed at "Valetta" an estate on the confines of the districts of Moka and Plaines Wilhems;

"the band was estimated to consist of twenty persons. After enquiries made, it was clearly ascertained that the band was composed principally of Old immigrants from Plaines Wilhems (who found a refuge with the small gardeners), and the chief of the band was, as usual, an Old immigrant."

We have referred to the depositions taken in this case (*Regina v. Ayavoo* and four others), which was an attack by immigrants upon a shop, but which we cannot see would have been prevented by any regulations connected with the system subsequently established, of police passes; as "Valetta" is not far distant from the boundary which separates Plaines Wilhems from Moka, so that the robbers could have approached to within about a mile and a half or two miles of the spot without being in the least out of order; and as the intervening space consists of cane-fields, it would have been extremely improbable that they would encounter anyone to stop them, or to interfere with their proceedings.

The other case which Mr. O'Connor cites as of a similar description was committed at "Roslyn Cottage" by a band of Indians from Pamplémousses; but as we found, from further enquiry from Mr. O'Connor, that this case consisted of nothing more daring than the larceny of a cow from an outhouse near an Indian hut, and by only three men, we hardly think that it can be properly regarded as a "gang robbery."

551. In India we believe that a robbery committed by four or more persons acting in concert was considered "gang robbery;" and, adopting that definition, we called upon Captain Blunt, at that time Acting Inspector-General of Police, to furnish us with a return, taken from the records of that department, of the number of cases of larceny reported to the police in the perpetration of which four or more persons had been implicated, together with a statement of how they had been disposed of.

The value of this return (which will be found in the Appendix) is, however, diminished by the fact of its not tallying with the return furnished by the late Registrar of the Supreme Court to the Police Enquiry Commissioners, and which, in its turn, does not tally with that attached by the Procureur-General to his Report on the State of Crime in the year 1866 and the three previous years, forwarded with the Blue-Book of that year. We thus have three returns on this subject:

1. Return made from the Police Records of Gang Robberies; "a gang" being taken to consist of four men or more; furnished to us by Captain Blunt.
2. Return of Gang Robberies tried before the Supreme Court of Mauritius from 1852 to 1871 (both years inclusive); furnished to the Police Enquiry Commissioners, and appended to their Report.
3. Return of Cases of "Larceny by Gangs of Burglars by night, with violence to persons;" sent home by the Procureur-General with the Blue Books.

The discrepancies between these will be seen by the following Table:—

R

Gang robbery.

Contemplated gang robbery at "Beau Bois."

Information given. The police beforehand. The robbers withdraw. The robbers unwatched. They attack Mr. Brancillon's house.

Instances quoted by Mr. O'Connor. Gang robbery at "Valetta." Band estimated at 20 men. Old immigrants refugees.

The chief an Old immigrant. Most daring character. Where would be the use of the pass system? Close to the boundary of their district, and the intervening space is of cane-fields, where it is not probable they would be stopped. Robbery at "Roslyn Cottage" by Indians from Pamplémousses. Nothing more daring than the larceny of a cow.

Return compiled from the Police Records, based upon the definition of "Dacoitee" as understood in India. Discrepancies in the three returns upon the gang robberies.





and, in the same letter, he mentions that the police officer had reported to him that several shops had been broken open.

564. Mr. Beyts, in his Annual Report made in February 1867, drew attention to the decrease in the number of convictions of immigrants on the complaints preferred by their employers between the years 1864 and 1866, and saw in it an undeniable mark of the

“progressive improvement in the general conduct of immigrants towards their employers.”

565. But, while we find that in those years the convictions for illegal absence diminished from 5439 to 2551, and for desertion from 6040 to 4242, the convictions for vagrancy, as returned by the Stipendiary Magistrates (for the return from the police books furnished on the same subject is irreconcilably different), increased from 4943 to 6573: a result which we should expect to find if employers were reducing their establishments; it being obvious that the first men to be discharged would be the irregular workers, addicted to absenteeism and desertion, and who would naturally sink into habits of vagrancy.

566. While then we fully admit that the state of Mauritius in 1867 was most serious, and that some gang robberies of a most daring character had been committed—such as might well have justified great alarm among the public generally, we have failed to discover anything in the way of crime so peculiarly restricted to Old immigrants not under indenture, as to have warranted the stringent measures invoked by the public against them shortly after.

567. The vagrancy so rife at that time is, we think, fully to be accounted for by the impouring of the thousands of Indians recruited, in too many cases, wholly without regard to their fitness for field labour; 2ndly, by the unwillingness of the planters to pay the market price for the labour of Old immigrants (for upon this point we think Mr. Bell is a better authority than Colonel O'Brien, who was not then in the colony); but preferred introducing bands of New immigrants at lower wages; and, lastly, by the deep and wide-spread distress which is shown to have prevailed at the time.

568. With the country in this state, the draft—since passed as Ordinance No. 31 of 1867—came on for the second reading on the 8th November; and then, for the first time, arose an opposition to which allusion has before been made (paragraph 30 of de Plevitz's pamphlet) from a quarter little expected, viz., from one of the Official members.

69. The Honourable Mr. Kerr, the Treasurer, made a vigorous attack upon the draft Ordinance as a whole. He expressed his fear that it would injuriously affect the whole Indian population; and his belief in the existence of a general feeling of hostility in the colony against the Indian—who was more or less robbed by everybody; not excepting the public officers; and excepting least of all the police. He noticed the hardship of the then existing practice of stopping Indians on the roads to examine their papers, and cited as an instance the arrest of one of his own servants one Sunday when on his way to visit a friend; and he denounced the inconsistency of the law forbidding the arrest on a Sunday even of a fraudulent debtor: a law which “allowed the educated rogue to pass on,” but which thrust into prison the Indian who might only owe his master three days' labour.

570. He charged the planters with dealing unfairly with their immigrants, who when unable to finish their allotted task were entered upon the books of the estate as “sick” or “absent,” and their wages were cut accordingly, while Indians on their way to the Magistrate to complain against their masters, had been arrested by the police and condemned as vagrants; and, he added, that he had heard of cases where the masters, knowing that a complaint was about to be made against them, had got into their carriage and had thus been enabled to be the first to complain. He ridiculed the idea that the robberies rendered necessary legislation such as that proposed, and expressed his belief that he was safer from violence in Mauritius than he had been in Belgravia.

571. He attacked the system of long contracts, and quoted Mr. Beyts' Report of 31st March 1862 (*vide* para. 431 of *Adoption of the Present System of Contracts*), in which that officer had made several suggestions as *sine quâ non* to the legalising of five years' contracts, and he showed that while the planter had obtained the five years' contract the recommendations of Mr. Beyts had not yet been carried out. With regard to the argument put forward in support of long engagements, namely, that when under short engagements there is a demand for labour and a rise in wages, the planters entice each other's men; he considered it hard that, because planters enticed away each other's men, therefore immigrants should be obliged to enter into five years' contracts.

572. He lastly mentioned how some time previously he had visited the Vagrant Depot and had questioned certain of the inmates, and concluded with reading several statements that had been at the time taken down by him, which in his opinion went to show that some of these men had been unjustly condemned, and that they therefore required more protection than they then received.

573. This most unlooked-for attack upon the whole system of immigration excited the utmost indignation among all parties; to calm which, and in order to give the discussion a somewhat lighter tone than it threatened to assume, the Governor compared Mr. Kerr to the “Odd Jurymen” who was constantly in the jury-box, and who, differing upon every occasion from his eleven colleagues, always complained that they were obstinate and “all wrong.”

Mr. Kerr was further bitterly assailed by the colonial press, and the Chamber of Agriculture took up the matter, with what effect we shall see presently.

574. Mr. Kerr transmitted to the Governor a corrected version of his observations, with the view of its being forwarded to the Secretary of State if the Governor considered that any explanations were required; and a correspondence ensued between Mr. Kerr and the private secretary of the Governor, the result of which was that Mr. Kerr was induced to suggest to the Governor that neither his observations in Council nor the correspondence should be forwarded to the Secretary of State, a suggestion in which Sir Henry Barkly fully concurred, and consequently, we find no notice of this incident in the public Despatches, beyond a passing allusion in the 17th paragraph of Despatch No. 338 of 30th December, 1867, transmitting the Ordinance for confirmation.

575. As has been stated, the Chamber of Agriculture took up the matter, and on the 21st of November, on the motion of Dr. Leary, passed a resolution requesting the President to communicate to the Governor the energetic protest of the Chamber against the imputations of Mr. Kerr, and their declaration,

“that if his Excellency the Governor is not convinced of the inaccuracy and exaggeration of what was then advanced, the planters of this colony are prepared to submit to any inquiry his Excellency may consider advisable to institute.”

576. This resolution was forwarded by Mr. Pipon, the President, on the 26th November, and was answered by the Colonial Secretary on the 4th December. The Governor, he said, believed the imputations made by Mr. Kerr to be unmerited, and on the strength of the Reports of the Protector and the Stipendiary Magistrate, that the relations between masters and servants were every year improving;

“his Excellency considered that to open a special commission to inquire into these matters throughout the colony, would be as useless as it would be mischievous.”

an answer which, considering the gravity of the charges made, the high position of the person making them, the public manner in which they had been made, and the fact that such a body as the Chamber of Agriculture should have rested content with it, after such a challenge to inquiry, would have justified our giving credit to the report that it had been the result of an understanding between the Governor and the Chamber of Agriculture; had we not been assured to the contrary by the categorical denial of three such unimpeachable witnesses as Dr. Leary, Mr. Currie, and Mr. Pitot.

577. That His Excellency should have come to the above conclusion is, we think, a matter of deep regret, as our present inquiry has certainly tended to corroborate the statements of Mr. Kerr; and, had the whole immigration question been thoroughly sifted at that time, we can hardly suppose that such measures would have been adopted as the Regulations of November 1868 and of August 1869, while such a state of things as that which called forth the Old immigrants' petition and the de Plevitz pamphlet would, we might hope, have been effectually prevented.

578. Be this as it may, Mr. Kerr having made the observations above mentioned, the Council proceeded to the second reading of the Ordinance, upon which there does not appear to have been much further discussion, as, at the same sitting, fifty-eight articles of the amended draft were passed, and the second reading was completed at the next meeting of the Council on the 13th of November, when a clause was added to the 65th Article providing that the Stipendiary Magistrate might, in his discretion, dispense with the payment of fees by a plaintiff labourer; the other chief alteration being that the duty of issuing the passes was transferred from the Magistrate to the police; and on the 29th of the same month, after the addition of a clause to the 29th Article upon privi-

Kerr's charges. Details of his visit to the Immigration Depot.

Correspondence between Hon. Mr. Kerr and H. E. Sir H. Barkly.

Disappearance of Mr. Kerr's charges.

Resolution of the Chamber of Agriculture demanding an enquiry.

The Governor thinks special enquiry would be as useless as it would be mischievous.

Reported reason for the terms of the answer: and assurances to the contrary.

Present enquiry corroborates the statements of Mr. Kerr.

Third reading of the draft, and passing of Ordinance No. 31 of 1867.



ledged claims for wages, the draft was read the third time and passed as Ordinance Appendix F 24. No. 31 of 1867.

579. The Ordinance thus passed was forwarded by Sir H. Barkly to the Secretary of State on the 30th December, together with the various reports of the police inspectors upon the draft, and with reports upon the Ordinance itself by Mr. Douglas, the Acting Procureur-General, and by Mr. Beyts, and one also by Colonel O'Brien, the newly appointed Inspector-General of Police, upon the complaints made against the police by Mr. Kerr. We shall have to notice all these more particularly hereafter, and it will be sufficient here to say that Mr. Beyts gave it as his opinion that the Ordinance would, "if allowed to be brought into operation, very greatly improve our laws relative to labourers."

w. de Colonel O'Brien, in reporting upon the complaints of the vagrants which had been made to Mr. Kerr, gave an interesting account of the Indian character generally, and its tendency to falsehood, or

"at best, highly orientally coloured exaggerations,"

founded upon an intimate acquaintance with the principal races of India, gained during fourteen years of service in the Bengal Presidency, and three and a half years in Ceylon, to which had now been added that of two months in Mauritius.

580. From this experience he had

"no present hesitation in affirming that the Indian population in Mauritius is as a class far better treated and better off than in his own country;"

in fact, if he might be pardoned so to say, he thought they were

"too well treated, as they enjoy more liberty than they are socially, morally, or,

"from their previous training or education, capable of appreciating."

581. He called attention to the entire absence of moral restraint upon the conduct of the Indian population, owing to the loss of caste consequent upon having crossed the sea, and expressed his opinion that, without the

"all-powerful restraint of caste, laws must be made more stringent, as nothing

"remains but his fears to act on, presenting but three vulnerable points—the pocket,

"the stomach, and the skin."

582. He therefore recommended (as far as concerned the vagrants) that, instead of solitary confinement—"in itself a premium on idleness"—corporal punishment should more frequently be inflicted; not with a cat, the use of which he humanely deprecated as being an instrument of torture when applied to the frame of the frail Indian,

"but with a good cane, as employed in India; a dozen or two smart cuts of which

"on the buttock, such as is administered in many English schools—here, as there,

"would have a marked good effect, both individually and collectively, as an aid to

"discipline and a stimulus to work."

583. The Duke of Buckingham, in a Despatch, authorised the Governor to bring the Ordinance into operation; subject, however, to a consideration of its details by Her Majesty's Government, and liable to disallowance until altered by the Colonial Legislature, in conformity with any instructions which might be received for its amendment.

584. Under this sanction Mr. Douglas, in concert with Mr. Beyts and Colonel O'Brien, drew up Regulations for the working of the Ordinance, which were published on the 25th May, 1868, by a decree of the Executive Council, and a copy was duly transmitted to the Duke of Buckingham in June, when Sir Henry Barkly reported that,—

"My own experience may show the necessity for some slight modification of

"some of these important Regulations, their operation has so far progressed

"satisfactorily, and more especially that the process of registration of the Old

"immigrants is going on rapidly, and has been accepted without a murmur by the

"parties concerned."

585. Both Ordinance and Regulations were confirmed by the Secretary of State without further comment.

586. We have searched in vain among the Despatches for the Report that we should have expected to have found made upon it by the Emigration Commissioners, and transmitted in due time to the Governor. The only observations made by them upon either Ordinance or Regulations are to be found in their 29th General Report of 4th May, 1869, when, after the shortest allusion to the passing of the Ordinance, they remarked that

"This law is no doubt of an unusual and stringent character, subjecting as it does

"the Old immigrants not employed on estates to a control, which, in this country,

"has been applied only to men under tickets-of-leave. The opinions, however, of those on the spot, with the best means of judging, were so decided and unanimous as to the necessity for such a law, that it was allowed to go into operation."

587. But stringent as was the law, we shall now proceed to show how its stringency was increased:—

1st. By successive sets of Regulations.

2nd. By the manner in which Ordinance and Regulations were alike administered.

588. The first Regulations under the Ordinance were, as we have seen, published in a Government Proclamation on the 25th May. They had been drafted by Mr. Beyts: and on their proclamation arrangements were at once made for carrying out the registration of the Old immigrant population, and the issue to them of the police passes, under the 43rd Article of the Ordinance; and in order to allow them time for putting themselves *en règle*, the operation of the law was suspended until the 15th September.

589. In the meantime questions appear to have arisen upon the details of working the law, as we find that so early as on the 2nd of July a Circular was addressed by the Colonial Secretary to the Stipendiary Magistrate, calling for Reports upon the working of the Regulations which had so recently been brought into operation (and which Reports will be found in the Appendix).

On the 30th July Colonel O'Brien submitted a Report thereupon, to which we shall have occasion to refer for particulars hereafter (*vide* next chapter, *The Pass System*).

mentioning several cases in which the provisions of the law, as it then stood, were uncertain.

590. Whether it was in consequence of this Report or not, we do not know; and Mr. Beyts was uncertain upon the subject; but, about this time, a revision of the Regulations of the 25th May was undertaken, although the necessity for such a revision had been contemplated by Mr. Beyts nearly two months before, and the drafting of an amended Code of Regulations had been commenced by him; and we find that, on the 16th September, Colonel O'Brien wrote to the Colonial Secretary stating that, though the law had come into force on the previous day, he had

"suspended arrestations in the hope that within the next ten days the

"amended Regulations may be published, for much will depend on

"the uniform action of the law;"

and, therefore, he strongly urged the necessity of the publication of the new Regulations without delay. In default, however, it was considered undesirable that the law should be looked upon as a dead letter; and, on the 22nd, it came into full operation. (See Chapter XI., *Enforcement of the Labour Law*, paragraph 680, and following.)

591. The amended Regulations were published in Government Notice No. 166 of 11th November, 1868, and the law was then complete.

592. It does not appear, however, to have been attended with the beneficial results which had been expected; for, on the 3rd April, 1869, we find a Committee appointed, consisting of Mr. Beyts, Colonel O'Brien, and Mr. d'Emmerez de Charmoy

"for investigating closely the working of this Ordinance, with a view

"to ascertain whether the failure in the results has arisen from the

"defects in its provisions, or is owing to the insufficiency or inexpediency of the

"Regulations,—or whether it is due to the want of vigour in the Magistrates in

"enforcing those Regulations, or to the inactivity of the police in setting the law

"in motion."

593. Accompanying the appointment was the extract from a Minute of His Excellency Sir H. Barkly, dated 27th March, remarking

"that, though sufficient time had elapsed since the Ordinance had come

"into operation to admit of the registration of all the Old immigrants,

"the number registered was far below that anticipated, viz. 60,000."

That, up to the end of January preceding, under 33,000 passes had

"been issued by the police; and therefore (even allowing for the number 60,000

"being over-estimated), there was still a large margin unaccounted for,—a conclusion

"which would be arrived at by subtracting the amount of male Indians registered

"and of those reported as working on sugar estates from the total estimated number

"of male Indians in the colony, a calculation which left 43,000 unaccounted for;

The Ordinance forwarded to the Secretary of State.

Reports upon the Ordinance.

Report of Mr. Beyts.

Report of Colonel O'Brien.

The Indian far better off than in his own country.

Indians too well treated in Mauritius.

Recommends a dozen or two smart cuts on the buttock with a cane, as an aid to discipline and a stimulus to work.

Conditional allowance of the Ordinance.

Regulations framed.

Sir Henry Barkly reports that the registration has been accepted by the Duke of Buckingham.

Report of the Emigration Commissioners.

Remarks of the Emigration Commissioners.

The Regulations.

Registration of the Old immigrants, and revision of the Regulations.

Colonel O'Brien suspends arrests awaiting the amended Regulations.

Publication of the amended Regulations 11th November, 1868.

Commissioners enquiry into the working of Ordinance No. 31 of 1867, and of the Regulations thereunder.

The Governor's opinions.

The Regulations.

|                                            |                |
|--------------------------------------------|----------------|
| Total Number of male Indians in the colony | 145,000        |
| Number of Indians registered               | 33,000         |
| "    "    working on sugar estates         | 69,000         |
|                                            | <u>102,000</u> |
| Unaccounted for                            | 43,000         |

a number which His Excellency thought must far exceed that of Creole Indian boys below the labouring age; and the Minute further noticed that it was loudly asserted by the press that of the 33,000 so registered and provided with passes, a large proportion had

"not in consequence resorted to habits of settled industry" (meaning thereby, we presume—for we shall prove it hereafter—engagement to labour on a sugar estate\*), "but having described themselves as hawkers or job-labourers roam the country in comparative idleness and vagabondism, making in fact their passes a cover and protection against all inquiry."

594. This Commission entered upon its enquiry, consulting the results obtained in the respective departments of the Commissioners, and calling upon Stipendiary Magistrates, District Clerks, and District Cashiers to furnish various particulars with which it was necessary that they should become acquainted; and on the 7th June they made an Interim Report, which was transmitted to the Secretary of State in the October following with the Despatch accompanying the Blue-Book for 1868.

595. This Report went to show that there were only about 2000 Indian immigrants remaining unaccounted for; and in order to enforce compliance with the requirements of the New Law, the Commissioners recommended the passing of a Regulation attaching a penalty to the non-observance of the provisions relative to registration. They also thought it advisable that Indian Creoles of the lower class should be brought under the same system, relative to tickets and passes. They concluded with expressing their opinion that the New Ordinance had been carried out as successfully as could have been expected, and was

"manifestly accomplished the main object which the Legislature had in view in passing them: namely, the suppression of vagrancy by the exercise of a systematic and well-organised control over the movements of the labouring classes."

and they promised that as they had obtained certain further information, to submit their views regarding the amendments which the Regulations relative to passes and jobmen's licenses required to them to require, and at the same time to point out the changes which in their opinion were desirable in the Ordinance itself.

596. A second Report was subsequently made and submitted on the 2nd August to the Governor, and by him apparently referred to Mr. Jules Colin the Procureur-General, whose observations upon the different paragraphs will be found in the Appendix, and the effect of which was, that no change was required in any of the Ordinance but that the recommendations of the Commission could be carried out by Regulations.

597. The Governor appears to have had some hesitation as to whether the amended Regulations, as proposed, could be passed without an Ordinance, for he minuted upon Mr. Beyts's observations upon them as follows:—

"The power of making Regulations, however, given to the Governor in Council by Ordinance No. 31 of 1867 is so very wide, that on reflection I see no reason why these clauses should not be passed."

598. However that might be, on the 25th August the amendments suggested by the Committee and the Procureur-General were passed by the Executive Council, and published for general information in Government Notice No. 154 on the 8th September.

599. No mention of these amended Regulations appears in the Despatches to the Secretary of State; and, though the Interim Report appears printed in full in the Papers submitted to both Houses of Parliament, we have looked in vain for the final Report and the Regulations founded upon its recommendation, until we were informed by the Colonial Secretary, on inquiry, that they were only transmitted with the proceedings in Executive Council with the usual covering Despatches, No. 93 of 9th April 1869, and No. 70 of 10th March 1870.

\* See Chapter XI., *Enforcement of the New Labour Law*, paragraph 664, and following, as showing the strange opinions existing at the time.

We therefore assume that they never were seen by the Emigration Commissioners, for we can scarcely suppose that they would ever have permitted to pass, without notice or comment, measures so seriously interfering with the liberty of a large section of your Majesty's subjects. The details of these measures we shall now proceed to consider; and, first of all, the Pass System.

## CHAPTER X.—The Pass System.

600. The Pass System contains the only completely new principle, as it is the most important reform, introduced by Ordinance No. 31 of 1867, and it was borrowed from the neighbouring French colony of Réunion.

"There, at the termination of his original engagement, the labourer has the option, either of re-engaging or going back to India; or, if allowed as a special favour to remain and carry on some trade or handicraft, he must be provided with a livret (workman's pass-book), as in France. Here, on the expiration of his five years' service, the Old immigrant has been allowed liberty as he pleased, to work or to be idle, to practise a trade, set up a shop, or buy land, or to wander about without fixed habitation or regular employment. It is impossible, with the utmost partiality for British institutions, to compare the results of these two systems without acknowledging that the former has proved in every way better adapted for men in the state of civilization of the low-caste natives who emigrate to these colonies."

601. There was one important condition, however, in the system as existing in Réunion, which Sir Henry Barkly omitted to mention, namely, that there the immigrant has the option given him of re-engaging or returning to his native country; and, if he elect to quit the colony, he is entitled to the free passage back to India; a right which, in Mauritius (as we have seen in paragraph 336, *Contingent System*), had been abolished at the repeated instance of the Immigration Committee, and which there was apparently never any thought of reviving, and which makes all the difference between the systems themselves, and whether the law is just or the reverse.

602. Mr. Douglas in his Report upon the Ordinance, after dwelling upon the evils of vagrancy and the prevalence of gang robbery, derived from the Police Returns, in answer to a series of questions (see last chapter, *New Labour Law*, paragraph 482) upon the subject, adds:

"Hitherto the only preventive measures sanctioned by the Legislature have been the apprehension of these parties as vagrants when found on the road without papers. But these measures have proved insufficient. It has for some time past struck me that the only mode of dealing effectually with these classes is to let them see that they must work honestly for their livelihood, and that, while on the one hand, every assistance will be afforded them to put themselves *en règle* and to obtain employment, on the other hand they will no longer be allowed to live a life of vagrancy and plunder, and that they will have to account for their means of subsistence when called upon to do so."

603. With this view it was enacted that a photograph of the bearer should be affixed to the ticket which, since the passing of Ordinance 22 of 1847, all Old immigrants had been required to carry on completing their industrial residence, in proof of their status. This system, of which more will be said hereafter (*vide Chap. XIV.—The Immigration Office*), had already been in existence for three years as a voluntary measure; that is to say, for all immigrants who did not object to pay 4s. for the photograph; and was now rendered compulsory, all tickets issued to Old immigrants previously without such portraits being called in to be exchanged for those of the form prescribed by Article 39 of Ordinance No. 31 of 1867. By Article 41 it was ordered that, after the expiration of three calendar months from the date of the Ordinance coming into operation, no contract of service should be passed before any Stipendiary Magistrate between any employer and an Old immigrant except upon production of the portrait ticket; while Article 42 declared that after that time no ticket other than the portrait should

"be of any avail as proof of the status of Old immigrants of the party described therein."

The Commissioners suppose the amended Regulations were never sent to the Secretary of State, and never seen by the Emigration Commissioners.

New principle, borrowed from Réunion.

System in Réunion.

The systems of Mauritius and Réunion compared.

Right of back passage in Réunion.

Views of Mr. Douglas regarding the necessity for passes.

Photograph tickets.

A voluntary measure.

Now rendered compulsory.

No contract of service to be passed unless a portrait ticket were produced.

No ticket other than the portrait ticket of any avail to prove status.



Ordinance No. 31 of 1867. Article 43. Old immigrants not under contract to report themselves to the police.

and declared the holder of any such other ticket liable to be detained and forwarded to the Protector of Immigrants.

It was further enacted that every Old immigrant, except when working continuously under written contract, should be bound to report himself

"to the Inspector of Police at the central station of the district, and then and there to justify . . . his status of Old immigrant by production of his ticket, and further to declare . . . his place of abode and occupation, employment, or other means of subsistence;"

Issue of pass. whereupon he should receive a pass, the counterpart whereof was to be filled up and kept on record at the said central station: which pass, with his portrait ticket, would operate as a complete voucher for the status of the bearer; and, after the receipt of which, it was intended that he should be perfectly free from molestation.

Portrait ticket.

Immigrants completing industrial residence to report themselves.

And it was further provided that

"every immigrant on completing his industrial residence, and receiving an Old immigrant's ticket, and every Old immigrant on the expiry of his written contract, shall, within eight days (unless in the meantime he re-engage under written contract), appear and report himself in like manner, and receive a pass."

Article 44. 604. By Article 44 it was enacted that every Old immigrant having obtained such pass should be bound

Where change of residence.

"on change of residence to appear before the Inspector of Police of the district in which he resides, or is about to reside, as the case may be, and obtain a new pass,"

upon which was to be endorsed the number and date of any former pass and the district from which it had been issued.

Article 45. After the expiration of three months from the coming into operation of the Ordinance, no contract of service was to be passed by the Stipendiary Magistrate between any Old immigrant and an employer, except upon production by the immigrant of a pass duly issued to him, under the 43rd or 44th Article, unless the engagement were being entered into within eight days from the completion of any previous written contract.

Article 46. 605. By Article 46 any Old immigrant not under indenture, failing to produce his pass on demand either of any Magistrate or of the police, or a certificate duly signed by a Stipendiary Magistrate (as provided by Article 7) was rendered liable to be detained and forwarded to the Immigration Depot, there to be further detained pending enquiries about him; and, if the result showed that he was not

"following any *bonâ fide* employment, whether on his own account or in the service of a third party, and that he has no visible means of subsistence, he shall be deemed . . . to be a vagrant."

Vagrancy.

and dealt with as such. But, if the result showed him not to be a vagrant, then he might be sent back to his district to obtain a pass.

Article 47. 606. By Article 47, any Magistrate having reasons for thinking that any Old immigrant had obtained a pass upon a

"false declaration, or is without any fixed place of residence, or without *bonâ fide* occupation . . . or means of subsistence,"

might issue a summons; and, in default of compliance therewith, a warrant for the appearance before him of the immigrant; and, if after investigation the Magistrate were satisfied that he had made a false declaration, or was without *bonâ fide* means of subsistence, he might condemn him as a vagrant; while Article 20 had empowered the Magistrate to refuse to pass contracts in cases where he had good grounds for doubting their being entered into *bonâ fide*; and Article 21, to cancel contracts actually made between immigrants and alleged employers, if upon enquiry he should not be satisfied that at the time of the passing the contract the parties thereto had not any *bonâ fide* intention of carrying it out.

Article 20. 607. Article 48 authorised the arrest without warrant of any immigrant found in a district where he has no residence, or in any house or premises, and being unable to give a satisfactory reason for his being there; whereupon he was to be brought before the Stipendiary Magistrate of the district in which he had been so found, who was empowered to forward him to the Immigration Depot for enquiry into his status,

Article 48. Immigrant out of district of domicile may be arrested without warrant, and forwarded to the Immigration Office for enquiry.

"and, according to the result of such enquiries such immigrant shall either be discharged from the depot or be otherwise dealt with according to law."

Article 55. 608. Article 55 empowers any officer of police to enter at any time of the day, or at any time of the night under warrant of a Magistrate,

"any premises where any immigrant is employed or resides," in order to ascertain whether such immigrant be a New immigrant under contract of service, or an Old immigrant *en règle* as to his ticket and pass; and in case of his not

being satisfied as to the status of such immigrant, to arrest him and take him before the Stipendiary Magistrate to be dealt with according to law.

609. Such were the provisions of the Ordinance; and we now come to the Regulations passed on the 14th May and taking effect on the 25th of the same month.

Appendix F 31. Four simple Articles are all that we can find in them upon the subject.

610. Article 35 decreed that every Old immigrant declaring his abode and occupation under Article 43 of the Ordinance, or making a new declaration under Article 44, should receive a pass of a certain form, free of charge, such pass to be signed by any police officer of the district duly authorised to do so.

Any immigrant having thus received a pass, and wishing to reside in another district, was bound first to give notice of such intended change of abode to the Inspector of the District which he was about to leave, who should forthwith enter an acknowledgment of such notice, both on the immigrant's pass and its counterpart; and, no new pass should be issued to any immigrant who had removed from one district to another unless such notice had previously been given by him.

611. "If any Old immigrant allege that he has lost a pass issued to him, at a central police station . . . and there be no reason to presume that his statement is untrue, a duplicate of such pass shall be issued to him on his paying the fee mentioned in the tariff annexed;"

but, we presume by some oversight, no mention of any such fee was made in the tariff.

By Article 57, any Stipendiary Magistrate to whom the loss of a police pass was satisfactorily explained was empowered to give an order for the issue of a duplicate free of charge; such "exemption order" being filed in the office issuing the duplicate pass.

612. This was the footing upon which the registration of the Old immigrants commenced in May 1868.

613. Up to this time Mr. Douglas had directed the legislation as Procureur-General. Within a few days of the proclamation of the Ordinance and Regulations, on the 25th May, he died unexpectedly from the results of an accident, and was succeeded in his office by the late Mr. Jules Colin.

614. The machinery adopted for the registration was as follows:—It was assumed that the numbers of the immigrants, as registered at the Immigration Office, ran up to 300,000, and registers to that extent were provided. It was thought more convenient to divide this number of 300,000 into divisions of 15,000 each, lettered with an uncial letter corresponding with the index at the commencement of the register:

|    |                   |    |                    |
|----|-------------------|----|--------------------|
| A. | 1 to 14,999       | K. | 150,000 to 164,999 |
| B. | 15,000 " 29,999   | L. | 165,000 " 179,999  |
| C. | 30,000 " 44,999   | M. | 180,000 " 194,999  |
| D. | 45,000 " 59,999   | N. | 195,000 " 209,999  |
| E. | 60,000 " 74,999   | O. | 210,000 " 224,999  |
| F. | 75,000 " 89,999   | P. | 225,000 " 239,999  |
| G. | 90,000 " 104,999  | Q. | 240,000 " 254,999  |
| H. | 105,000 " 119,999 | R. | 255,000 " 269,999  |
| I. | 120,000 " 134,999 | S. | 270,000 " 284,999  |
| J. | 135,000 " 149,999 | T. | 285,000 " 300,000  |

Divisions of 15,000.

which, again, for facilitating departmental references, were subdivided into three heads of 5000 each, lettered respectively in italics, *a*, *b*, *c*.

615. These registers were issued to every district: and, that there might be no misconception on the part of ignorant men not understanding the law, the passes were printed on paper or with ink of different colours for each district: specimens of which were posted up in every police station in the island, so that every member of the force might be familiar with the distinctions between the passes. Reference to the accompanying extract from a register \* will illustrate the mode of registration.

Passes coloured for each district.

\* A copy from the actual register at Moka Police Office, up to District Number 35. The case taken as an illustration is imaginary. The figures are underlined.

K.

FROM IMMIGRATION NUMBER 150,000 TO NUMBER 164,999.

| a.<br>From 150,000 to 154,999.      |                                | b.<br>From 155,000 to 159,999.      |                                | c.<br>From 160,000 to 164,999.      |                                |
|-------------------------------------|--------------------------------|-------------------------------------|--------------------------------|-------------------------------------|--------------------------------|
| District Number and Letter of Pass. | Immigrant's Number and Letter. | District Number and Letter of Pass. | Immigrant's Number and Letter. | District Number and Letter of Pass. | Immigrant's Number and Letter. |
| 1                                   | 151,778                        | 2                                   | 157,686                        | 10                                  | 162,611                        |
| 5                                   | 154,444                        | 3                                   | 157,028                        | 11                                  | 161,625                        |
| 6                                   | 152,368                        | 4                                   | 158,220                        | 15                                  | 162,673                        |
| 8                                   | 152,293                        | 7                                   | 158,053                        | 17                                  | 162,757                        |
| 9                                   | 152,234                        | 12                                  | 159,104                        | 20                                  | 162,453                        |
| 13                                  | 152,657                        | 16                                  | 158,100                        | 28                                  | 161,824                        |
| 14                                  | 152,640                        | 19                                  | 155,876                        | 33                                  | 163,933                        |
| 18                                  | 151,520                        | 24                                  | 155,155                        | 35                                  | 162,588                        |
| 21                                  | 151,138                        |                                     |                                |                                     |                                |
| 22                                  | 154,618                        | 36                                  | 155,000                        |                                     |                                |
| 23                                  | 153,456                        |                                     |                                |                                     |                                |

Article 43.  
Justifying  
status.

616. By Article 43 of the Ordinance, the condition of obtaining a pass is, that immigrant must "justify his status," by producing his immigration ticket. We will suppose an Indian presents himself at the police station bearing as its number 156,000. Reference to the index in the register, according to the system of sub-division above-mentioned, the page of the register would show that he must be entered in column *b*. He would then have a district number allotted to him, which is given to each successive applicant in the order of his application. Thus, in the case supposed, it would be 36, and his pass would be made out and marked 36 *b*.

The form of the pass and counterfoil is as follows:

|                                         |                                         |
|-----------------------------------------|-----------------------------------------|
| MOKA.                                   | MOKA.                                   |
| District No. ....                       | District No. ....                       |
| Name. ....                              | Name. ....                              |
| Immigration No. ....                    | Immigration No. ....                    |
| Ordinary Residence. ....                | Ordinary Residence. ....                |
| Trade. ....                             | Trade. ....                             |
| Date .....                              | Date .....                              |
| Last Pass.<br>District.<br>No.<br>Date. | Last Pass.<br>District.<br>No.<br>Date. |
| Inspector of Police.                    | Inspector of Police.                    |

The date of the pass, with its district number, would also be endorsed upon the immigrant's ticket, for convenience of reference in case of the loss of the pass, in which event a reference, easily made, to the register, would show that he had previously received a pass; and, upon the duplicate being issued, the fact would be recorded in the register by affixing a small asterisk in red ink to the district No. of the applicant, or a second asterisk if the issue were a triplicate; and so on to any number.

617. In the event of the supposed immigrant changing his residence into another district (say, Flacq), he would be bound to report himself first at the Moka Office, where, on his announcing his intention of removing, his pass would be stamped with the name of "Moka," and the date of the stamping, which the bearer would be bound to produce at the Flacq Office; whereupon a new pass for that district would be issued to him, and the Moka pass retained, and remitted again to the office of that district.

618. On entering into a written engagement before a Magistrate, the pass is given up by the holder to the Magistrate, and by him it is returned to the police; and, at the determination of the engagement, a duplicate pass is issued to the holder; which is shown by a cross marked on the back of the ticket in red ink; and, should the engagement have been determined in a district other than that in which the original pass was issued, the name of

"the district of his last pass is to be endorsed upon his new one."

619. On the 30th of July 1868, Colonel O'Brien submitted a Report upon the working of the Ordinance, which, as a whole, he said, had up to that time been attended with most satisfactory results;

"forcing a large amount of the hitherto idle portion of the immigrant population to seek honest employment."

He again dilated upon the Indian character and its degradation through loss of caste; and observed that the climate of Mauritius being enervating, and all being more or less debilitated by sickness, little incentive to work existed; and the Indian therefore found the

"habitual apathy and 'laissez aller' of the Creole but too congenial a spirit to whence the pressure then brought to bear could not be otherwise than judicious."

620. A very large number of Old immigrants who had hitherto been leading an idle life had obtained permanent employment on the various estates; many who had put themselves *en règle* had registered themselves as hawkers, in the hope of thus evading the law; and many, he felt sure, would, at the expiration of three months, be found to have made false declarations; but would,

"when made practically to feel that work they must, obtain employment without delay;"

and he suggested that, to prevent any injustice, in cases where men might *bona fide* be in search of but unable to find employment, the Superintendent of Police in Port Louis and the Inspectors in the districts should be authorised to accord a reasonable extension of the eight days' interval, before being compelled to re-engage, laid down in Article 43 of the Ordinance.

621. He pointed out that the law as it stood, was not clear as to what constituted "a change of residence," police passes being available for the entire district.

"It would appear *prima facie*," he wrote, "that any change of residence in the district would not require to be notified, and I was in full hopes that it would not be necessary to put any further restraint upon the Indian; *per contra*, take Black River for instance, it is evident that a man at Petite Riviere, finding that he was looked after for leading a vagabond life, might long evade the police and pursue the evil tenor of his ways, were he to settle at the 'Morne,' his police pass covering the multitude of his sins."

(Why, so long as he abstained from crime or misdemeanour, he should not settle at the "Morne," or anywhere else, we cannot imagine.)

"However, this can be remedied, and, as we have got posts all over the island, I do not consider it would be hard on the immigrant, if he went to the nearest station and there had his ticket stamped at the back with the name of the station and date of the report of change. . . .

"A certain latitude, however, under this head must, at all events till the establishing of Indian villages, be allowed in Port Louis, as it would be manifestly impossible to follow every man who migrates perpetually in quest of a more convenient, cheaper, or better lodging throughout the town; and this, too, when dealing with a class, the existence of which to a certain extent without the pale of the law must, as a necessity, be tolerated. I allude to the large number of day labourers, which, for the requirements of the shipping and wharfs, &c., must exist in Port Louis; these men to-day are employed, and to-morrow may be out of work. Are they thus to alternate daily from a state of vagabondage to that of quasi-respectability? Often they may earn sufficient in a week to keep them till fresh ships arrive, and fresh employment offers; or, are they to be forced to change their trade or mode of living? If so, this class will cease to exist and commercial industry will be paralysed. On the other hand, if not forced to work, the gaps in their labour may be filled up by days of dissipation, vagabond-

\* The "Morne" is a desolate and inaccessible mountain rising abruptly out of the sea at the end of an island at the south-western extremity of the island. At its foot there is, we believe, a small fishing village.



O'Brien's  
Report upon  
the working  
of Ordinance  
31 of 1867.

Status of  
"squatters or  
small land-  
holders" to  
be defined.

Strongly de-  
precates the  
use of the cum-  
brous ma-  
chinery of  
summons and  
warrant for  
vagrants.

Conclusions  
from Colonel  
O'Brien's  
Report.

Severity of  
Colonel  
O'Brien's  
recommen-  
dations.

Regulations  
of the 11th  
November,  
1868.

13 Articles as  
to passes.

Article 40.

Article 41.

also declara-  
tion as to  
abode or occu-  
pation.

"ising, and crime. This, I confess, is the most difficult problem to solve, and will hardly be met by Articles 85, 86, and 87 of the Regulations made under Ordinance 21 of 1851.

"Yet legislation on this point will be very necessary.

"Another class too, who will seek to evade the provisions of the Ordinance, are a large number of squatters or small landholders, gardeners, or cattle owners. Their status will require to be better defined; for though Article 43 lays down that immigrants are to justify their position to the officer of police, yet it is the Magistrate who, by Article 48, judges if that man's position is that of a vagrant, the police having the *onus probandi* of all accusations thrown upon them.

"Does, for example, the joint ownership by several Indians of, say, one-quarter acre of garden, from the proceeds of which it is in the opinion of the Inspector impossible that two or more men and their families can subsist, constitute a sufficient excuse, and warrant arrest or exemption from the charge of vagrancy? Magistrates, as well as doctors, differ; and varied interpretations of the law will prevent uniformity, I fear, in its action, if some definite rules are not laid down.

"Another point on which a conflict of opinion is likely to arise, is the interpretation to be placed on Article 47; and I would strongly deprecate the use of the cumbrous machinery of summons and warrant, with reference to any part of the population capable of being considered vagrants, or the removal from this department of the general power of arrest conferred on it by Ordinance 21 of 1844."

622. We have quoted the last three paragraphs in anything, they appear to us to maintain that the Inspector doubts:

1st. Whether a large number of persons, whose existence he regarded as without the pale of the law, but in whose absence the commercial industry of the capital of the colony would, he admitted, be paralysed; and who, therefore, must be tolerated as a "necessity," ought not to be forced to work incessantly and without intermission, under pain of incurring the charge and penalties of vagrancy; although he further admitted that they might

"often earn sufficient in a week to keep them until such a time as fresh employment" offered.

2nd. Whether an error had not been committed in investing the Magistrates, instead of the police, with the authority to decide whether the larger portion of landholders in the colony, not sugar planters, were not also obnoxious to the charge;

"as Magistrates, as well as doctors, differ in their opinions;"

and, unless some definite rules were laid down, the difference of the Magistrates' opinions would prevent uniformity in the action of the law.

A suggestion which would have improved the system only if the Inspectors of Police either have no opinions or never differ therein; and

3rd and lastly. That the Inspector-General strongly deprecated as cumbrous the necessity for warrants and summonses: the only safeguard remaining to protect the liberty of the subject against the possible abuse of such extensive and irresponsible powers.

Stringent, and we may say of some cases, cruelly harsh, as has been the administration of the law by the Magistrates, we must declare our opinion that it is a matter for the most sincere congratulation that the views of the Inspector-General, as advanced in the Report quoted, were only partially adopted.

623. We shall next point out the additions made to the law by the amended Regulations of the 11th November, 1868.

Instead of three, there were now thirteen Articles more or less devoted to the pass system: namely, Articles 40 to 49 inclusive, together with Articles 54, 55, and 56.

624. Article 40 re-enacts Article 35 of the Regulations of May, *verbatim*. Article 41 (new) provides that, if it should appear to the Officer duly authorised to issue passes, that

"the statement of any applicant for a pass, as to his abode or occupation is untrue, or that his occupation is not such as to justify the issue of a pass to him, the case shall immediately be reported to the Stipendiary Magistrate, and inquired into without delay;"

and in the event of conviction by the Magistrate of

"having no fixed residence, or *bona fide* occupation, employment, or means of subsistence, the applicant should immediately be dealt with as a vagrant."

625. Article 42 (new) empowered the Protector, the Stipendiary Magistrates, and the superior officers of the police, upon good cause shown, to extend the eight days within which, by Article 43 of the Ordinance, the declaration of abode and occupation must be made, to fifteen days and no more.

626. Article 43 (new) ordered every immigrant, under a penalty of £2, on changing his abode or occupation within the district of his domicile, to report the same at the central police station thereof, so that his pass and its counterfoil may be rectified accordingly.

627. Article 44 re-enacted, *verbatim*, the 36th Article of the former Regulations.

Article 45 rendered any person convicted of having assisted a labourer to procure a police pass by a fictitious engagement or false pretences, liable to a fine of £10.

628. Article 46 re-enacted the provisions of Article 37 upon the issuing of duplicate passes; and added a clause ordering such re-issue to be recorded on the counterfoil; and, further, imposed a penalty of £10, or an imprisonment not exceeding three months, on every immigrant convicted of claiming a renewal of his pass on false pretences.

629. Article 47 (new) imposed a penalty of £5 upon any immigrant convicted of using a police pass not his own.

Article 48 re-enacted, *verbatim*, Article 57 of the former Regulations.

630. Article 49 (new) forbade the issue of a police pass to any Old immigrant declaring that he was, or was about to be, verbally engaged by a job-contractor; unless the latter appeared in person and satisfied the police of the *bona fides* of the alleged verbal engagement; and that, under it, the immigrant would not be without domicile, employment, or means of subsistence.

631. Article 54 (new) forbade the delivery of a police pass to any Old immigrant declaring that he lived upon daily labour or upon the proceeds of job work, unless he had first procured from the chief clerk of the Stipendiary Magistrate's office, if in Port Louis, or from the district cashier, if in the country, a licence, upon which there was an annual tax of 4s. imposed by the tariff annexed thereto.

632. By Article 55 (new) every day-labourer or jobman not exhibiting his licence on demand to any officer or constable of police, or to an inspector of licences, or not renewing his licence at its expiration, was declared liable to a fine of £2; and, by Article 56, every such licensed day-labourer was bound to wear conspicuously a badge on his right arm, bearing thereon the number of his licence.

633. It now only remains for us to show the last amendments added to these Regulations by Government Notice No. 142, of 25th August, 1869, upon the recommendations contained in the "Final Report" of the Commission appointed on the 3rd August (see paragraph 592, Chapter IX., *New Labour Law*), which "Final Report" was upon the reports sent in by the Magistrates and Inspectors of Police.

634. In Article 42 the stringency of the prohibition to extend beyond fifteen days was relaxed in where

"other good reason be shown for a but a more stringent clause was appended to failing to re-engage under written contract or any larger period granted by reason therefor, be "

Regulations  
of the 8th  
Nov., 1868.

Article 42.  
Extension to  
15 days of  
interval be-  
tween con-  
tracts.

Article 43.  
Change of  
abode or occu-  
pation to be  
reported.

Article 44.  
Article 45.  
Punishments  
for fictitious  
engagements.

Article 46.  
Issue of  
duplicate  
passes.

Article 47.  
Using police  
passes not the  
holder's own.

Article 48.  
Article 49.

Issue of passes  
to job-con-  
tractor's men.

Article 54.  
Issue of passes  
to jobmen  
after produc-  
tion of licence.

Article 55.  
Jobmen to  
show licence  
on demand.

Regulations of the 25th August, 1866.  
Not giving notice of removal.  
Permission for one or more foreign districts.

A clause was added to Article 41 of the Regulations imposing a penalty of a fine of £4, or a fourteen days' imprisonment, upon immigrants making default in giving notice of their removal into another district, following the twelfth recommendation of the "Final Report," and suggested by Mr. Renouf.

637. Two new articles were next inserted, the first of which was intended apparently to be a relaxation in favour of the Indian by empowering any Inspector of police, on the application of any Old immigrant, to endorse upon the police pass

"a permission to proceed to or reside in one or more foreign districts during a specified period,"

following the sixteenth recommendation of the "Final Report," which was founded on the representations of several of the Magistrates of the hardship done to small traders and respectable persons, who having proceeded into an adjoining district on business, had been arrested as vagrants, to their great injury and inconvenience.

Article 46.  
Date of leaving service to be endorsed upon police pass.

638. Article 46 (new) of the amended Regulations provided that on the termination of any verbal engagement, the employer of an Old immigrant should be bound, under a penalty of £3, to endorse upon the police pass of the immigrant the date of his quitting the service, in compliance with the eighteenth recommendation of the "Final Report."

Article 50.  
Limit to issue of day-labourers' licences.

639. To Article 54 (now 56), respecting day-labourers, were added two clauses, the first of which empowered the Protector, with the approval of the Governor, to regulate from time to time, and according to the requirements of the locality, the maximum number of day-labourers' licences to be issued in each district, the annual tax upon which was raised at the same time from 4s. to £1, while the second clause rendered compulsory upon any holder of such licence to accept rates of wages as should be contained in a tariff to be published by the Protector, subject to the approval of the Governor.

Jobmen must accept wages at rates to be fixed by Government.  
Recommendations of "Final Report."

640. These additions were the result of the fourteenth paragraph of the "Final Report," which was as follows:—

"(14.) We should recommend that Regulations 54, 55, and 56 (those which refer to jobmen's licences), be thoroughly recast, with a view to the application of the following new principles:

"1st. That the number of jobmen's licences to be issued in each district be limited by a committee, or by some officer appointed to determine from time to time what number of jobmen it is proper and expedient to have in the district.

"2nd. That those licences be held forfeitable when not used *bonâ fide*.

"That jobmen be compelled to work under a tariff published from time to time with the approval of the Governor.

"That a penalty be attached to non-compliance with Regulation 56.

"That the price of a licence be raised to £1 per annum.

"The reason alleged for these recommendations is that, at that time,

and that the law was systematically evaded by the persons

which protected the bearer from arrest, and certain

borne out by the reports which had been received

upon the day-labourer's licence was by

etc

"spurious. The Stamp Law only requires a threepenny stamp for these documents.

"I would insist, in view of putting down this abuse, that a stamp of £1 or £2 be

"recovered instead of a threepenny one."

643. We see here the Stipendiary Magistrates declaring that the object to be kept in view should be to send more labourers on to the estates at reduced wages, in very nearly as plain terms as those in which the same sentiment had been expressed nearly three years before in one of the smaller newspapers of the colony, in which it is plainly declared that His Excellency the Governor should be made to

"understand that the first thing to be done in the interests of agriculture is, to

"endeavour to effect a diminution in the wages of our labourers."

The writer proceeds to declare that,

See Appendix F. 56.  
'Le Progrès Colonial,' 17th July, 1866. "if immigration, as now managed, is to the taste of some rich proprietors, it is of no service to nine-tenths of the sugar planters;"

that,

"wages are still too high through our present system, a system which drives the

"small planter to raise wages so as to get workmen: then is established a compe-

"tition disastrous to the poor employers, already borne down by a thousand

"difficulties, and the Indians alone profit by the new system."

644. A new Article (Article 58) was added in conformity with the 17th recommendation in the Final Report, rendering any immigrant not being under indenture, and failing to exhibit his portrait-ticket on demand to any officer or constable of police liable to a

"fine of £2 sterling, or to imprisonment for a period not exceeding seven days,

"without prejudice to any further punishment to which he may be liable for

"vagrancy or otherwise."

645. Such being the law, we will now very shortly consider the position in which an Old immigrant is placed by it, who, on the completion of his industrial residence or any subsequent engagement under indenture, may not wish to bind himself under a similar written contract.

He must within eight days (Article 43 of Ordinance 31 of 1867) have settled his future course of life; which term, on his showing good cause to the police, may, however, be extended to fifteen days, but no farther, except in special cases of sickness or other good reason shown. What are the chances of success in showing such good reason, we learn from the evidence of the Honourable Mr. Colin, the Procureur-General, given before the Police Enquiry Commission:—

Appendix H. 1.  
Answer 1804. "Now; it is very difficult for a poor man to prove that he has tried

"to get work and has failed, unless he calls witnesses whose attendance

"he has no power to command; so that, upon the hypothesis that he has tried to

"get an engagement, but failed, he must rely either upon the good will of the

"parties to whom he has applied, or upon the chance of his unsupported statement

"being believed by the police—two other precarious consequences."

646. If he oversteps that short period he is liable to a fine of £2, or to seven days' imprisonment, in addition to any punishment which may be awarded to him for alleged vagrancy (Regulation 42).

He cannot obtain his pass, because, in order to do so, he must state his occupation (Article 43 of the Ordinance), and that he may not yet have fully determined.

Before he can earn a single shilling, by doing an odd day's work, he must procure, under the penalty of a fine of £2 (Regulations 57 and 59), a licence, for which he has to pay £1: a sum equivalent to the pay for one month and thirteen days' work, reckoning the average rate of wages paid upon estates at \$3 50 c. per mensem, in money.

647. Assuming, however, that he has determined upon his occupation, and, having satisfied the police, has obtained his pass, he still is not at liberty to leave the district—an area not much more extensive than that which might until recently have been found in many, and still may be in some, large English parishes; but, should business or pleasure call him into the adjacent district, to a spot possibly not half a mile from his abode, he must first (Regulation 45) obtain the endorsement of his pass, by the Inspector of his district;

for which he would have to repair to the central office, lying possibly some

miles\* in a direction the very diametrically opposite of that of his ultimate

destination; and, in the event of his not chancing to find the Inspector at the office, he

would have to wait, or go away and return again; for the Regulation does not empower any officer other than the Inspector to act in such a case.

If, on the other hand, he proceed upon his way and pass the prescribed boundary, he

Regulations of 25th August, 1866.

The Magistrates' aim to send labourers on to the estates.

'The Progrès Colonial'—opinion regarding immigration.

Article 58. Penalty for non-production of portrait-ticket.

Position of the unindentured Old immigrant under the New Labour Law.

Occupation to be chosen within 15 days.

Extension of interval "for good reason."

Opinion of Mr. G. Colin, Procureur-General, as to the difficulty of showing "good reason."

Severe punishment where interval exceeded.

Occupation must be stated before pass issued.

Job-man must pay £1 before doing any work.

Not free to leave his district.

How Old immigrants tied down by the pass system.

How impeded by the pass system.

\* Serjeant Ciniotti says they very often have to go as many as ten or twelve miles.



Ordinance bearing upon the procedure against those who have or having obtained a pass

Mr. Jules  
Colin at fault.

Mr. Beyts of opinion that an amending Ordinance unnecessary to render Article 47 of the Ordinance effectual.

Apparent hesitation of Sir Henry, Barkly.

How Sir Henry Barkly was induced to sanction the Regulations.

The Duke of Buckingham's Despatch of the 6th June 1868.

Government should interfere to prevent individuals from being public nuisances.

Unfit dwellings to be destroyed.

Punishment of owners who refuse to restore buildings.

Punishment for over-crowding.

Where necessary, to pull down certain buildings.

Powers of entry, inspection, and otherwise, to be given.

Persons deprived of shelter in Port Louis, it was hoped would be driven to the sugar estates or neighbouring villages.

Sanitary Regulations for country.

Old immigrants to be placed under Regulations.

The Duke of Buckingham's information.

Discretion allowed to Sir Henry Barkly, and Imperial support promised him.

on false declaration; the process of summons having been found too slow, the defaulter generally decamping as soon as he received it. But, as he added in a marginal note, as this would be the only point requiring an amending ordinance, it would scarcely be worth while to move the Legislature for so small an alteration of the existing Ordinance.

658. We have already stated that marks of hesitation are discernible on the part of Sir Henry Barkly as to his power of passing such Regulations in Executive Council, without a legislative enactment; and we think it but just to him, in face of allegations made by Mr. de Plevitz (*Pamphlet*, paragraph 17) to point out how that hesitation was overcome, and how he was induced to sanction the Regulations.

659. In the first place: early in the month of July 1868 Sir Henry Barkly had received a despatch from the Duke of Buckingham, then Chief Secretary for the Colonies, upon the prompt measures which appeared to him necessary, and which should be taken to amend the state of things which had been brought to light during the epidemic, and to which, though still awaiting the report of the Fever Inquiry Commission, His Grace deemed it his duty to draw attention. In this despatch, after expressing his opinion that among the removable causes of the epidemic, two appeared to require particular notice, namely:—

1st. The over-crowding of the dwellings of the poor:

2ndly. The inefficient drainage of Port Louis:

His Grace proceeded to write thus:—

"It is an acknowledged principle of legislation that the Sovereign power may properly prevent any man from so using what belongs to him as to inflict serious injury on his neighbour, or to be a nuisance to the public; and I consider that the Government and the Legislature should at once, and without delay, interfere to prevent this."

"The law should empower the police to destroy such buildings as, after due examination, should be certified by the Surveyor-General as being unfit residences for human beings, whether from insufficient size, from original faulty construction, or present condition, are yet so used; and whose owners neglect or refuse to put forthwith into a proper state when the buildings are capable of being so treated; to fine or otherwise punish the owners of buildings, the occupants of which bear more than a certain fixed proportion to the cubical and superficial space contained in them, or the persons by whose act, or with whose consent, over-crowding takes place; and even, as an extreme measure, to pull down any building of a slight or temporary character, in which such abuses cannot otherwise be checked. The law should further contain such powers of entry, inspection, and otherwise, and should make such provisions as to the proof of occupancy as would lead to detection, and prevent effectually any large amount of evasion."

"The result of these measures must no doubt be, in the first instance, to deprive a large number of persons in Port Louis of their existing shelter. It is to be hoped that this would drive many of them at least to country places, where they would find employment and habitations on the sugar estates, or in the neighbouring villages,—in which, however, sanitary regulations should be introduced corresponding with those in Port Louis."

"It appears to me very desirable, also, that you should consider the expediency of placing under some general regulations the immigrants who choose to remain in the colony after their terms of engagement have expired; or, if it appears to me that these labourers, whose introduction is so beneficial to the colony, may eventually give rise to any great pressure, if they are allowed to remain in the colony uncontrolled, and without specific employment. You will observe that, in writing this despatch, I am expressing my opinion upon such facts and information as I have gathered from your despatches and from the information I have been able to obtain from Colonel Morrison and others connected with the island, but I do not desire to fetter your full discretion in the matter."

"You will judge for yourself whether these measures will be best carried out by Government alone or by the Municipality alone, or by the Municipality acting with the aid and under the control of the Government. But I wish you clearly to understand that the Municipality must on no account be allowed to stand in the way of what is necessary; and that if the requisite measures cannot be carried into vigorous effect without transferring to the Executive the whole or part of the powers, liabilities and revenues now belonging to the Municipality, you will receive

"every support that her Majesty's Government can give you in the enactment and subsequent application of an Ordinance to effect that transfer."

660. With such an authority to take any measures which might appear to him necessary to mitigate the evils afflicting the colony, it is not surprising that Sir Henry Barkly should have yielded his assent to the amended Regulations; especially, considering that the opinion of the first legal adviser of his Government had been plainly declared in favour of that course.

## CHAPTER XI.—Enforcement of the Labour Law.

661. The law being such as we have described it in the preceding chapter, before passing on to examine into the details of its working, it may be well to consider whether, at the time when the Ordinance and Regulations came into force, there were existing special causes, the operation of which could have exercised any influence generally upon the spirit in which they were carried out by the police and the Magistrates, as well as upon the opinion of the public at large; particularly as we have seen the existence of such a spirit boldly alleged by the Honourable Mr. Kerr as a reason for his opposing the Ordinance altogether.

662. It will be remembered that at the second reading of Ordinance 31 of 1867 (paragraphs 569 to 572), Mr. Kerr declared his belief that there was a general feeling of hostility against the Indian in the colony, and that he was more or less robbed by everybody. "If," he said,

"the Indian went to the Internal Revenue Office to purchase a fivepenny stamp, he would probably have to pay double that amount for it. If he went to the Immigration Depot to see the Protector he would, probably, have to pay the doorkeeper sixpence before he had access to him. Such things, we know, have happened—even at the Treasury he is not safe. It sometimes happened that he (Mr. Kerr) had occasion to pay to bands of Indians arrears of wages, which had been placed in his custody by order of the Master of the Court. Well, on these occasions, the Indians were frequently accompanied by an individual (of whose status he knew nothing, but who was to be seen at all times prowling about the Courts seeking for victims), who used to represent himself as being employed by the band to get their money for them, which he endeavoured to get possession of, to pay the men himself, and, doubtless, to keep a portion to himself. He used to tell this person that, having clerks in the Treasury of sufficient intelligence to pay labourers' wages, he could quite well dispense with his services. The man would then retire; probably in search of other victims."

Or, in other words, that in Mauritius the Indian is looked upon as fair game to be generally preyed upon.

663. The same opinions pervade the pamphlet of Mr. de Plevitz, who asserts that the people with whom the

"immigrants have to deal are the recruiters in India, the Protector in Mauritius, their employers, the police, the Magistrates, and the Legislative Council who make the laws by which they must be governed. In their relations with nearly all of these they are the victims either of fraud or of oppression."

664. In considering, therefore, the new law, and the manner of its enforcement against Indians, it becomes necessary to examine whether there existed any such feelings towards the Indian portion of the community as would conduce to place them, relatively to others, in a position of inferiority or contempt; and, with that view, we shall first show what were the opinions of numerous persons as to what should be their status and rights in the colony, at or about the time of the passing of the Ordinance; and that such opinions had a tendency to increase the stringency with which the law was likely to be carried out; affecting, as it did, exclusively one class of the population; and that, as a class, the Indians were regarded with fear and distrust, as dangerous and lawless vagabonds; or, at best, with a pitying contempt, as ill-regulated children, fit only to be treated accordingly.

665. On the 16th June, 1867, we find that Mr. Garreau, a planter of Moka, wrote to Sir H. Barkly submitting a scheme for supplying the deficiency of labourers caused by the epidemic, without having recourse to further immigration from India; and, further, having for its objects,—

1st. To reduce the annual expenses of the police in the districts.

2nd. To put a check upon the encroachments of job-contractors, and stop the pressure exercised by sirdars upon planters.

3rd. To increase the revenue of the Railway Department.

Under the circumstances, Sir Henry Barkly's conduct not surprising.

Preliminary considerations.

Allegations of Mr. Kerr. General hostility to the Indian alleged by Mr. Kerr.

Mr. Kerr's allegation supported by Mr. de Plevitz.

Examination of opinions and motives.

1867. Strange proposals of Mr. Garreau.

Supposed advantages of the scheme.



Mr. Garreau's  
proposal in  
1867.  
Indians to be  
made to re-  
engage.

666. He proposed that, on an Indian's completing his engagement, the Magistrate of the district should be empowered to ask him whether he had found another employer, and, if the answer were in the negative, to forward his certificate to the Protector of Immigrants, to whom the immigrant should be bound forthwith to report himself, and by whom he would be re-engaged either to a planter or upon any other industry in which there might be a demand for labour: and, Mr. Garreau further suggested that, if such immigrants were despatched by train to the depot, an annual sum of £18,000 sterling might be gained to the railways, or, in other words, that the Indian labourers should be taxed to that amount for the support of the colonial railways: a proposal which appears to have startled Mr. Beyts, and was pronounced by the Governor to be too arbitrary to be permitted in any part of the British dominions.

1868.  
Mr. Garreau's  
second letter  
to Sir H.  
Barkly.

667. On the 1st December of the following year (1868) we find Mr. Garreau again addressing the Governor with another financial scheme for the alleviation of the distress then prevailing among the planters. He had arrived at the conclusion that the wages of labourers were much too high, and he, therefore, suggested that His Excellency should issue a Circular to the Stipendiary Magistrate, instructing them not to pass any contracts at higher wages than 3 rupees or 4 rupees (or, in plain words, that His Excellency should, by a stroke of his pen, reduce the wages by a half), which, he calculated, would be saving to the planters of \$1,800,000 per annum; and, he further recommended that His Excellency should take measures to put a stop to the legal proceedings then going forward against so many of the planters, who, in the general distress of the time, had become involved in debt, and whose estates had been seized: proposals which Mr. Beyts and Sir H. Barkly very naturally pronounced impracticable.

Wages to be  
reduced by  
one-half.

Proposals of  
Mr. Garreau  
pronounced  
impracticable  
by the Gover-  
nor and Pro-  
tector.

668. Had these two letters stood alone we should have regarded the extraordinary proposals they contained merely as the expression of the crude theories of a single eccentric individual, but, when we find opinions scarcely less unjust and untenable expressed by large numbers of persons about the same time, the incident becomes one of greater importance, as showing how extensively prevalent such extreme ideas were at the time.

Views enter-  
tained by the  
inspectors of  
police.

669. We have seen (paragraph 493, chapter *New Labour Law*) how Inspector Macpherson regarded immigrants, who went back to India with the gain they had acquired, and returned to Mauritius as passengers, and so escaped police surveillance: though we should have rather expected, that the very fact of an Indian's having acquired and saved "gains" sufficient to defray the expenses of a journey to and from India, had been an argument in favour of his being an industrious, thrifty man, and, moreover, a man of some independence of character: a man, therefore, over whom such surveillance as that contemplated by Inspector Macpherson would have been specially unnecessary, and to whom it would, at the same time, be especially irritating.

We have seen further the means by which he suggested that Indians should be induced to

"remain on the estates and to occupy themselves in what may be considered their legitimate occupation."

670. Mr. O'Connor on the 3rd August, 1867, roughly estimated that "one-half" (s. i. o.) of the Old immigrants (not engaged) in Moka-eked out their existence in any manner except that of working. We cannot but think that Mr. O'Connor must have made this statement somewhat at random; for, when examined before us, he was under the impression that he had written 30 as the percentage of vagrants, though he most unquestionably had written 50; and, he further informed Question 9013 to us that, at that time, market gardeners were, as a rule, looked upon with great suspicion: a feeling which now had passed away.

671. The same feelings were shared by Mr. Rice with regard to Grand Port, and by Mr. Shellam with regard to Flacq.

672. Let us now see what was the feeling of Colonel O'Brien himself towards the Indian population, as expressed in the Report before referred to.

"The Indian is very much like an ill-regulated child, incapable of self-government; he appreciates the firm, just, and prompt action of the law, administered openly, impartially, and divested of all forms, by one understanding his language and habits;"

(If freedom from form constitutes an element in the Indian's appreciation of law, his admiration for the law in Mauritius ought, indeed, to be great: though, how far that was accompanied by the other essential qualifications enumerated by the Inspector-General, we shall show in the course of this Report),

"he is naturally fond of argument and very tenacious of gaining his point, so that,

"as with him, all are venal, seeing that he can, by paying an educated European lawyer, sometimes by some informality of special pleading, escape punishment, he fancies every one can be bought, and easily becomes the prey of some of the unscrupulous harpies of our courts, who live by pandering to his known litigious propensities. If the foregoing remarks apply generally to natives of Hindostan, I would observe that they have special reference to the Indian population of this island, composed as it is of the dregs, criminal or other outcasts, of the entire peninsula."

"To cross the sea is, in itself, the source of greatest terror to the Indian, and to do so with those of an inferior status, is utter moral and social degradation to the high-caste man."

"To further bear out my assertion that our Indian population is demoralised by loss of caste, and contains much of the refuse of that country, I need but point to the fact that the vice of drunkenness is almost universal,—a vice unknown by any native Hindoo or Mahomedan of respectability or position, the Sikh or Poorkaha excepted, of whom I have met none in the colony."

"To an Indian must be applied an Eastern, not a European standard; caste, therefore, to a certain extent, *'faute de mieux,'* becomes respectability, for it is the only moral, or, if I may so term it, superstitious force or restriction that can be brought to bear upon the native, who, by its loss, is deprived of all religious restraint; though possessed of attachment, it is rather fidelity in an animal form and not in the higher shape of gratitude, for which feeling he has no word\* nor conception; without, therefore, the all-powerful restraint of caste, laws must be more stringent, as nothing remains but his fears to act on, presenting but three vulnerable points, the pocket, the stomach, and the skin."

673. But the case does not rest here, for, in December 1868, which was just three months after the Pass System had been put into force, and was nearly about the time when Mr. Garreau wrote his second letter, a petition was presented to Sir Henry Barkly, to which were affixed nearly 700 signatures, including among them many respectable names, headed by a Mr. Vanmeerbeck.

674. This document set forth generally the misery, under which the colony at that time was unquestionably suffering. The petitioners complained of the over-population; and, considering the immigrants were recruited from the lowest classes in India, and that, for the most part, they adhered in Mauritius to their semi-barbarous customs, the petitioners viewed with alarm this complete swamping of the civilised element by the uncivilised.

675. After stating that, out of an estimated immigrant population of 225,000 introduced at the public expense for the purposes of agriculture, 74,000 alone were actually employed thereon, while of the remaining 151,000, after deducting 31,000 women and children on the sugar estates, there remained 120,000 Old immigrants scattered over the colony, they proceeded to argue that, as the only product of the colony was sugar, if, out of 225,000 labourers introduced, only 74,000 were engaged in its production, it followed that the remaining 151,000 were non-productive labourers; that the unproductive element was more than double the productive; or, as Mr. Beyts remarked in reporting upon the petition, that they looked upon the unproductive element as

"consisting of all who do not work as agricultural labourers:" which having assumed without hesitation, and having commented upon the evils of vagabondism, they prayed that thenceforward immigrants should be recruited on the express understanding that, in the event of their refusing to re-indenture at the end of their industrial residence, they and their families should leave the colony; but that, so long as they remained in the colony, they should be under indenture. They did not, however, add a word to indicate that they had any intention of at the same time advocating the restoration of the right to a free return passage; a condition which, Mr. Beyts very properly pointed out, must be inseparable from any such measure.

676. They further recommended that the law should be amended, so as to make the deportation of reputed vagrants, who had completed their industrial residence, obligatory upon the Governor, instead of merely discretionary, as it then was.

677. It will be sufficient to state that, in the draft of Sir H. Barkly's answer, dated the 9th January, 1869, we find His Excellency expressing "his dissent from the extremely disparaging description given of the Indian

\* Did Colonel O'Brien never in the course of his Indian experience hear the words "Nemuck hullal," and "nemuck hiram"?

Colonel  
O'Brien's  
estimation of  
the Indian  
character.  
The Indian  
fancies every  
one can be  
bought and is  
himself often  
sold.

Immigrants  
the lowest of  
the low,  
from India.

Loss of caste.  
Drunkenness  
almost uni-  
versal.

Ingratitude.

His points:  
1. Pocket.  
2. Stomach.  
3. Skin.

Petition of  
Mr. Vanmeer-  
beck and  
many others  
to Sir Henry  
Barkly re-  
specting the  
Indians.  
Over-popula-  
tion.

Immigrants  
engaged in  
agriculture.

Immigrant to  
re-engage or  
return to  
India.

Answer of  
Sir H.  
Barkly.

Petition of  
Mr. Van der  
Beek and  
others.

Sir H. Barkly  
reproves the  
petitioners.

Sir Henry  
Barkly's ex-  
pectations  
from the New  
Law.

Distrust of the  
Old immi-  
grants in  
1867-1868.

The law  
brought into  
force,  
September  
15, 1868.  
Issue of passes  
stopped.

Difficulties  
arise in the  
passing of  
engagements.

and pointing out  
"population generally, as semi-barbarous, if not absolutely destitute of civilisation,"  
"the injustice of representing as 'non-workmen' all but the male labourers under  
"indenture on sugar estates, forgetful of the thousands and tens of thousands of  
"Indians employed as domestic servants, shopkeepers, artisans, carters, carriage-  
"drivers, roturiers, day labourers, &c., not to mention the innumerable market-  
"gardeners and petty farmers, whose provision grounds cover the valleys and  
"terrace the very slopes of the Mauritius, in almost every quarter of the island.  
"The Governor is too well aware how severely the colony has suffered during the  
"past few years, and sympathises too sincerely with its misfortunes to wish to take  
"exception to the strength of the feelings which have, doubtless, led to such  
"exaggeration of undeniable evils, yet he cannot pass unnoticed the fact that not  
"the slightest allusion is made by the petitioners, when enumerating these mis-  
"fortunes, either to hurricanes or to the various maladies by which the sugar-cane  
"has been affected, although it is perfectly notorious that the reduction of crops  
"from these causes has been one main source of distress."

He expressed the hope that the operation of the new law, which had then but recently been put in force, would remedy most of the evils complained of; and he concluded with assuring the petitioners that, should these expectations be disappointed, he would not fail to propose still more stringent legislation for the repression of vagrancy, and the proper surveillance over the social and sanitary relations of time-expired immigrants, than that which had lately received the sanction of your Majesty's Government.

678. Like Sir Henry Barkly, we should be very unwilling to judge harshly of the colonists' feelings at a time of unexampled sorrow and distress; but, on the other hand, we must not overlook the fact that feelings towards the Indians such as those which called forth the letter just quoted, did exist both among the members of the Creole population and among the officers of the police, and which we do not think that the expressed opinions of the Inspector-General were of a nature to dispel.

679. We, therefore, think that the feeling at that time towards the Indians, even if, perhaps, not amounting to "hostility," as alleged by Mr. Kerr, certainly did amount to that expressed by the Police Inquiry Commission, viz.:

Report of the Police Commission, "a distrust of the genuineness of any employment which paragraphs 206 and 207. Appendix H I.

or that such an Indian is

"regarded by the official eye as simply a vagrant disguised."

Appendix F 2, and, in this opinion, notwithstanding Colonel O'Brien's protest against its justice, we cannot help concurring.

680. With such ideas existing both among the members of the police force and the public, the Pass System on the 15th September, 1868, came into force, after which day the police were instructed to cease issuing passes.

681. The immediate result produced was one highly inconvenient, as, on the 18th of that month, Mr. Gautier, Stipendiary Magistrate of Flacq, wrote to the Protector of Immigrants to represent the difficulty in which he found himself placed, for by Article 5 of the Ordinance the Stipendiary Magistrate could not pass an engagement between an employer and an Old immigrant who had not re-engaged within the eight days following the completion of his previous indenture, except upon production by the latter of the police pass, and that as the police had ceased to issue passes great inconvenience was caused both to planters and labourers, as without the passes engagements could not be entered into, a difficulty which must have been promptly rectified, as two months later the passes were still being issued daily, a course not discontinued until the 1st December 1868.

682. It is needless to point out that with a law of such stringency as that now under consideration, the essence and object of which was to restrict the movements of the Old immigrants to within the limits of the district of their domicile, and that even within those limits, the possession of certain documents was a condition, the absence of which subjected the delinquent to severe inconvenience, if not punishment, it was necessary,—

1st. That the requirements of the law should be made clearly known to those who were to be subjected to its operation.

2ndly. That every possible facility should be afforded to such persons to comply with these requirements.

3rdly. That the limits of the different districts within which the several passes were valid should be clearly defined.

4thly. That discretion should be exercised by those to whom was entrusted the

delicate duty of carrying out the law, viz., by the police and by the Magistrates, and it is very clear that, failing any one of these conditions, the result could be no other than productive of vexation, inconvenience, and hardship.

683. 1st. We do not think that any hardship can have arisen by the ignorance of any person of the conditions required of him, as, although the Ordinance came into operation in May 1868, the enforcement of the Articles enacting the pass-system was postponed first to the 25th August, and further to the 15th September, in order to enable Indians to put themselves *en règle*, by procuring the necessary pass; and we find that on the 28th May (General Order No. 42) inspectors were ordered to put up notices of the law in the various districts, and to engage a man to go about to the different villages and camps for any period not exceeding one week, and after beating a "Tom-tom," to cry Circular No. 206 out the provisions of the law; and that on the 8th July, when the regis- of 8th July, 1868. tration had already been going forward for above a month, further measures Appendix F 36. were taken by the Inspector-General of Police to make the new law thoroughly known and understood. Constables, on sentry or patrol, were instructed to ask all Indians they met whether they had obtained the passes in question, and in case of their not having done so, to inform them that they must be provided with them before the end of the month.

684. Under these circumstances we are of opinion that by the middle of September every one in the island knew, or might have known, the formalities with which he was required to comply.

685. 2ndly. With regard to the facilities afforded to the Indians for obtaining the passes, we think that, whatever may have been the case at first, at a subsequent period they were unquestionably defective.

686. We have the authority of Colonel O'Brien for the fact that the pressure upon the police department was at first "immense;" but, as he had an extra staff, it probably sufficed to meet the emergency.

This temporary assistance was, however, withdrawn on the 1st December, as we find from General Order No. 50, issued on the 17th November, by which it was announced that, after that date the issue of passes would only take place twice a week in each of the rural districts, and inspectors were ordered to take every means of making these days known to the Indians of their respective districts.

687. This arrangement was made, as Colonel O'Brien told us, "in a spirit of economy," a spirit to which, notwithstanding his repudiation of the suggestion, it certainly appears to us the Indian was sacrificed, as apparently Colonel O'Brien himself thought shortly after, for on the 16th December we find him writing to the Colonial Secretary, stating that the arrangements he had made, and under which one clerk attended twice a week at the three districts of Moka, Plaines Wilhems, and Grand Port, and which he had hoped would have been sufficient, had proved not to be so; that as that arrangement was out of the question, he therefore applied for an additional clerk for Grand Port, who might further go twice a week to Savanne, as the working of the law was so intricate that it required an experienced person to carry out its provisions.

688. Nor was Grand Port the only district in which this inconvenience was felt, for seven months later, on the 23rd July 1869, we find Mr. Delamare, the Police Inspector in Flacq, reporting that the attendance of the pass clerk at the office three days in the week (two days being for the actual delivery of passes, and one for getting up the books) was quite insufficient. The number of men presenting themselves each day to obtain passes, to give notice of change of residence, &c., was, he stated, generally over 100, and as it was perfectly impossible for the clerks to issue between the hours of 9 and 3 more than fifty passes, it followed that about fifty men were sent away daily, a necessity which, nevertheless, entailed great hardships on those coming from distant parts of the district, and was productive of much inconvenience to planters and other employers. He added, that this state of things was not merely temporary, but had existed during the two months he had been in charge of the district, and that the same had existed in the time of his predecessor, Inspector Shellam, a statement which we find fully corroborates what had been reported by Mr. Gautier, the Magistrate, in his letter to Mr. Beyts, on the 23rd May of the same year.

689. Again, on the 5th of August, 1869, we find Mr. O'Connor, Inspector of Police in Pamplemousses, representing in terms nearly similar, the utter inability of the clerk, who attended three days in the week, to supply the number of passes that were required, and the number of complaints consequent thereupon; and that this state of things was not merely transient, we infer from the

Measures taken to make known the law.

The requirements of the law duly published throughout the Colony.

General knowledge of the law.

Facilities afforded for the procuring of police passes by Indians.

Inconvenience to the immigrants from defective arrangements.



resistance offered by Colonel O'Brien seven months later, to a proposal which had apparently been made to revert to the former arrangement, of allowing one clerk only for the two districts of Pamplémousses and Flacq, a state of things which it was found impossible to continue, as thereby the work got into arrears, and the greatest inconvenience was caused to the public; as the Indians were necessarily greatly delayed in putting themselves *en règle*, and he stated that he had recently personally satisfied himself that it was impossible for Pamplémousses to do without the daily attendance of the pass clerks, and the same state of things must necessarily exist in so large a district as Flacq.

690. We thus find, during the very time when, as we shall show, the law was being enforced in its strictest letter, complaints were arising from three of the most important districts of the island, of the insufficiency of the staff working it, and, therefore, necessarily, of the difficulties in the way of those who were bound to conform to its provisions.

691. It is but just to add, that these representations were not without effect; and, that, at the present time, in the districts of Flacq and Pamplémousses, the passes are issued daily, so that the blame for the inadequate staff formerly allowed must be laid at the door of the Government, and not of the Inspector-General, who appears to have done his best to obtain the requisite assistance.

692. One class of the Indian community, too, there was, whose status appears throughout to have perplexed those entrusted with the execution of the law, viz., the job-men or day-labourers.

The first difficulty which occurred in carrying out the new law relating to them, arose under Article 56 of the Regulations of November 1868, which ordered that every immigrant licensed as a day-labourer

“should be bound to wear conspicuously on his right arm a badge, bearing upon it the word ‘job-man,’ and the number of his licence.”

But, although this order was issued on the 11th November, no provision had been made for issuing either badge or licence, as we find from a letter of Colonel O'Brien to the Colonial Secretary on the 1st December; after that, steps appear to have been taken to have such badges prepared in the workshops of the Powder Mill Orphan Asylum; though we find from another letter of Colonel O'Brien, dated 4th January, 1869 (nearly

two months after the Regulations had been in force), that, up to that date, no badges had been issued by the Magistrates to the job-men; and, hence, there were numbers of labourers coming within that category who could not put themselves *en règle*.

693. We have seen (paragraphs 621 and 622) the embarrassment these day-labourers caused to Colonel O'Brien; neither does the Procureur-General seem to have entertained much clearer views as to the manner in which they were to be dealt with; for, on the 12th April, 1869, he issued a Circular, No. 340, respecting job-men's licences, in which Magistrates were instructed to desire the cashiers of their district to grant job-men's licences only to such immigrants as had obtained passes from the police, a request to which Mr. d'Emmerez de Charnoy, of Black River, positively refused to accede, seeing that Article 54 of the Regulations of November, 1868, clearly states that

“job-men's licences are to be issued to immigrants who can only obtain their police passes after first procuring the said licence.”

As, therefore, the Circular in question was in direct contravention to the Article above mentioned, he was unwilling to expose one of his subordinate officers to the risk of

“an action in damages from any of the aggrieved parties.”

694. We presume that it was in consequence of the receipt of this letter that on the following day (April 15th) the Procureur-General issued Circular 365 to the Magistrates, which cancelled the Circular last mentioned.

695. Whether or not the other Magistrates were as careful as Mr. d'Emmerez, we do not know; but, apparently, they continued to act upon Circular 340; for certain it is that in the month of September in the same year, the issue of job-men's licences had come to a dead lock, as in some districts licences were refused to immigrants, because they could show no passes, while passes were refused because they could show no licence; a state of things which left the immigrant day-labourer, who might chance to have lost his papers, in evil case indeed, the only alternative being a condemnation for vagrancy—a result which, at that time, and as the law was then administered, was nearly sure to follow upon non-production of papers.

696. 3rdly. With regard to the next point, viz., the boundaries of the districts, the same uncertainty appears. So long ago as 1866 we find Mr. Renouf raising the question whether a certain estate, upon which he had been required to report, was situated in Moka or in Pamplémousses; and, at the present day, the Surveyor-General, when examined before us, stated that he himself did not know the boundaries, which were, in many cases, most doubtful; and he cited an instance in which Petite Rivière, a place which had always been regarded as lying in Black River district, had been declared by his department to be actually in that of Plaines Wilhems.

697. Of the practical inconvenience resulting to immigrants from this uncertainty of boundaries, the cases of Ramluckhau and Budha, annexed to the petition of the Old immigrants (Nos. 5 and 7. See page 4), are good examples. Their complaint was found to be proved by the Police Enquiry Commissioners, including Mr. Antelme, though the latter remarked upon certain exaggerations in the details; whilst the enquiries of Mr. Seed give us further particulars of the occurrence as revealed in official records.

698. These men, with twenty-six others, were arrested on Saturday, the 7th May, 1870, in a “vagrant hunt,” by mounted Sergeant Smith, and brought to the Central Station at Moka, where they were kept until Monday the 9th, when they were taken before Mr. Didier, the Stipendiary Magistrate. In Ramluckhau's case the hardship was unusually great, as, according to his statement, he was arrested in his own hut at 6 o'clock in the morning of the day on which his marriage was to have taken place; for which ceremony he had spent 50 dollars. He further states that he produced his ticket, and his pass for the district of Pamplémousses, but that he was nevertheless arrested.

699. The men appeared before Mr. Didier on the 9th May, and were by him released. Police Inspector Macpherson thereupon entered a plaint against them for being out of their district, and the Indians engaged as their counsel Mr. Bazire, a leading barrister of the colony. Mr. Didier on releasing them (we presume because he himself did not know what the boundaries were) told them to come again on the following Friday, and that he would meanwhile refer their case to the Procureur-General.

700. On Friday, the 3rd of June, the case was again taken up, when Mr. Bazire, for the defence, requested a postponement to the 15th, which was granted; and on that day the case was further postponed to the 29th, on which latter day Mr. Bazire was represented by an attorney named Tessier. On this occasion Police Inspector Macpherson deposed that he had never seen the boundaries laid down in any way; whereupon, Mr. Didier adjourned the case *sine die*, until the boundaries should have been determined, and until he should hear from the Procureur-General upon the subject. The necessity for this adjournment is not apparent to us, for the complainant in the case not knowing where the boundaries ran, and not being able to prove them, was certainly not justified in charging others with having transgressed them, and the case should at once have been dismissed.

701. Mr. Didier informed Mr. Seed that he had had a personal interview with that officer (the late Mr. Jules Colin), who assured him that, as soon as anything should be fixed relative to the boundaries, he would be informed of the fact. Up to the date, however, of Mr. Jules Colin's death, no communication was received by Mr. Didier; nor has he received any since from either of the gentlemen who have succeeded Mr. Jules Colin as Procureur-General.

702. Again, we find that considerable inconvenience was created in the month of September 1870, by a judgment supposed to have been given by the District Magistrate of Pamplémousses, who decided that a place called “Les Marres,” which had always been considered to form part of the adjoining district of Flacq, was, in reality, in Pamplémousses. The immediate consequence of this was, that a number of Indians living at this place who had taken out their passes from the police-office in Flacq, were warned by the sergeant stationed at Ville Rague, which is just within the border of Pamplémousses, that they must exchange these for fresh passes obtainable at Pamplémousses, a distance of good eight miles; failing which, they would be taken in contravention; a threat which, apparently, was actually carried into execution; whereupon Mr. Delamare, who had already, on the 28th September, reported the circumstance, wrote on the 10th of October to Colonel O'Brien, representing in strong terms the injustice, as it appeared to him,

“when Indians have fulfilled the formalities required by law, that they should be thus harassed and annoyed, and be, as it were, between two fires.”

703. It turned out, however, that the Magistrate had not given any decision respecting the boundaries, and, consequently, the whole had arisen from some misunderstanding on the part of the sergeant at Ville Bague, and the matter was finally settled by an order of Colonel O'Brien, addressed to the inspectors of the two districts, which directed that,

"as there seem to be doubts as to the exact boundaries of Flacq and Pamplémousses, the inspectors are so to arrange their duty that they do not clash, and that men living on the disputed ground be not subjected to the double action of the police."

704. 4thly. We now come to the more general question of the spirit and discretion with which the law was enforced, first by the police, and next by the Magistrates. We find that the recklessness of the police in making arrests was only to be equalled by that of the Magistrates in condemning those arrested. We find that what we believe to be the spirit of the law was too often entirely overlooked, and that even the letter of the law, harsh and stringent as it was, was often far outstepped by the manner in which it was carried out, and which we cannot designate by any milder term than outrageous.

705. Not an Indian in the colony could show himself on the high road, not an Indian servant could be sent on an errand, no matter how short the distance, without the risk of being called upon, by the first constable he met, to show his papers and satisfy him as to his status; and, as the papers are all in English, and by far the largest portion of the police is composed of Indians and Creoles, unable to read English, the inevitable result was, that the Indian was "Chumbo'd" and taken off to the police-station, in order to find a non-commissioned officer who could read his papers. Dwellings of Indians were entered by the police, without warrant, on the same pretext; (and on one occasion, certainly, this was done at dead of night, and the Indians taken off then and there to the police-station) for no more serious offence than a trifling informality in their passes. Traders in pursuit of their lawful business, the gate-man at the railway-crossing, the herdsman tending cattle, and even little children carrying their fathers' dinners to them at their work, were all at different times apprehended by the police; all being involved in the indiscriminate charge of vagrancy, founded on nothing more serious than absence of, or informality in, passes, or on evidence no stronger than appears in the following cases which we will give in detail.

706. The first is one which will show how difficult it was for an Indian to satisfy the police as to the *bona fides* of employment undertaken by him on his own account, as also the inconvenience he was likely to experience if he failed to do so.

707. On the 21st July, 1868, while the registration of the Old immigrants was going forward, but before the pass system had come into force, Madame Joly, the owner of a property at Grand River, South-east, in Grand Port, wrote to Mr. Rice, the Inspector of Police of that district, respecting certain gardeners, lessees under her, of pieces of land. She stated that these men had applied at the police-office, and had shown the receipts for the rent of their land, but had been denied passes. She then caused her husband to give each of them a declaration specifying the amount of land let to each with which they again applied for passes, but were again refused them. She therefore requested to be informed what formalities had to be complied with in order to obtain a pass and be put *en règle*.

She further gave a list of the men, with the amount of land let to each, which varied from half an acre to five acres. They had been her tenants for ten years, during which time they had faithfully complied with their contract, and had not, to her knowledge, ever given cause for any complaint.

708. We will not dilate upon the annoyance and inconvenience possibly caused to the men by this double journey from Grand River to Mabebourg, beyond observing that the distance between the two localities is above twelve miles.

709. Mr. Rice answered, on the 24th, that the provisions of the law were very simple, the only thing required being, that each applicant should prove himself an Old immigrant by the production of his photograph-ticket, and declare his residence and means of subsistence. Difficulties sometimes, he said, arose from the uncertainty of applicants as to whether they lived in Flacq or in Grand Port; and in this particular case he did not recollect the reason for the refusal, but promised to make a note of their names and numbers, and to issue passes to them on their next application.

\* "Chumbo" is the common expression in Creole for taking hold of anything, and, therefore, for arrest. It is said by etymologists to be a corruption of the French words "tiens lieu."

710. The refusal of passes to these men would have appeared to us almost unaccountable, as being opposed to General Order No. 38 of the 25th May 1868, paragraph 5, which directs that

"on no account is a pass ever to be refused to an applicant, provided his immigrant ticket is *en règle*,"

were it not that, in General Order No. 52, issued a fortnight later, on the 10th June, we find that in continuation of General Order No. 38, the Inspector-General drew attention to

"paragraph 46, and succeeding paragraph of Ordinance 31 of 1867, and would remark, that though it will be perhaps generally found to be better for the immigrants to take out passes in the first instance, the police coming down on them hereafter, if they make false declarations, yet, in some cases of men calling themselves day-labourers, or of a number clubbing together as gardeners or otherwise, and taking a piece of land which is manifestly and notoriously unequal to their support,\* it is perfectly competent in inspectors to refuse passes, and at the end of the period prescribed to carry out the provisions of the Ordinance, either by arresting men without employment as vagrants, or in sending them to the Protector for employment, as is therein laid down."

Moreover, as further incentives to exertion for the repression of vagrancy, we find the following instructions issued to the inspectors in rural districts on the 16th June 1868:

"whose attention is called to the existing vagrancy, and to the necessity for stringently working up this class of the population:"

and again, on the 29th of the same month, just three weeks before the occurrence of the case under consideration:

"The number of vagrants arrested during the past week in all the districts in the island is but 177, against 455 in town. Plaines Wilhems, and especially Rivière du Rempart, Pamplémousses, and Savanne return so few that there must have been great want of exertion in this respect. There is ample room in Vagrant Depot, Grand River, and I beg that every effort may be steadily used to put down vagrancy, as thus only will the new law have a fair trial when it comes into operation."

711. The effect of this circular as far as concerns the district of Grand Port may be appreciated by the following statement compiled from the plaint-book of the Stipendiary Court, and which shows—

The total number of Indians brought before the Stipendiary Magistrate of Grand Port by the police for vagrancy during July 1868 was 682, disposed of as follows:—

|                                        |     |
|----------------------------------------|-----|
| Condemned to imprisonment . . . . .    | 312 |
| Discharged, no proof . . . . .         | 154 |
| Do. claimed by master . . . . .        | 83  |
| Do. no one to support charge . . . . . | 11  |
| Do. claimed by parents . . . . .       | 3   |
| Do. to engage . . . . .                | 38  |
| Do. being a leper . . . . .            | 1   |
|                                        | 290 |
|                                        | 602 |
| Sent to other districts . . . . .      | 50  |
| Do. to Protector . . . . .             | 7   |
| Do. for medical treatment . . . . .    | 12  |
| Do. to master . . . . .                | 9   |
| Do. to poor-house . . . . .            | 3   |
|                                        | 81  |
| Total . . . . .                        | 683 |

712. To return, however, to the case. We can well imagine the surprise with which, after receiving such an answer from Mr. Rice as that above mentioned, Madame Joly must have learned that on the 23rd a police sergeant of Grand Port had arrested in their huts, as vagrants, as many of her gardeners as he was able to find, because they had no passes, and that on the 24th, the very day of Mr. Rice's answer, five of them had been taken before Mr. Messiter, the Stipendiary Magistrate of Grand Port, and been con-

\* How far the Inspectors of Police were fit judges of the amount of land sufficient for the support of an Indian and his family will be seen by the sequel.



Outrageous  
enforcement  
of the law.  
Case of the  
gardeners in  
Grand Port.

demned by him, because they had no passes or notarial deeds showing that they rented land. Of these five, two, were on the following day actually sent as prisoners to the vagrant dépôt at Grand River (north-west), while the remaining three obtained a remission of their sentence, on the alternative of engaging under indenture, which they accordingly did, engaging for a year, the one with Mr. Rochecouste, and the two others with Messrs. Hart and De Bissy.

713. It is only natural that, under the circumstances, Mr. Joly should on the 28th July have written to the Protector of Immigrants stating the above facts, and further, that, having had an interview with the Magistrate, the latter had ordered the release of the two men actually in prison; but with regard to those who engaged he could do nothing, if it did not suit the planters with whom they had engaged to cancel their contracts of service. Mr. Joly, therefore, solicited the interference of Mr. Beyts in their behalf, as it was a matter of the greatest importance to two of them (Holoman and Rowdy) to return to their premises, as they had left crops standing which were almost ready to be gathered in, and animals which would undoubtedly perish for want of care, and which, in the case of Holoman, his neighbours had refused to take care of

“for fear of having to do with the police.”

714. Mr. Beyts referred the correspondence to Mr. Rice, who on the 3rd August reported they were really gardeners, actually having under cultivation small plots of land, and that although he had

“serious complaints to make against them, two for being connected with divers robberies, and the other for having upon three different occasions harboured escaped prisoners.”

He admitted that

“they had been harshly dealt with, having been arrested for vagrancy within about three miles of their residence,” and that  
“it was clearly the duty of the police to have ascertained whether or not they were in truth vagrants.”

He therefore proposed

“to go to Messrs. Hart and Rochecouste and explain to them the error which had been committed, and request them to cancel their engagement.”

We have only to add that in this he was successful, and that the gentleman in question at once released the men from the contracts into which they had been thus coerced to enter.

715. Mr. Messiter, when examined by us, had no very precise recollection of the Questions 14,784, occurrence, and neither the record of his court nor of the prison afford much assistance.

716. One more point connected with this case remains to be told. We learn from the end of the letter of Mr. Rice, above quoted, that it was sent up from Mahébourg to Mr. Beyts by special messenger, who was instructed to bring back his answer, which was as follows:—

“Sir,—I felt sure that the best way of dealing with the case of Holoman, Rowdy, and Gomanee, was to refer it to your own consideration, and the result shows that I was right in thinking so. The fair spirit in which you have examined into the matter confirming the opinion I already entertained that the new labour law is fully understood by you, and that the remedies which it aims at applying to the evils in existence, are not liable to be misapplied by you otherwise than quite unintentionally.”

(Signed H. D. BEYTS.

“To the Inspector of Police, Grand Port.”

717. We feel that any observations on this letter are needless, and how far the Protector of Immigrants was right in the comforting assumption that the new Labour Law was not liable to be abused by Mr. Rice will, we think, be decisively settled by the following case which had occurred at the same time.

718. Nine gardeners renting pieces of land varying in extent from one acre to two and a half, from one Miss Huët of Grand-Sable, were arrested in or near their dwellings, conducted to Mahébourg, and taken before Mr. Messiter on the 24th July, the same day as that on which Holoman appeared there, and with him demned, in the same batch of twenty-six, all having apparently been engaged together. It was proved to Mr. Messiter's satisfaction (we use his own words)—

\* The statement of the men themselves, as made to Mr. Joly (paragraph 712) was, that they were at their huts.

Case of Blim  
and eight  
gardeners.

Appendix G 38.

“that these men although nominally living on the land belonging to Miss Huët, had no visible means of subsistence, and were, therefore, condemned to twenty-eight days' imprisonment each for vagrancy.”

Report of Mr. Messiter to  
the Protector of Immigrants,  
14th November, 1868.

Case of Blim  
and eight  
other gardeners.

719. After their condemnation and removal from the court, and after the warrant of imprisonment had been prepared, they individually requested to be allowed to enter into engagement with Messrs. Rochecouste and Messrs. Montille. Whereupon Mr. Messiter rescinded his judgments and granted their requests, and he, therefore, gave a flat denial to the assertion which Mr. Cowie, their attorney, made to Mr. Beyts, that the Stipendiary Magistrate stated to them that they must engage as labourers or go to prison as vagrants, and that under this pressure and duress his clients entered into the engagements. As to this portion of Mr. Cowie's statement, the least that Mr. Messiter could say of it was, that it was “incorrect.”

720. Whether or no Mr. Messiter used the precise words as stated by Mr. Cowie, we think immaterial, as we have his own admission that he had invariably made it a rule to act as above mentioned,

“as it was never the intention of the Legislative Council, when enacting the law, to fill the prisons with vagrants, but to induce or lead them to gain an honest livelihood and become useful members of society.”

721. Whatever he did say, however, appears to have been followed by the same result, as we can hardly suppose that, after sentence passed and the removal of the accused, any person should have been permitted to hold such intercourse with the prisoners as should induce them to make the request stated by Mr. Messiter; and the very fact of their suddenly desiring to take a step, of which, up to that time, they never had evinced the smallest intention of taking, affords sufficient proof, in our opinion, that it did not originate with them: and, even though he may not have told them that if they did not engage they should go to prison, he certainly proved to them, and to all the world, in a most practical manner, that, if they did engage, they should not go to prison. Whence it follows that, in our opinion, the statement of Mr. Cowie was substantially more correct than that of Mr. Messiter.

722. The men, assisted by Mr. Cowie, first addressed Mr. Beyts, who, of course referred the case back to Mr. Rice and Mr. Messiter for report; and, on the 18th November, we find a letter addressed by Mr. Cowie to Sir H. Barkly, appealing to him on behalf of his clients; but, after consulting Mr. Beyts and perusing the correspondence with Mr. Messiter and Mr. Rice, His Excellency was satisfied

“that no case of hardship had been made out by his (Mr. Cowie's) clients,” and declined to interfere: a conclusion, in the justice of which we regret we are unable to concur; and it will be right, therefore, to examine the Report of Mr. Rice, upon the strength of which Mr. Beyts and Sir H. Barkly arrived at that decision.

723. Mr. Rice, to whom Mr. Beyts first referred Mr. Cowie's complaint, answered that although he could not,

“from the lapse of time, remember the details connected with every arrest made in the district, still knowing so well the usual procedure in such cases, and knowing most of the Indians who cultivate land at and in the vicinity of Grand Sable, as also those who existed without doing so,”

he had no hesitation in saying that the real facts differed materially from those alleged by Mr. Cowie. It was, he said, within his knowledge that, in several instances where charges of vagrancy had been proved against Indians, the Magistrate allowed such to engage instead of committing them to prison for the offence; and this disposed him to believe that a similar practice might have been adopted towards the Indians in question.

724. It was true, he said, that some of these gardeners

“kept cows, pigs, goats, and poultry in their ill-constructed, badly-ventilated, and over-crowded huts, which are situated in or about a series of lagoons, the rank and offensive vapours of which are of a most pestilential nature;”

and after citing, in support of these assertions, the results of the inspections of Mr. Dupuy, the Magistrate, and of Drs. Cox and Finimore, he proceeded to say:

“The proprietors, so long as they screw out their rent from their tenants whether they be New immigrants, or escaped felons or other outcasts, care little for their welfare or that of the community at large; or they would never suffer the state of things I have described to exist.”

725. We have here a good example of one of those offhand assertions which appear to have been readily accepted in Mauritius, as evidence of sufficient value to justify the most arbitrary action being taken thereupon. We think this appears in most of the

Application  
by Mr. Cowie  
to Mr. Beyts  
and to  
Sir H. Barkly.

Sir H. Barkly  
declines to  
interfere.

Mr. Rice's  
report upon  
the case.

Mr. Rice's  
evidence  
assertions.

Reports of the Police Inspectors, made at the time of the passing of the Ordinance of 1867, and which we have hereinbefore quoted, and upon which the law was based; and, in the present case, it seems to us that Mr. Rice on his own showing had either greatly neglected his duty in not arresting the escaped felons, whom he knew to be living at large with these gardeners; or, if he did not know them to be so living, that he made a reckless assertion, of which there was no substantial proof.

726. Of Miss Huët, the landlady of these people, he evidently had a low opinion, for he next related how,

“not long ago, a half-starved looking Indian was arrested for vagrancy, when he produced a document with the well-known signature ‘Marquet,’ purporting that he was a gardener at Grand Sable. On inquiry it was ascertained that the Indian, a New immigrant, simply paid the rent as a pretext to have a calling.

“For harbouring this man, Miss Huët was fined £4, while the Indian had the alternative of prison or work; he accepted the latter, and, when I saw him four days ago, his own appearance bespoke his bettered condition.”

727. After alluding to the practice of which we have already treated (*vide* Chapter IX., *New Labour Law*, paragraph 532), of Indians summarily ejecting sick persons to die by the roadside, he concluded his Report by pronouncing with unctuous solemnity, that,

“it will be when we rigidly enforce Ordinance 31 of 1867, and the Sanitary Laws, that these unfortunate people will understand how much better it would have been for them to have changed their precarious mode of existence to one of comparative happiness, easily secured by industry.”

728. That these people were unfortunate, we admit; but we will now shortly examine how far the proceedings of Messrs. Rice and Messiter were likely to place them in that state of happiness contemplated by the former; and with that object, we will consider the cases of the first five of these men, who engaged with the Messrs. Montille on the “Beau Fond” estate. Short notes of their former condition had been added by Mr. Cowie in a postscript to his letter to Mr. Beyts, the accuracy of which does not seem to have been questioned, further than has appeared from the above cited Reports, and was as follows:—

“Bhim, 1½ acres; he possesses cows; his grounds are planted, but nobody occupies thereon.”

“Kaidhun, 1 acre, which is planted in lentilles and maize.”

These men engaged at 16s., or 4 dollars, a month.

“Mannick, 1 acre planted; he had two cows that his son has come and conducted

“to Long Mountain.”

“Rajee, 1½ acres planted.”

These men engaged at 10s., or 2 dollars 50 cents, per month.

“Soekhall, 2½ acres planted.”

He engaged at 12s., or 3 dollars, per month.

729. We will merely remark here that we should have supposed that the possession of two cows might have been regarded as constituting visible means of subsistence, even if the size of the tenement had failed to satisfy the police and Magistrate of the status of the occupant; and we will pass on and see how far Indians are able to derive a living from such small plots of land, and then judge how far the alternative now offered was one of “comparative happiness,” and how far their condition was improved: either a sanitary or in a pecuniary point of view.

730. It will be convenient here to show what, indeed, is the position in Mauritius of the small cultivators and market-gardeners, who, Mr. O'Connor told us, used to be regarded with great suspicion: a statement fully borne out by the cases just quoted.

731. Having been struck with the evident existence of that feeling towards this class of the community, which comprises so many of the Old immigrants not under indenture, we examined Mr. Horne, the Curator of the Botanical Gardens at Pamplemousses, a resident above ten years in the island, with the view of obtaining information of the value of the produce of the small gardens which are to be found in every part of Mauritius; and from him we learned that enough may very well be made, off even a quarter of an acre, to support a man and his family.

732. It seems that the annual value of the produce of an acre of land, which a man and his family could cultivate unassisted, might, under favourable circumstances, easily amount to a sum close upon £100, and that, if holding more than that quantity, the tenant would be obliged to hire labour, which would cost him £18 per annum, so that

\* Miss Huët's man of business.

in the subjoined Table illustrating the cases under consideration, where the extent of land has exceeded an acre, we have reckoned the value of the produce at £82, and have deducted 50 per cent. from Mr. Horne's estimate, to allow for any possible inferiority in the nature of the land, as well as for the rent to the landlady.

733. In the present case, however, we are disposed to think that the land is by no means inferior, as, in order to test the value of Mr. Rice's statement, we visited Grand Sable on the 11th July, 1873, in the height of the dry season.

The place is situated in a secluded amphitheatre, lying between Devil's Point and the mountains above Grand River south-east, and is bounded on the south by the sea. The western portion of this amphitheatre is occupied by the sugar estate of Petit Sable, the property of Messrs. Chéron Brothers, but on the eastern side both the flat ground near the sea and the slopes of the hills are let out in patches to Indian cultivators, some of whom carry their small gardens high up the hill-sides, on terraces, to the edge of the forest itself, with which, in this part of the island, the mountains are still partly covered.

“The series of lagoons, the rank and offensive vapours of which are of a most pestilential nature,”

we failed altogether to discover; though there is, it is true, some low marshy land, measuring perhaps two or three acres, near the sea, which, when we saw it, was in process of being drained by Mr. Chéron. The soil appears to be of exceeding richness, as is evident from the abundant crops of onions, lentils, and other vegetables cultivated all around, and which afforded ample proof of the care and industry of their occupants.

The huts are of the same description as are to be found in every part of the island, both on and off the estates.

734. We saw Mr. Marquet, of whom Mr. Rice wrote in such disparaging terms. He complained bitterly, though certainly not, we think, unreasonably, of the proceedings of the police in 1868, and informed us that most of the arrests had been made in the very huts of these alleged vagrants; and he further stated, that raids had been made upon his tenants on four separate occasions while Mr. Rice was in charge of the district. The case of Bhim he spoke of as exceptionally hard, as when arrested he possessed, in addition to his 1½ acre of garden, two cows, which were left unfed and uncared for during three days, when Mr. Marquet, hearing of the fact, himself ordered them to be looked after.

735. With regard to the insalubrity of the place during the great fever of 1867, we were informed by Dr. Finimore that such had been the case, and that on Mr. Chéron's estate of Petit Sable the fever had existed in as malignant a form as anywhere in the island.

We cannot, however, for a moment admit this as a justification of the high-handed proceedings of the Police; as it appears to us, if this wholesale arrest and deportation of the gardeners was to be tolerated on the ground of such a case being for their own good on account of the fever, that it was equally the duty of the authorities to have taken measures for the removal of the indentured labourers from the adjacent estates which were equally pestilential; but of this we never find the least suggestion made.

736. If it be urged that on the estate the labourers would be more likely to be well cared for, we can only quote the words of Mr. Jenner, the Inspector of Immigrants, who visited Petit Sable November 1872, when he described the hospital as

“a very dilapidated and altogether comfortless building in wood, apparently seldom, if ever, used for the purposes of a hospital. No kitchen. Dead-house

“and privy in unserviceable state. The hospital attendant, Anoop, Calcutta Indian, can neither read nor write. Never in public hospital. Reported

“to have been employed one year in present capacity.” And he concluded with remarking,—

“I must say that it is the worst hospital that I have seen.”

737. The character of the Messrs. Montille, to whom these men were now indentured for twelve months, will be best appreciated by reference to Chapter XXV., paragraph 2536 and following of this Report; and even if we accept Mr. Rice's description of the unhealthiness of their huts at Grand Sable, their position at “Beau Fond” would not be much better, as, on the 3rd October 1872, when we visited the estate, we found and described its condition as follows:—

“The camp consists chiefly of isolated huts (*Cases à la Créole*) some of which are in bad condition, but the whole of it is shamefully dirty and untidy. The Commissioners noticed a most offensive stench, which they found to issue from the privies lately constructed, which had been freely used without being provided with tubs, or any attempt made to clean them out, and were, in consequence, in a most





Reports of the Police Inspectors upon the working of Ordinance No. 31 of 1867.  
Report of Mr. Shellam.

"Many immigrants who formerly called themselves gardeners, &c., have lately abandoned their vagabond and unprofitable life, and have engaged themselves to planters and others, apparently satisfied that they should at last be compelled to earn an honest livelihood; and those who were before this law really industrious, are thankful that they can now hope to gather the result of their labour, being free from the constant depredations of their neighbours, who depended upon the labour of those more industrious than themselves to obtain a subsistence.

"The law being only a short time in force, much will depend, when it comes more fully into operation, upon the way in which the Magistrates will view the law and the Regulations; for, however active and zealous the police may wish to be in carrying out its provisions, much really depends upon those functionaries, and the manner in which they will apply them.

"The Indians are sufficiently enlightened to know how far they are effectively protected by this and every other law; and, if they find, from one cause or another, that by a few subterfuges they can easily evade any of its provisions, they will not be slow in availing themselves of such; and I fear that Articles 43 to 47 will lead to many attempts on their part to try and defeat the intentions of the Legislature; for it could not have been intended that an Indian who hires a quarter of an acre of land, who plants it either in maize or manioc, and who is obliged to wait for several months before its produce can be made available, either for the personal use of the owner or for sale, and for which he is supposed to pay a monthly rental varying from 2s. to 3s., could be considered as a sufficient means of subsistence within the meaning of the law. The same may be said with regard to those calling themselves day-labourers, who may work for one or two days in a week and the remainder of the time go about pilfering all they can find, being in the meantime in possession of their police pass. Again, with regard to many cow-keepers, who have frequently but one cow, and that none of the best breed, who are supposed to earn sufficient by its produce to support themselves and their wives and families."

744. Here again we have an opinion expressed, founded, we think, on very erroneous premises, seeing that Mr. Shellam assumes that, because a man keeps but one cow he cannot earn sufficient to support himself and his family, and therefore infers that he must be a vagrant, and ought to be arrested; whereas, he might have ascertained if he ever inquired, as we have from more than one milkman, that a cow will, during eight months of the year, produce from 10 to 14 quarts of milk per day; and that, as milk sells at from 3d. to 4d. a quart, taking the lower figure, a man might very well support himself and family on £26 per annum on his own property, if he could do so upon £10 9s. on a sugar estate. Hence we shall see that the position of Kaidhun (if even his two cows had been his sole property) was worse off by £26 9s. per annum at Beau Fond than at Grand Sable:—

TABLE SHOWING THE VALUE OF THE PRODUCE FROM 2 COWS, THE PROPERTY OF KAIDHUN.\*

|                                                                                                     | £ s. d. | £ s. d.  |
|-----------------------------------------------------------------------------------------------------|---------|----------|
| Gross value of milk per annum (10 quarts daily for each cow, at 3d. per quart for 8 months) .. .. . |         | 56 0 0   |
| Cost of keeping 2 cows, at 34 rupees, 7s. per annum .. .. .                                         | 0 14 0  |          |
| Annual wages of one man at 64 dollars per month .. .. .                                             | 10 16 0 |          |
| Value of rations for two men, at 19-30 dollars per annum .. .. .                                    | 9 19 2½ |          |
|                                                                                                     |         | 15 9 2½  |
| Net value of milk per annum .. .. .                                                                 |         | 40 10 9½ |
| Wages, &c., earned during the year at Beau Fond .. .. .                                             |         | 14 1 0   |
| Net annual loss to Kaidhun by the change .. .. .                                                    |         | 26 9 9½  |

745. If, further, we turn to the records of the Stipendiary Court for any information as to

\* We were informed by one Indian keeping 4 cows that they each gave from 12 to 14 quarts of milk daily during 8 months, which he sold at 4d. per quart.  
The cost of their keep he stated to be from 12 rupees to 14 rupees per annum.  
He kept two men to look after them, each receiving wages of 9 rupees or 4-50 dollars per month, besides their rations.

the evidence upon which Mr. Messiter determined that these men were vagrants, we do so in vain. All that we find in the plaint-book of Grand Port is the following:—

| Number. | Date.   | Complainant. | Defendant.                     | Offence. | Witnesses. | Inquest.               | Decision.             | Remarks. |
|---------|---------|--------------|--------------------------------|----------|------------|------------------------|-----------------------|----------|
| 2090    | July 24 | Police       | Genowry Bosing, and 24 others. | Vagrancy | ..         | Are willing to engage. | Discharged to engage. |          |

Not a single witness appears to have been called; not a circumstance connected with the case proving the alleged vagrancy is recorded. So that we are left to conclude that the mere *ipse dixit* of the police constable who arrested them was the only ground upon which the Magistrate decided the case; which, indeed, we think not improbable, as the book shows that on that same day he disposed in all of 42 cases, 34 of which, including 66 persons, were cases of vagrancy brought by the police; 2 were of incorrigible vagrancy, 3 for desertion, and the remaining 3 for other offences.

746. Assuming, then, that the Magistrate sat on that day from 11 A.M. to 5 P.M. (six hours), there would be an average of a trifle over 8½ minutes for each case, a space of time, it must be admitted, somewhat short in which to inquire into and decide upon the status (as in this case) of 26 different men.

747. If these were the views of the Inspector of Police and Stipendiary Magistrate of one of the largest districts in the island of the manner in which the small cultivators were to be treated under the Ordinance No. 31 of 1867, the views of the Inspector-General upon the same subject seem to us equally erroneous, as they appear in a letter written by him, possibly owing to one of these very cases, it being dated August 4th 1868, the very day after Mr. Rice had made his report to Mr. Boyts (paragraph 723 *et seq.*) upon the case of Holoman and Mme. Joly's tenants. He wrote to the Colonial Secretary upon the advisability, by

"means of a circular or other regulation, of ensuring uniformity of action on the part of Magistrates in reference to Articles XX. and XXI. of Ordinance No. 31 of 1867; in fact, to lay down what constitutes the status of an employer of labour.

"At present, an Indian (to evade the law), the owner of a small plot of land, makes it an excuse to engage one or more of his comrades"

(a course which, if he held an acre or any larger piece of land, would be unavoidable).

"Often women so engage their husbands, &c. Of course, when these men by-and-by come to be inquired after by the police, they will not be forthcoming; and the answer will be, they are selling the produce of their land or carrying it to market, while, in reality, they will be but vagrants!"

thus following the example of Inspector Rice in begging the question of vagrancy; an assumption which is, we think, sufficiently rebuffed by the evidence of Mr. Horne and the correspondence between Madame Joly and Mr. Rice.

748. But if this was the manner of carrying out the law in July 1868, we cannot suppose that it was any more lenient after the 15th September, when the pass system came into full force; and the state of things which prevailed from that date until the passing of the Amended Regulations, eleven months later, may be gathered from the following passage from the letters of the Magistrates before referred to (paragraph 633 and following), addressed to the Committee appointed in April 1869 to examine into the working of the law.

749. Mr. Didier St. Amand wrote from Moka:—

"A man arrested out of his district is taken to the police-station, where he may be detained from 12 to 36 hours before he can be brought before the Magistrate of his district where he has been arrested, who sends him by escort to this district. Then, again, if he does not fall on a Stipendiary Court day, he may be detained from 12 to 36 hours before he is brought before the Stipendiary Magistrate, who releases him (if *en règle*), sends him to his master, if engaged, or punishes him if a vagrant.

"Now, in the case of a man who is engaged, those few days' annoyance may be a just punishment for going out of his district without a pass from his master, and therefore absenting himself without leave; but in the case of an Old immigrant, who is a trader in a small way of business, it is very hard to be thus deprived of one's liberty. He cannot get a pass from his master, for he has none.

Case of M. and eight other gardeners.

Colonel O'Brien was a strict enforcer of the law.

Enforcement of the law between September 1868 and August 1869.

Mr. Didier St. Amand on the enforcement of the labour laws.



Enforcement  
of the law  
by the  
magistrate  
between  
1868 and  
August, 1869.

"He cannot obtain from the police an authorisation to leave the district for a day or two, for the police have no right to give such authorisation.

"Then what is he to do? Supposing, for example, he has money to recover, or some money transactions to settle, or that he wants to see a friend, or is called by some business to the district next to his own, what is he to do? He must chance it, and run the risk of being arrested, and of seeing himself tied by a string to a lot of dirty vagrants and deserters.

"I have had several cases before me, in which it was proved to my satisfaction that such traders arrested out of their districts had come to this district to claim money which was due to them: others have been arrested who were actually coming to their district to claim money which was in the hands of the cashier."

Possibly these remarks, written on the 12th May 1869, were suggested to his mind by the petition of Saulick, No. 290,213, which had been addressed to him exactly a month before, and whose case was certainly one to justify Mr. Didier in making them.

750. Saulick was a gardener residing in Pamplémousses, who, on the 25th March 1869, was arrested, together with his son, in the adjoining district of Moka, whither he was going in order to repay a debt. He was taken before Mr. Didier, to whom he produced his photograph-ticket and his pass, *en règle*, for Pamplémousses, and who, accordingly, sent him back under escort to Mr. Renouf, the Stipendiary Magistrate of that district. The photograph-ticket and pass were annexed by the clerk at Moka to the escort paper, but when Saulick was brought before Mr. Renouf, on the 29th (having thus been four days in custody) the documents were not forthcoming, and Saulick—the police having had possession of his papers and lost them—was accordingly condemned to eight days' imprisonment for "vagrancy," being without papers.

751. At the same time Mr. Lablache wrote from Rivière du Rempart:

"I find that certain immigrants (such as gardeners, owners of carting establishments, &c.) are very often put to great inconveniences, although they be perfectly *en règle*, being in possession of Old immigrant tickets (in proper form), police passes, and title deed of ground, they are arrested, notably at Pamplémousses and Port Louis, and sent back here per escort. I would especially submit, that it is very hard for an immigrant who has, through his economy, saved a little earnings of his hardly-toiled-for labour, and who is proprietor, or lessee, of ground, to be prevented from going from one district to another, either for the purpose of marketing or of seeing a friend, by being arrested on the way, and sent back by escort to the Stipendiary Magistrate of the district where he has got his abode; and, as a matter of course, he is immediately set at liberty,—he producing his papers showing that he is no transgressor of the law."

752. That the law relating to the licence of day-labourers had been enforced with an equal strictness, we infer from an incident reported by Mr. Lablache in the next paragraph of the same letter: an incident which shows the inconvenience occasionally resulting from the manner in which the new law had been carried out.

"I am informed that recently a member of the Board of Guardians found it extremely difficult in procuring gravediggers for the interment of a pauper who died in the Hospital of the Sisters of Charity here, stating they feared the interference of the police, under what grounds I am unable to state."

753. Just a month before this letter was written we find another case in the same district, which arose out of Article 57 of the Ordinance, which enacts that "any person not vested with legal authority to issue passes or permits who shall give a pass or permit to any labourer not lawfully in his service shall be liable to a £5 fine, or to a month's imprisonment with hard labour, and any labourer asking such pass shall be liable to a month's imprisonment."

754. Mr. C. Conturant, manager of "Mont Mascall" estate, gave a permit to an Indian named Paraveo, whom he wished to engage for the estate, to repair to the central police station at Poudre d'Or for the purpose of obtaining a police pass.

"The police agent immediately placed the Indian under arrest and filed two different informations, one against Mr. Conturant and the other against the Indian."

under the above quoted Article.

"Mr. Conturant established clearly that his intention was *bonâ fide*, that he really meant to employ the Indian on the estate which he administers."

755. Mr. Lablache naturally hesitated about punishing in so very technical a contravention, and referred to the Procureur-General, who gave it as his opinion that the Article in question related only to such persons as give permits or passes to labourers unlawfully employed by them; but not to one

of the  
Saulick

Lablache  
on the en-  
forcement of  
the Labour  
Law.

Conturant  
case.

or, acting with good faith, gives to an immigrant free to engage with him, a pass to enable such immigrant to obtain the papers required for his contemplated engagement."

before, that there was no ground in this case for a prosecution.

756. Mr. Gautier, of Flacq, in his Report gave a similar account, for he wrote:

"When a man, after much difficulty, and after fairly establishing some *bonâ fide* employment, has obtained a police pass, he is, in practice, too lightly arrested in the other districts, which he happens to visit, or even cross, not for his pleasure, but even for his trade. I may quote, among several other cases, that of four gardeners of this district of a respectable character, having their police passes, who were arrested in Pamplémousses whilst going to Port Louis to buy seeds, kept prisoners and sent back to Flacq without anything like a charge sheet. They suffered four days' imprisonment."

7. It was owing to these representations that Article 45 was inserted in the amended Regulations of August 1869, by which permission to visit, or reside in, a district, for a limited time, might be obtained on application to the Inspector of the district of the domicile of the immigrant, and the endorsement by him of the pass, so that an Indian resident at Coromandel in Plaines Wilhems, might obtain permission to visit Port Louis by repairing to Rose Hill, and having his pass *revised*; relaxation about as liberal as one would be which permitted an inhabitant of Downing Street to visit Lambeth, provided he had first obtained the necessary endorsement of his pass at Hammersmith.

758. Equally harsh, and even more illegal, was the action of the police, who, between midnight and 1 o'clock on the morning of Saturday the 31st July 1869, entered the huts of six labourers in the service of the General Board of Health, employed at the Bois Marchand Cemetery and residing at Terre Rouge, apparently without warrant, or any higher authority than the consent of the owner of the camp in which the men lived; and, having violently arrested them as *vagrants*, took them away and confined them at the police station: a proceeding on the part of the sergeant of which it is somewhat remarkable that no mention is to be found in the Sub-District Occurrence Book of Terre Rouge, as also that there is no entry made of the hour in which the sergeant (Collinson) went on patrol before the arrests were made.

759. "On learning what had occurred the guardian of the cemetery went to the station, and requested the sergeant in charge to explain to the police inspector that the work of the cemetery was much impeded by this wholesale arrest of labourers, pointing out that the following day being Sunday, the inconvenience would thereby be much increased. The same morning the overseer was sent to Pamplémousses with the day-book to prove to the police inspector that the labourers were actually employed at Bois Marchand Cemetery. The inspector (Mr. O'Connor) then sent a written message to the sergeant in charge at Terre Rouge, instructing him to release the men if their papers were in order: an instruction which was quite useless, as the men had arrived at the central police station at Pamplémousses in the custody of a mounted sergeant at half-past 10 o'clock that morning.

"The message was delivered by Nourin, the overseer, to whom the sergeant then stated that the men had been arrested because they held *Port Louis* and not *Pamplémousses* Passes."

We find from the Book of Proceedings of the Stipendiary Court of Pamplémousses that, on Monday the 2nd August, they were brought before Mr. Renouf charged with "vagrancy;" whereupon four of the defendants produced their passes for Port Louis.

"and have been found working at the Roche Bois Cemetery, Pamplémousses."

The two other defendants had no papers

"but have also been found working at the Roche Bois Cemetery."

760. We should have thought that this ought to have settled the question as to their not being vagrants, yet Mr. Renouf, on the demand of Inspector O'Connor, postponed the case till the following Friday (the 6th) when the Inspector of Police dropped the prosecution and—we give the very words of the Judgment—

Enforcement  
of the law  
between  
September  
1868 and  
August 1871  
Mr. Gautier  
against the  
same.

Article 45  
of Reg. 1869  
of August  
1869.

The Bois  
Marchand  
case.

\* The area of the Island of Mauritius is about the same as that of the county of Surrey. It is divided into nine districts, each of which is considered "foreign" to the others.

Enforcement of the law between November 28 and August 1869, at Port Louis or elsewhere.

"The Court, thinking that the burial-ground might be in want of the defendants," orders them to be sent to the Protector to be dealt with as he thinks fit."

761. We think that this case presents a good example of the total absence of discretion which has characterised the enforcement of Ordinance No. 31 of 1867. We see these men dragged out of their huts at the dead of the night between Friday and Saturday, upon no higher authority than that of a non-commissioned officer of the police as "vagrants," and detained successively in the cells of two police-stations for the whole of Saturday and of Sunday; notwithstanding the energetic protest of their employer, who represented their case in such a manner as ought to have convinced any reasonable being that they were not "vagrants." On the Monday they were brought before the Magistrate, to whom, according to his own notes, the most positive evidence was given that they were "vagrants" only in a most technical sense, and their whole offence resolved itself into the irregularity of being found living, and pursuing their lawful and useful occupation, on a spot about a mile beyond the boundary of the district of Port Louis, in which they would have been *en règle*. Nevertheless the case was remanded for four days; and, at last, on the Friday, nearly a week after their arrest, the possibility occurred to the Magistrate of inconvenience resulting from the continued absence of the accused from the burial-ground; though the certainty of this had been strongly impressed upon the police six days before; and it is not to be supposed that they kept it back from the Magistrate. He, however, sent them to the Protector at Port Louis, seven miles off: the only result of which course could be that, on the following day, they would be marched the same seven miles back to Pamplemousses, in order to obtain a pass proper for that district: whereas had the police, on its being shown that the whole offence amounted to nothing more serious than the informality in the pass, at once sent the men to Port Louis to give the notice required by Article 44 of the Regulations of November 1868, they might have been returned the same day to Pamplemousses, have received their proper pass, and the whole business been concluded in a day.

It is, therefore, not surprising that the Honourable Mr. Newton, the Colonial Secretary, indignantly declared that the spirit of the law had been set aside, and he almost thought the letter of it too.

Arrest of the railway-gate-keeper.

762. Of all the cases connected with the enforcement of the Labour Law that have come under our notice, there are none which show the indiscreet conduct of the police in a stronger light than those which came first to our knowledge by the perusal of the "General Orders" put in by Colonel O'Brien, in vindication of his department from the observations made upon it in the Report of the Police Enquiry Commission, and from which we learn that the police had actually, on one occasion, arrested as a "vagrant" a gateman stationed at a level crossing of the railway. We should have imagined that gatemen on the railway were, of all other members of the community, from the very nature of their employment, the last to be open to a charge of vagrancy—we say nothing of the danger to which the lives of the public were thus wantonly exposed.

763. In consequence, however, of such an arrest, we find that, on the 3rd of February 1870, Colonel O'Brien issued the following General Order (No. 4 of 1870):

"In publishing the following letter from the Colonial Secretary, the Inspector-General directs that no railway employees are to be taken up for contravention of Ordinance 31 of 1867, when on duty or in uniform; it being evident that the removal of one of these men from his post might be attended with great danger to the public safety.

"Should the police have reason to believe that any of these men are not *en règle*, or should they find them to be without their pass, as laid down, a report is to be made to the nearest station-master, with a request that the man may be relieved at once, in order to have his case dealt with according to law.

764. Hardly less extravagant was the case of Lall, charged on the 8th May 1871, before Mr. d'Emmerez with vagrancy, and who had been arrested by the police while in charge of a herd of cattle at Case Noyale, a remote place in the district of Black River. He had at the time no papers, and stated he was in the employ of Miss Hortensia Henriette, to whom, accordingly, he was taken, but who denied all knowledge of him: whereupon Lall was charged as above-mentioned, and condemned to twenty-eight days' imprisonment, and afterwards to be sent to the Depot to be put *en règle*, while Miss Hortensia Henriette was, on the 15th of the same month, charged with wilfully and unlawfully harbouring and employing him, being a vagrant: a charge which was, however, very properly dismissed with costs.

Case of Lall and the cattle.

Stipendiary case, No. 520 of 1871. Black River. Question 14,239, d. 47.

Stipendiary case, No. 572 of 1871. Black River.

765. We should certainly have imagined that, being found in the possession of a herd of cattle, ought to have been considered a means of subsistence sufficiently visible to have saved the possessor or guardian thereof from the charge of being a vagrant: and we say nothing of the inconvenience which must have arisen from the cattle being left untended, and of whose fate Mr. d'Emmerez was unable to give us any information.

766. In both these latter cases there was, we are ready to admit, a contravention of the letter of the law, as immigrants in the employ of Government, if not under indenture, are bound, equally with others, to be *en règle*, as far as regards their tickets and passes: which we find laid down in a Circular issued by the Colonial Secretary to Heads of Departments on the 4th November, 1868; and Lall was clearly in contravention in not having papers to produce when called upon to do so; though we do think that the fact of being in charge of a herd of cattle in the jungle might have saved him from being called upon to "justify his status," by any policeman who might happen to meet him.

767. We cannot, therefore, acquit the police of an utter want of discretion and common sense in the discharge of their duty, as well as a disregard of consequences, however serious, in comparison with trifling informalities connected with the pass of an Indian immigrant, or a contravention of the letter of the law.

768. Again, if we turn from particular cases of individual hardship to more general Returns, we shall not find anything to lead us to modify our opinion; although, here, we encounter the same difficulty as we had reason to complain of in dealing with the gang-robberies (paragraph 551, and following), viz. the hopeless discrepancies between the different Returns upon the same subject, with which we were furnished soon after our arrival in Mauritius, and which had been respectively compiled from the books of the police department, and those of the Stipendiary Magistrates, and which will be found in the appendix.

769. The first of these shows that, in the years 1868, 1869, and 1870, the numbers of alleged vagrants arrested were respectively 22,557, 23,913, and 13,880; of which, however, nearly one-half are returned in each case from Port Louis alone, which was explained by the fact, that in that district all who were arrested for any breach of the Labour Law, such as desertion and illegal absence, appeared on the charge-sheet charged by the police with vagrancy; while the next enters more into details, and relates only to the rural districts, and shows the number arrested and convicted, together with the number sentenced to different terms of imprisonment, and the various modes in which the remainder were disposed of; while the third shows the number of vagrants convicted, according to

1stly, The Stipendiary Magistrates; and 2ndly, The police; and relates to all the districts in the island;

from which it will be seen that in no instance do the Returns agree, except in the year 1871—in the district of Plaines Wilhems; whereas, in Rivière du Rempart, we find that whilst, according to the Magistrates' books, only nine persons were in that same year convicted; according to the police books, 129 were convicted—a difference, startling at first sight, but explained in a great measure by Mr. Parquharson, when

before us, who told us that, on a person being brought before him charged with "vagrancy" by the police, he ascertained whether or not the accused had a master, and if he had, wrote to the master to enquire: this usually resulted in the latter coming, and either requesting the release of the accused, or entering a charge against him of desertion or illegal absence; consequently it very rarely happened that he was called upon to convict a man of vagrancy.

770. On the other hand, in Grand Port, it will be seen that in 1868 and the three following years, the Magistrates' Return of convictions of vagrancy is higher than that of the police. The same appears in Savanne, while in the other districts, as a rule, the number returned by the Magistrates is far below that returned by the police. In Plaines Wilhems alone is there any approach to accuracy; and, even in this district, it is only in one year—in 1871—that the two Returns exactly agree. We, therefore, can only again refer to the hopeless discrepancies in the Returns, and proceed to argue upon them, taking them for what they may be worth.

771. On their own showing the police, in the year 1868, arrested as vagrants 22,557, of whom 12,553 were discharged without punishment; and, of 13,913 arrested in the rural districts, 8,722 only were convicted; 5060 were disposed of either by being sent to the Protector, to their masters, or under escort to the Magistrates of other districts; while 2490, or rather more than one-fifth of the whole number arrested, were discharged without any punishment at all; or, in plain words, that upwards of 20 per cent. of the arrests had been without cause.

Subsistence of the cattle and the earth.

Conduct of the police concerned.

General results of the enforcement.

Useful information.

Arrests, convictions, and otherwise, 1868.



General results of the enforcement of the law: Arrests, convictions, and otherwise.

1870.

772. In the year 1869 the arrests for vagrancy throughout the island are returned by the police at 23,916 or 18·866 per cent. of the entire Indian male population of the colony. Of these, 13,307 were discharged; and, in the country districts, of 13,390 arrested, 6088, or less than half, were convicted; whilst of the remainder, 4186 were otherwise disposed of, and 3116, or rather more than a quarter of the whole number arrested, were discharged altogether.

773. In 1870, the third year in which the pass-system had been in full force, the numbers are lower; and, though rather more than the half of those arrested in the country districts, were convicted, the proportion of those discharged altogether, to those arrested, still remains the same as in 1868, viz., rather more than 20 per cent.

774. The numbers are as follows:—

|                                 |        |
|---------------------------------|--------|
| Arrested throughout the island  | 16,880 |
| Arrested in the rural districts | 8,662  |
| Convicted                       | 4,549  |
| Otherwise disposed of           | 2,546  |
| Discharged                      | 1,567  |

775. With these large numbers before us, and seeing, as we have seen, the opinions entertained, and the practice followed, by the police towards so-called vagrants, it is impossible to feel satisfied that the cases which have come under our notice can be merely solitary; and it is distressing to think of the amount of annoyance, irritation, and inconvenience which must have been caused to hundreds of inoffensive persons by the inevitable operation of the law, apart from the too many cases of positive oppression, such as we have hereinbefore described in detail. Yet, if on the other

Appendix H 26. hand we refer to the Return furnished us by Colonel O'Brien of the punishments inflicted upon non-commissioned officers and constables for ill-treatment of Indians, we find only five men punished for "illegal arrest," of whom two were condemned together on the 8th February, 1870, by the District Magistrate of Grand Port, and we are, therefore, called on to believe that, out of the 63,153 persons arrested by the police during those three years, only four arrests were wrongful and illegal.

776. With such facts as these before us, we do not think it necessary to examine very closely the evidence upon which the Police Enquiry Commission characterised the conduct of the police as "arbitrary" and "ill-judged;" a censure against which Colonel O'Brien protested both in his letter to us, and when examined by us. We shall, therefore, proceed to consider carefully the General Orders which he submitted, and on which he relies, as showing that the department, of which he is the head, have had no other aim than "to make the Ordinance a protection to the honest, and as little irksome to the industrious population as possible."

777. He further submitted that

"the attention of the Commissioners" (i.e. the Police Enquiry) "was drawn to selected Memoranda and General Orders, having but one object. . . . As regards the former, I would observe that they had no effect generally throughout the department, and are mostly a portion of the remarks made by me on the Weekly Reports, sometimes of one district, sometimes of another, where neglect of duty, contraventions, and all sorts of departmental detail are equally commented on; so that the great desire manifested, or 'excess of zeal' sanctioned by the General Orders issued by the Inspector-General as adverted to, resolves itself into the two General Orders of mine; and one of my *locum tenens* promulgated at a time when vagrancy was rife, and the subject of universal complaint, while though in the possession of the Commission it would appear that a file of other General Orders, which was handed in to one of the members" (Mr. Justice Gorrie) "was not submitted to all the others; and the file itself, when returned to my office, was found minus a page, in which one of the principal instructions as to the *modus agendi* of the police was laid down."

778. These words we certainly understood to impute to one of the members of the Commission the wilful suppression from the knowledge of his colleagues of certain Orders, which, had they been aware of, would have led them to conclusions more favourable to the police department than those which actually were expressed in their Report; and that, in order the more surely to damage the police in their estimation, a page, containing one of the most important of such Orders, was abstracted—an insinuation, which, notwithstanding a rebuke of exceptional severity from His Excellency Sir Arthur Gordon, and an explanation from Captain Blunt, which might have convinced him of his error, Colonel O'Brien has never categorically with-

Report of the Police Enquiry Commission.

Protest of Col. O'Brien.

Letter of Col. O'Brien to the Royal Commissioners, par. 2.

Appendix H 4.

drawn; and he still maintained before us that Captain Blunt had neglected his duty in not defending him and the police department from the charges which had been made against it by Mr. Justice Gorrie, by Mr. de Plevitz, and by the Old immigrants; apparently overlooking the possibility that Captain Blunt may have conceived that he had a higher duty to perform, as a member of the Police Commission, than to defend a position which any candid person must have seen to have been untenable; or to vindicate his department from accusations which he had, we think, good reason to believe well-founded.

779. Be that as it may, we have had the advantage of full acquaintance with the General Orders in question, of which Colonel O'Brien, in the second paragraph of his letter, writes:

"From the terms of those orders I trust you will see that the charge of a 'manifest desire' for the arrest of Indians, and therefore the encouragement of the 'unscrupulous use of their powers by this department' is unfounded; a desire I beg to repudiate, and from which I feel sure that my antecedents and long residence in India, where I am well known, will exonerate me."

780. That Colonel O'Brien personally ever "manifested a desire for the arrest of Indians" under circumstances which he knew and believed to be arbitrary and unjust, or that he knowingly and maliciously encouraged his subordinates to make "unscrupulous use of their powers," are charges which, as far as we are aware, neither the Police Enquiry Commissioners, nor any one else, had ever advanced; but, as Colonel O'Brien complains of the

Question 777: "sweeping and wholesale condemnation" (which) "has been cast over the world, and that it was too bad thus to condemn a whole department for the bad actions of one or two of its members,"

we must see first how far the orders were of such a nature as to afford a cloak for the conduct of the "one or two" who might possibly be inclined so to act; and further (vide Chapter XXIX. *The Police*), what is the composition of the police force in Mauritius, and how far its antecedents give us grounds for supposing that it consists for the most part of persons of the purity claimed for them by Colonel O'Brien.

781. The first General Order, bearing Colonel O'Brien's signature, is No. 38 of 23rd May, 1868, and the last signed by him before he left the colony on leave in 1871 is No. 3 of the 12th of January of that year, and we find that during that time forty-one General Orders were issued, of which nine refer to details in the working of the Ordinance and the pass system, to some of which we have had occasion hereinbefore to allude; fourteen are simply the publication of opinions of the Procureur-General upon points referred to him for his advice, and, though published by the police, they do not emanate from that department; four are the publication of letters from the Colonial Secretary, one (G. O. No. 2 of 1868) refers to the measures to be taken by non-commissioned officers of police stations in the special case of bands of labourers quitting an estate to proceed to the Central Station or to Port Louis.

782. We thus have twenty-seven out of the forty-one orders, from which we do not think that any very strong argument can be deduced either for or against the Inspector-General and the Department of the Police; although, from some of the opinions of the Procureur-General, it will be seen that questions had been raised upon points which appear to us to indicate the spirit in which some persons, at any rate, conceived it might be their duty to carry out the law; such as whether a day-labourer was to be subjected to the expense of paying for a new licence each time he changed his abode, and whether payment could be claimed from an immigrant for a second pass, upon his removal to another district; while Government Order, No. 21 of 1870, shows that it had been proposed to limit the licences of hawkers to their own districts—a suggestion which we discover emanated from Inspector Bell of Grand Port, but which the Procureur-General pronounced inadmissible; while another, No. 61 of 1868, simply publishes the opinion given by the Procureur-General upon the occasion of the illegal arrest of *Le Boit Marchand* labourers (paragraph 758, and following).

783. We are thus left with fourteen, two of which relate to the arrest of railway gatemmen (vide *supra*, paragraph 762, also Chapter XXIX., *The Police*), and of which, for the credit of the police, we think the less that is said the better.

784. Of four others, the least that can be said is that their tendency is to incite his

\* 1868:—G. O. Nos. 38, 42, 52, 53, 55, 90, 98. 1869:—G. O. No. 77. 1870:—G. O. No. 33.  
† 1868:—G. O. No. 97. 1869:—G. O. Nos. 12, 13, 15, 34, 37, 64, 76. 1870:—G. O. Nos. 1, 8, 21, 33, 70, 75.  
‡ 1868:—G. O. Nos. 59, 80, 101. 1869:—G. O. No. 14. (All these will be found in Appendix H 6.)

Report of the Police Enquiry Commission. Protest of Col. O'Brien.

Col. O'Brien's General Orders to the Police.

Col. O'Brien's  
on General  
Orders to the  
Police.

1868.  
G. O. No. 88.  
1869.  
G. O. No. 58.  
1870.  
G. O. Nos. 26  
and 38.  
Appendix H 6.

subordinates to carry out the law strictly, if not severely, but certainly is not such as to restrain any excessive zeal that there might be among them, as No. 88, issued on the 14th November, 1868 (the day of the publication of the first set of amended Regulations), orders that no delay takes place in

"putting the law in full vigour, . . . as so much must depend on the proper working in the first instance of this Law, the Inspector-General trusts that every exertion will be used by the force in this matter."

785. No. 58 of 18th August, 1869 (issued very shortly before the second set of amended Regulations) announced that

"as jobmen's licenses, &c., are often made the cloak but for vagrancy, it becomes the paramount duty of the police to see that the law is not thus evaded. Inspectors generally will, therefore, impress on their men the necessity of bringing up all cases of Old immigrants who are not carrying on and earning a livelihood by the trades they have asserted they follow;"

file No. 26 of 11th April, 1870, announces the regret of the Inspector-General at marking the small number of vagrants taken up of late; and he begged that the exertions of the department might not be relaxed in this particular.

786. In No. 38 of the 10th June of the same year

"the Inspector-General again reminds all the officers of the force that there are numbers of vagrants still at large in the colony, and, now that the mounted men have returned to their districts, expects that a good account of numbers of them will be soon given."

787. We now come to those orders which may fairly appear at first sight to evince a desire that the law should be carried out in a liberal spirit; though, even upon some of these, it will be our duty to make remarks which, we fear, will in a great measure detract from any credit which Colonel O'Brien should claim for the police on their account; some of them enunciating propositions so self-evident that we can hardly suppose it would ever have occurred to the Inspector-General to embody them in General Orders, unless it had been found by experience that they were by no means universally accepted as such.

788. General Order, No. 67 of the 16th October, 1869, in order to place no obstruction in the way of Old immigrants, who are, under the law, carrying on their trade in a legitimate manner as hawkers, authorises the Detective Inspector in Port Louis and the Inspectors in rural districts, under Art. 45 of the amended Regulations, to

"endorse the papers of any such men who are known to be of good character and domiciled in their respective districts, but who, for the purposes of their calling, may have to circulate in one or more parts of the island."

789. We cannot regard as any very wide concession an order, in the absence of which the law would, it appears to us, have been little better than an outrage upon the liberties of a large number of your Majesty's subjects, who, having paid a tax of £1. or £3 upon their licence, would have found the exercise of their trades restricted to the small limits of one district: but, even this concession was carefully guarded, by giving the endorsement effect only in such

"districts as shall be noted and would have to be those in which the man has to travel in the prosecution of his business;"

and, then, only to be valid for three months; a term which was, however, extended by General Order No. 3 of 1871 to six months, with the view, not of enlarging the liberty of the holder, but of saving the time and labour of the police in renewing the papers.

790. General Order No. 11 of 1870 applied to cases in which men having had their papers endorsed for the purpose of proceeding from one district to another changed their mind and wished to remove to a third; in which the Inspector-General remarked:

"that it seems to him there is no necessity to send the immigrants back to the district from which they originally started, as it is perfectly competent to the police to re-endorse the pass for the district to which they purpose moving."

791. General Order No. 60 of 1870,

"in order to prevent inconvenience to the public service," instructed the police

"not to enforce Article 44 of Ordinance 31 of 1867"

(Declaration of change of abode)

"in cases of immigrants in Government employ and having a pass endorsed by the departmental officer under whom they might be serving."

792. No. 28 of 1870, which is the order described by Colonel O'Brien as laying down one of the principal instructions as to the *modus agendi* of the police, and which was on the page cut out by Captain Blunt, and published in his Report, and in Appendix H 11, explanation of the Statistical Returns of the Department for the year 1871, is as follows:—

"The object of the New Labour Law" (Ordinance 31 of 1867) being to stop vagrancy and diminish the erratic tendencies of the Indian population, the exertions of the police should in no way be relaxed in carrying out the spirit of the Ordinance, at the same time it should be carried out in such a manner as will prevent its action being vexatious to the honest man and legitimate trader.

"Thus, in case of a respectable Indian found for a day or so out of his district, possessing both retail licence and pass *en règle*, with photographs, numbers, &c., all corresponding, and being able to give a satisfactory account of himself, it would be evidently an act of injustice to arrest such a man—possibly to his great pecuniary detriment—when, perhaps, he left his district to collect money owing, purchase goods, &c., especially when the law authorises inspectors to grant migratory permission to hawkers; a permission that was not extended to other trades, as its necessity was not foreseen at the time."

793. We have only to add that we entirely concur in the opinion herein expressed by the Inspector-General; and to observe that, on the 23rd April 1870, when this order was issued, the law had been in full operation for above 19 months; and to refer to the remarks we made in the last lines of paragraph 787.

794. But, self-evident as we think are the principles set forth by the order in question, it does not appear to have been so regarded by the police force, as we find that, on the 10th October following, Colonel O'Brien very properly issued General Order No. 63 in which

"attention was called to General Order No. 28 of 1870, the second paragraph of which he found had not been acted up to, thereby causing the Labour Law to become vexatious to the honest man and legitimate trader."

795. The only General Order now left to be examined is No. 38, issued on the 8th June 1869; and, it is one to which Colonel O'Brien also directed our special attention, as tending to vindicate his department from the strictures of the Police Commission. The order is as follows:—

"Particular attention is called to existing Regulations, which lay down that, in the event of a man being arrested for vagrancy and stating that he is employed close by, the prisoner is to be taken at once for identification and for the verification of his statement, to his master, provided he reside within a reasonable distance, say a quarter of a mile."

"Too great care cannot be exercised when arresting vagrants so as not to confound the innocent with the guilty. The object of the law is as much for the protection of the industrious as the punishment of the vagabond, and it is especially framed to enable masters and servants respectively to have a hold on one another; this cannot be the case if the police interfere and indiscriminately arrest the Indians. This department is specially charged to see that every man not under written engagement complies with the law, and is leading an honest life, as declared; and the force in strictly carrying out its duty should be particular to see that no oppression takes place, that honest labourers are not interfered with, and that gentlemen are not unnecessarily deprived of their men's services. Were it otherwise the police would lose that confidence in the estimation of the public which it is so desirable in the interests of all to retain."

Nothing, we fully admit, can be fairer and juster than the sentiments expressed in this order: but, when we learn the incident which led to the issue of it, we shall find it to be such as to induce us to think that Captain Blunt was probably acting in the most discreet manner for the credit of the force, of which he was the temporary chief, by not calling attention to it, even assuming that such silence was intentional and deliberate on his part; as the circumstances certainly were not of a character to have led the Commissioners to modify their opinion as to the "arbitrary or" conduct of members of the police force in carrying out the law.

796. In the month of May 1869 Lieutenant Scott of the Royal Bewsher of the Oriental Bank, were living together in rising" in the district of Moka; and on the 7th of Scott being confined to the house by illness, and the only servant Louis, an Indian Creole, servant of Mr. Bewsher, and Abdoo Scott, two Indians entered the compound in which Louis

Col. O'Brien's  
General  
Orders to the  
Police.  
No. 28 of  
1870.

No. 38 of  
1869.

Rep  
the  
Eng  
Club  
No. 67 of  
1869.

Prot  
Col.

No. 11 of  
1870.



some slight conversation, requested to be shown the way to Mr. Carr's house, representing themselves to be strangers; and they further pretended not to understand Louis' directions; and thereby induced him to go with them, into the road, to show them Mr. Carr's gate which was close by; whereupon, as soon as they got him into the road he was arrested by an European policeman in plain clothes, and the two men who had thus lured him on to the road then produced their batons and appeared in their true character of policemen. They demanded his papers, notwithstanding his declaration that he was a Credé of the island, and, therefore, not bound to carry papers, and his further protesting that he was a servant employed in the house close by, and that Lieutenant Scott was lying ill in the house and the other servants were away.

797. This explanation not being considered by the police to be satisfactory, they tied his hands and took him, along with four other vagrants whom they had in custody, to the police station, from which he was released after a detention of about three hours upon the receipt of a letter from Lieutenant Scott, who meanwhile had heard of the circumstance.

798. It is by no means surprising that Lieutenant Scott should have brought such a transaction to the notice of Sir H. Barkly, by whose desire it was referred to Colonel O'Brien for his report. He, having already heard of the case, had instituted an enquiry, from which he evidently was of opinion that the sergeant had

every reason for believing that the man was not *en règle*, and consequently, had been justified in arresting him; and he proceeded to observe that

"it is one of the great defects of the law that it applies but to one class of the population, a point I have already more than once brought to notice."

"I at the same time predicted the recurrence of cases like this, for it is impossible for the police to distinguish between an Indian born in the colony and one imported. To any one who knows these people, the impunity of the former will be seized by the latter as a cloak for vagrancy, if the *only pretext* of the Indian's status is to be on the police, and not on the man himself; therefore, much as such an isolated case is to be regretted, I fear little can be done when, as in this instance, the police have every reason to believe the man to be an immigrant in contravention of the law. Mr. Thomson's men had no right to go (if they did so) into Mr. Scott's yard, and orders have been issued accordingly."

799. It is, further, not surprising that Mr. Newton, the Colonial Secretary, should have remarked upon this report that the Inspector-General appeared to him

"to treat this case with much less seriousness than it deserved, the defect in the law having nothing to do with it;"

and he very justly characterised the conduct of the police as

"a most flagrant act of petty tyranny."

In this opinion Sir H. Barkly,

"after carefully reading the papers,"

fully concurred: The evidence, he considered, established clearly

"that it was a 'plant' on the part of the police,"

and he

"ordered Sergeant Smith and all concerned to be severely reprimanded by the Inspector-General, and cautioned in future only to arrest Indians whom they have good reason to suppose to be vagrants or idlers."

800. This decision was communicated by the Colonial Secretary on the 2nd June, but of its justice the Inspector-General apparently was not well satisfied, for on the 5th June he forwarded to the Colonial Secretary the counter-statements of Sergeant Smith and the Indian Constable Canterbury, to the effect that

"they had never entered Mr. Bewaher's compound on the day in question;"

and, therefore,

"he begged to point out that the unsupported testimony of his servant is taken on one hand, while the assertion of Sergeant Smith, a man of good character, and a member of the force, together with those of the constables, appear on the other."

which he evidently adheres to this day; but one which

stands as showing either his utter inability to appreciate the

value, or of his determination to shut his eyes to anything which

the conduct of members of his force no matter how inde-

These representations, however, did not alter the opinion

Barkly, who, on the 7th of June, desired that the matter

801. The next day General Order No. 38 was issued.

802. We therefore are of opinion, after carefully considering the General Orders, that of these there are only six which Colonel O'Brien can, with justice, adduce as showing a desire on his part to mitigate, in any way, the exceptional severity of the law, and that some of these contain internal evidence of the exceptionally severe spirit in which the law had been carried out by the police.

803. The above are General Orders for the guidance of the police, and remain in force. We must next examine the character of the special orders that were issued, and of the practices resorted to for the suppression of the vagrancy alleged to have been rife at this time, viz., the orders for "maroon" or "vagrant hunts," when all the disposable force of the police was employed to scour the several districts of the island, converging by combined movements upon certain points pre-arranged, and, taking

"into custody every Indian, whether at work or in his house or passing about his avocations on the highway"

(they might have added byways also),

"and whose papers were not *en règle*, or which might be imagined not to be *en règle*,"

"by some policeman who could not read, or whose papers might have been in a

"moment of unsuspecting security left behind in his hut."

Such is the description given of the vagrant hunts by the Police Enquiry Commission.

804. But, before commenting upon the evidence given on this subject before us, we would remark that it appears to be quite true as stated by Colonel O'Brien, that "these were instituted years before" he took overcharge of the department, and he may very likely be right in his statement, that they were less often resorted to in his time than formerly, though we cannot admit that as a justification for their being continued at all.

These combined "police raids" appear to be nothing more than a tradition of the old times of slavery, the name only of "maroon" being changed to that of "vagrant hunt," when a regular corps was formed entitled *Chasseurs de Police*, for the purpose of once a year, and as many times as they should be summoned by the Commissary-General of Police, proceeding upon a general search throughout the colony for "maroons" or runaway slaves; and the same idea, though in a form somewhat modified, pervades a suggestion of the Finance Committee of Council, made in 1854, in a report upon the new police system, when they recommended that an increase should be made to the force, and

"a portion of these men to be drafted from the districts in, or adjoining to, which

"they are to be employed, shall be constantly engaged under a superior officer and

"mounted sergeants in sweeping different parts of the island in which criminal

"offenders, deserters, squatters, and other members of the dangerous classes of

"society are known or suspected to have their haunts."

805. Upon the coming into force of the New Labour Law, recourse seems frequently to have been had to these raids or hunts.

Appendix G 31. 806. On the 1st June, 1869, we find the following notice issued:—

"To Inspectors in Country Districts.

"There will be a general vagrant hunt on Saturday next, the 5th instant; time of starting, distribution of men, &c., will be left to the discretion of the inspectors themselves.

"(Signed) J. A. SPENCER,  
"Acting-Superintendent.

"1.6.69."

Appendix G 31. 807. On the 19th July, 1870, we find the following orders somewhat more explicit:—

"To Inspector Timperley. 19th July, 1870.—No. 225.

"Vagrant hunt on Saturday next, 23rd instant. All available men in your

"district will start from Pamplennousses at 4 A.M., and scour all along as far as

"Pieter Both, where they will meet the Port Louis party at about 10 A.M. Of

"course you will arrange that your men have something to eat and drink while

"out, for which send in your bill to Paymaster.

"You will lead the party from your district in the hunt yourself.

"(Signed) F. T. BLUNT, Capt., Adjutant."

Case of  
Mr. Bewaher's  
servant.

"Vagrant  
Hunts."

Maroons  
hunts, a  
tradition of  
Slavery.

Instances and  
details of a  
Vagrant  
Hunt.

July 1870.

808. A similar order sent to Inspector Macpherson, at Moka, was as follows:—

"To Inspector Macpherson. July 19th.—No. 226.

"Vagrant hunt. All available men in your district will be sent out from Moka at 4 A.M., on Saturday next, the 23rd instant, so as to scour from the Central Station up to the top of the Pouce (a precipitous mountain covered with scrub and jungle, overhanging Port Louis, over which a bridle-road leads to Moka), where they will meet the Port Louis party by about 10 or 11 A.M. Of course you will arrange that your men have something to eat and drink while out, for which you are authorised to expend one shilling per man, sending in your bill to the Paymaster.

"You will lead the party in the hunt yourself to the summit of the Pouce.

"(Signed) F. T. BLUNT, Capt., Adjutant."

809. The following was addressed to Inspector Brownrigg, at Plaines Wilhems:—

"To Inspector Brownrigg. 19th July, 1870.—No. 227.

"Vagrant hunt. All available men in your district will start from Central Station to Pointe aux Sables, scouring the whole country between, on Saturday next, the 23rd instant, at 4 A.M. You will be met by a party from Port Louis, under Inspector Seed, at Pointe aux Sables, near Mr. Mullin's place. You will go in charge of the party yourself, and take refreshment for your men to the amount of one shilling per man, for which the Paymaster will credit you.

"(Signed) F. T. BLUNT, Adjutant."

810. We were informed by Inspector O'Connor that the plan was for the men to move in a broken line along the roads and sides of the mountains, with an interval of a few hundred yards between each, but sufficiently near to keep in view of each other; and that they stopped every Indian they met, to examine his papers, to the inevitable annoyance of such wayfarers whose papers might be perfectly *en règle*, but who, happening to fall into the hands of an illiterate constable, and failing to justify his status to his satisfaction,

would have to be conducted perhaps half a mile out of his way, in order to find a non-commissioned officer able to read his papers, and decide that he was no vagrant.

811. It was at the close of the "hunt" on the 5th of June, 1869, that a very scandalous affray took place between two of the parties that had been engaged in it, and which possibly was the reason why, in subsequent hunts, special orders were given that provisions should be taken out for the men.

812. It appears that, after a long and fatiguing walk, some of the Pamplémousses party met some of the Moka party at a Chinaman's shop at Nouvelle Découverte, on the border of the two districts; and, having there got drunk together, commenced a quarrel. Mr. O'Connor's Report upon the transaction is silent as to the origin of the dispute, except so far as establishing that Sergeant Shannon, of Moka, was the aggressor, and had addressed Corporal Wilson, of Pamplémousses, in offensive language; but Mr. de Plevitz asserts that they quarrelled about the disposal of the prisoners, each of the sergeants wanting "to carry the men to his district to please his chief."

813. However that may have been, certain it is that Sergeant Legge, also of Pamplémousses, took up the side of his subordinate, Corporal Wilson, and the constables imitating their superiors, each man fought on the side of his non-commissioned officer, so that the fight resolved itself into one between the two districts; while Corporal McKenzie, of the "reserve detached from the Central Station," which was amalgamated with the Mountain Long party, was also drunk,

although exhibiting impartiality; by which Mr. O'Connor means, that he intimate onset upon both the contending parties, assaulting alike Sergeant al Wilson.

814. We have only, in justice to Colonel O'Brien, to state that all of the men concerned were punished by reduction of rank.

815. The result of the "hunt" of the 23rd of July, 1870, appears by the Cell-books to have been, that the party from Pamplémousses arrested thirteen, out of whom eleven were condemned. The party from Moka arrested seven, all of whom were released. And the party from Plaines Wilhems arrested fifty-nine, of whom twenty-nine were released, and thirty condemned.

816. But with the object of showing generally the results of these vagrant hunts, we caused three Returns to be compiled from the Police Cell-books, of the different districts, the first two of which give the numbers arrested in Port Louis, in seven vagrant hunts which took place in 1869 and 1870, while the third gives the results of the hunts in the country districts.

817. Of the first two Returns, A is made from the Cell-book, and shows the numbers actually arrested. Return B was received from Mr. Dupuy, the Police and Stipendiary Magistrate in Port Louis, before whom the men arrested were taken, and shows the various ways in which those taken before the Magistrates were disposed of.

818. If we take the hunt of the 8th May, 1869, which appears to have been general throughout the island (except in Grand Port), and which figures on all three Returns, we shall find that, according to the Police-books, the results were as follows:—

|                       | Arrested. | Condemned. | Released; sent back to Masters, &c. |
|-----------------------|-----------|------------|-------------------------------------|
| Port Louis .. ..      | 187       | 145        | 20                                  |
| Rural Districts .. .. | 360       | 131        | 229                                 |
| Total .. ..           | 547       | 276        | 249                                 |

The difference of twenty-two between the total number arrested and those brought before the Magistrate may possibly be due to the papers of the Indians being produced by their friends, subsequently to their being arrested; in which case they would be at once released. Thus, we see that, in one day, more than five hundred people were arrested, of whom not more than one-half were punished by the Magistrate, while the rest were subjected to causeless annoyance and irritation.

819. We have already stated the enormous number of persons arrested throughout the island, in the course of the year 1869; but such a result will appear by no means astonishing, when we see the character of the police orders which were issued during this year, and which, being directed to particular points, were more likely to meet with attention from the subordinate members of the police force than were the very true, though broader, principles propounded subsequently in such a General Order as No. 28 of 1870.

820. Taking the Orders issued to the district of Port Louis from the month of April 1869, we shall gain some idea of the spirit which at that time animated the force.

821. On the 5th of April we find the following memorandum signed by the Inspector-General:—

"No. 154. Vagrants are to be looked up, especially in regard to 31 of 1867. "Job-men who are known not to perform job-work should be had up for false declarations, otherwise 1 dollar confers a right to be a vagabond for a year. "(Signed) J. T. N. O'BRIEN, "Inspector-General."

These job-men belong to that class of day-labourers of whom we have so often spoken, and we have seen (paragraphs 621 and 622) Colonel O'Brien's admission that they sometimes earned enough in a week to keep them until fresh employment offered, and his doubts as to the mode in which they were to be treated in the interim.

822. The results, however, of this memorandum give us some insight into their probable fate, as will be seen from the following:—

STATEMENT showing the NUMBER of INDIANS ARRESTED on the days following Memorandum dated 5th April, 1869, calling upon the Police to arrest Vagrants.

| 7th April, 1869.          |    |
|---------------------------|----|
| Number arrested           | 92 |
| Disposal.                 |    |
| Condemned                 | 56 |
| Remanded                  | 15 |
| Released                  | 5  |
| Sent by escort to Masters | 14 |
| Sent to Hospital          | 1  |
| Sent to Protector         | 1  |
|                           | 92 |



8th April, 1869.

|                          |     |
|--------------------------|-----|
| Number arrested          | 134 |
| <i>Disposal.</i>         |     |
| Condemned                | 62  |
| Remanded                 | 18  |
| Released                 | 12  |
| Sent by escort to Master | 38  |
| Sent to Hospital         | 2   |
| Sent to Protector        | 2   |

134

10th April, 1869.

|                           |     |
|---------------------------|-----|
| Number arrested           | 101 |
| <i>Disposal.</i>          |     |
| Condemned                 | 38  |
| Remanded                  | 28  |
| Released                  | 21  |
| Sent by escort to Masters | 11  |
| Sent to Hospital          | 3   |
| Sent to Protector         | 1   |
| Not marked                | 4   |

101

823. On the 7th and 9th there were the following memoranda signed by Mr. Spencer:—

"DISTRICT ORDER, No. 7.

"The non-commissioned officers and constables at each post are to patrol their sub-districts and arrest as many vagrants as possible.

" (Signed)

J. A. SPENCER,

"Superintendent."

"General Police Office, 7th April, 1869.

"DISTRICT ORDER, No. 18.

"All Indians without papers are to be picked up, and the names of all prostitutes behaving badly to be reported and summoned.

" (Signed)

J. A. SPENCER,

"Superintendent."

"General Police Office, 9th April, 1869.

824. On the 13th, District Order No. 21, signed by Mr. Spencer, after giving instructions regarding the inspection of dinners by a certain officer, concludes with these words:—

"The new Labour Law must be strictly put in force, as the Inspector-General holds me responsible for its due carrying out in Port Louis."

825. On the 22nd, Circular Memorandum No. 175, signed by the Inspector-General, remarks that—

"more boys should be sent in, as there is plenty of room at the Reformatory."

Appendix G 32.

And on the 27th, No. 183, signed by Mr. Spencer, announces that—

"a regular vagrant hunt will take place on Friday next, at 5 A.M.; officers to use their best endeavours in having as many vagrants (boys especially) as possible arrested."

826. That these hunts were of weekly occurrence in Port Louis, appears from the following memorandum and District Order. By District Memorandum of the 11th October, signed by Mr. Macpherson, the Acting-Adjutant,—

"Notice is given, that, until further orders, the vagrant hunt will take place on Wednesdays."

which continued, we presume, until altered, on the 16th December, by District Order No. 75, signed by Captain Blunt, directing that,

"until further orders, the vagrant hunt will take place on Saturdays instead of Wednesdays, as heretofore."

827. There were, however, exceptions to this rule, of which special intimation was given, as we find from District Order No. 70 of 24th November, signed by Mr. Spencer;

which, after stating the arrangements for drill, and prescribing the dress to be worn on such occasions, proceeds in the 4th paragraph to notify, in somewhat incongruous proximity, that

"there will be Divine service on Sunday the 28th instant. There will be no vagrant hunt next week;"

and the year closes with a notice addressed (No. 461, of 27. 12. 69) to the Superintendent and Inspectors in rural districts, and signed by the Inspector-General, that

"during the New Year fêtes a good opportunity will occur to look up vagrants and boys; the former seem to be greatly on the decrease, though numbers are said still to be about."

828. With orders such as those we have set out, following one another in such rapid succession, we certainly cannot wonder if the subordinates, to whom was entrusted the duty of carrying them out, did come to regard the number of arrests they could effect as some proof of their efficiency; and, if not as a title to confidence and advancement, at any rate as the best means of avoiding the censure of their superior officers; and, therefore, they must not be too severely judged if they did in consequence sometimes go beyond the intentions even of Colonel O'Brien; but knowing, as we shall presently show he did know (*vide* Chapter XXIX., *The Police*), the very heterogeneous elements of which his police force was composed, and how very little reliance was to be placed in their truthfulness or integrity, we cannot but consider that these orders show a want of reflection and judgment on his part to which must be attributed a large portion of the hardship produced in the enforcement of the new Labour Law.

829. In some of the last-quoted orders we have seen attention called to the necessity for apprehending "vagrants and boys." The object of these is not at first apparent, but when we mention the Government Reformatory for juvenile offenders, an institution founded at "l'Asile," an abandoned sugar estate near Pamplémousses, their meaning will at once become clear.

No one, we are sure, who has ever visited this institution, and who has seen the genuine interest taken in its welfare by Colonel O'Brien, could wish to pass one word of adverse criticism upon his exertions in its behalf; to the result of which he may justly point with pride, as by them a desolate jungle has been reclaimed, drained, and converted into gardens; while old buildings have been repaired, and new erected, entirely by the boys, by whose labour the institution is rendered almost self-supporting. Yet, even in this case, his orders appear to us to show that he allowed his zeal to outrun his discretion to a degree that was calculated to bring such an amount of unpopularity upon the Reformatory as must have caused serious risk to its success.

830. The Ordinance under which the Reformatory was established lays down certain conditions under which juvenile offenders may be sent to it, which (as we learn from the report of the Procureur-General sent to the Secretary of State with the Ordinance) were, for the most part, borrowed from the British Statutes 17 and 18 Vict. cap. 38; and 19 and 20 Vict., cap. 28.

Thus, by Article 5, juvenile offenders, when sentenced by any Magistrate

"to imprisonment for any period not less than fourteen days, on account of any offence punishable by law,"

may be sent to the Reformatory, there to be detained for not less than two, nor more than five, years. And, by Article 7, any child may, on the complaint of the Procureur-General, or any officer of police, be sent, who is living with any disreputable persons, and

"is without home or any visible means of subsistence,"

or who resides

"with, or is under the control of any one who shall have been convicted more than once of larceny,"

or whom the Magistrate, after enquiry, on oath, before him, shall consider to be an idle

"and disorderly person, or rogue and vagabond, or incorrigible rogue respectively,

"as defined by Ordinance No. 42 of 1844."

831. Under the first Article, therefore, vagrancy was an offence which subjected the juvenile offenders to a detention, possibly of five years, in the Reformatory; and we shall find that the same desire was shown by the Inspector-General for the arrest of juvenile vagrants as for that of the same class of offenders of maturer years; and we shall also find, that, in some cases, the police arrested, as vagrants, children whom they had no more right to regard as such than Holoman and the rest of Madame Joly's gardeners; and we certainly think that the "New Years" fêtes were an occasion during which the

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formatory.  
Ordinance,  
No. 1 of 1867.

police might have accorded a certain amount of indulgence even to "young scamps" "found vagabondising" (whatever that may mean), provided, always, that the proceedings of such young persons were neither criminal nor of a character to be dangerous to the public peace.

832. Between the 22nd April, 1869, and the end of the same year, we find five Circular Memoranda, signed by the Inspector-General, and one District Order, signed by the Superintendent in Port Louis, referring to this subject, and stimulating inspectors

"to use their best endeavours to get numbers of these lads condemned, as it is from this class, brought up from, and neglected in, childhood in habits of idleness and vice, that the future criminal class is recruited."

Here, again, we have an instance of this disposition, which appears so frequent in the reports of the police officers in Mauritius, from which we have quoted, to arrest individuals, not because they *had* committed any offence, but because, at some future time, they possibly might do so.

Neglected  
condition of  
Indian  
children.

833. We can cordially enter into what we believe to have been the feelings which animated Colonel O'Brien when giving these orders, as nothing can be much more sad than to see the number of neglected children in every camp, equally as in every village, who are growing up, certainly in ignorance, and probably in vice; and had there ever been established such a system of compulsory education as was contemplated by the disallowed Ordinance of 1857 (Chapter XXVIII., *Education*), there could have been no doubt as to the propriety of stimulating the police to every exertion, in order to compel such children to go to the schools provided for them; but as the orders in question would, practically, not affect the children in camps on estates, who are just as likely to supply future members to the criminal classes, they might very easily become a great hardship upon the children of parents residing in villages and in the country, especially as there is only one reformatory in the island; and excellent as that institution is, and greatly as it might be to the ultimate advantage of the child to be there educated, we cannot think that the forcible abduction of a child from its parents, even under forms of law, for a period extending from two to five years, is a proceeding to be tolerated except under the special restrictions laid down in the Ordinance; and the following are cases in which both arrests and condemnation were equally improper and uncalled for.

Chinnanen's  
Petition.

834. On the 28th January, 1869, we find a petition addressed to Sir H. Barkly, by Chinnanen, No. 132,664, praying for the restoration to him of his son, aged nine years, who had been arrested by the police at Terre Rouge, and condemned by Mr. Dupuy to five years' detention.

The Petition being referred to Mr. Dupuy, he reported that the child having "been found wandering, and could not or would not name any parents, or relative, or employer," he had, under these circumstances, condemned him.

The Inspector-General being called upon to investigate the case, expressed doubts as to the genuineness of the "act of birth," which had subsequently been put in, and represented that

"if his parents are so anxious about him they should not have allowed him to go about as a vagrant. The object of the Reformatory will be nullified if boys are thus taken out, and, I fear, should these petitions be largely entertained, that the door will be open to false representations on the part of those wishing to obtain the services of these lads."

835. The case was, however, referred to the Protector of Immigrants, who, having examined the alleged father and mother of the boy, satisfied himself as to their identity, and a further enquiry elicited the fact that the boy was arrested while sent on an errand by his mother, who was then laid up with fever. His parents, the Protector reported to be

"anxious to have him and seem able to support him," and he therefore recommended that the prayer should be granted, which was done accordingly.

Petition of  
Widow  
hoik  
Hossein.

836. A similar petition was addressed two months later from a widow of one Sheik Hossein, in behalf of her adopted child, Abdool Allarakia, which Mr. Beyts, after inquiry, also recommended should be acceded to.

Case of the  
11 little girls.

837. We do not find any more cases of this sort until the 8th March, 1870, on which day Colonel O'Brien wrote to the Colonial Secretary upon a difficulty that had arisen in consequence of the arrest that morning of eleven little girls

"by the police for petty crimes, &c., in and about the wharves," and who had been sentenced to various terms of imprisonment, plus detention at the

Reformatory: but, as that institution is only appropriated to children of the male sex, the girls in question had been sent to the Powder Mills Orphan Asylum: a proceeding against which Colonel O'Brien remonstrated, on the ground that the Asylum

"being in no way a prison, the result of such an influx of criminals must be prejudicial to the moral tone of the institution;"

and he therefore suggested the possibility of forming a reformatory for girls at Beau-Bassin: but, as it appeared on further enquiry that the act of vagrancy for which these children had been arrested amounted to nothing more criminal than

"that they went to the wharves to carry their fathers' dinner to them,"

Sir H. Barkly very naturally decided that

"no case for the necessity of a reformatory for girls (had) been yet made out."

838. Having thus viewed generally the spirit in which the law has been enforced, before closing this chapter it may be convenient to observe how certain Articles, which are in their nature variations, have in practice been enforced.

839. The opinions of the Magistrates upon the evidence required to obtain a conviction for vagrancy will be found treated in the chapter upon vagrancy. But, apart from vagrancy, there are certain trifling irregularities connected with the pass system; such as not declaring change of abode and occupation, not giving notice of removal into another district, and non-production of portrait-ticket; to which, although not amounting to vagrancy in the eye of the law, penalties are, nevertheless, attached.

840. Thus an immigrant not declaring a change in his abode or occupation, and thereupon having his pass rectified, even though the change be within the district of his domicile, becomes liable, under the 43rd Regulation, to a fine not exceeding £2, or an imprisonment of seven days.

841. Between January 1st, 1869, and December 31st, 1871, there were 1998 persons charged before Magistrates under this Article, of whom 1774 were convicted. As examples of the procedure we will cite the case of Hossenbocers, who, on the 28th February, 1870, was charged under this Regulation before Mr. d'Emmerez de Charmoy, of Black River. The Magistrate's note merely states that the accused was a day-labourer of Black River,

"is now a gardener for his own account," and the Magistrate considering that to constitute a change of occupation the man was bound to declare, fined him 2s.

842. Likewise, on the 26th April of the same year, Soodin was charged with changing residence; but pleaded that he had been sick, and had been treated by his friends. The case was adjourned for two days, in order to summon a Mr. de Boucherville as a witness, who, on the 28th gave evidence, of which the following is the note taken by Mr. d'Emmerez de Charmoy:—

"Defendant got the lease in evidence from me, but never occupied the garden, and absconded with the lease."

It is not easy to discover from so scanty a note what were the circumstances of the case; but, at all events, Soodin was fined £2, and Mr. d'Emmerez de Charmoy had not a recollection of the case sufficiently clear to enable him to assist us with an explanation of it.

843. On the same day Maramootoo was fined 6s. for having been a labourer at "Tamarin," and now a gardener at "Bon Aisle," both in the same district.

844. Mr. Renouf, when the law first came into force, applied it strictly; but told us that for some time past he had endeavoured to abstain from applying it so severely, as he saw that it pressed heavily upon the Indian population.

845. Thus, on one occasion, a man who was a gardener, and took out a licence to hawk his vegetables, was fined by Mr. Renouf for not declaring the same, on the ground that

"there was nothing to show that he had not purchased the vegetables;" and that, although the produce was just as likely to be that of his own garden as of anybody else's, Mr. Renouf considered the accused had changed his occupation, and therefore applied the law.

846. Probably the most extreme enforcement of the pass system—though we have only found one instance of it, is in the Old Immigrants' Petition, that some of the

"have been taken to prison because the estate on which they were tenants had changed hands, and a discrepancy had thus arisen in the police pass."

This statement was considered by the Police Enquiry Commissioners as not proved before them. It was, however, most clearly proved before us by Mr. Renouf's own admission, founded upon an examination of his own books. Ramburran

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formatory.  
Cases of the  
11 little girls.

Verdicts  
Article 53—  
how enforced.

Regulation E  
of August  
1869,  
Article 44,  
Article 53.  
Non-declara-  
tion of change  
of abode or  
occupation.

Case of  
Hossenbocers.

Case of  
Soodin.

Maramootoo's  
case.

Mr. Renouf  
relates from  
his stern  
application of  
the Law to the  
Indians.

Complaints in  
Petition of  
Old Immigrants—  
that Immigrants  
imprisoned  
because discrepancy in  
passes from  
estates changing  
hands.



Exactions  
Articles—  
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Non-production  
of portrait-  
tickets.

Mr. Trousset's  
impression of  
the law.

View taken  
by Mr. de  
Charmoy.

Mr. Baudot's  
opinion.

Opinion of  
Procureur-  
General Jules  
Colin.

Immigrant  
obliged to  
carry portrait-  
ticket with  
him.

Convictions  
for non-pro-  
duction of  
portrait-  
ticket.

and six other men had been tenants of Mr. Rivet, Mr. de Plevitz's father-in-law. Mr. de Plevitz purchased the estate, in consequence whereof these seven men were arrested by the police and taken before Mr. Renouf, who, we are glad to say, merely dismissed the men with an order to have their passes altered immediately.

847. A considerable difference of opinion exists among the Magistrates as to how far they are bound to apply the penalty imposed by the 58th Regulation on non-production of the portrait-ticket, and which was, for the first time, made a punishable offence in August 1869.

848. In 1870, 171 persons were charged under it, of whom 157 were convicted, and in 1871, out of 145 charged, 133 were convicted. The Article in question enacts that any immigrant not under written contract of service, who shall fail to produce his portrait on demand to any constable,

"shall be liable to a fine of 2*l*. sterling, or to imprisonment for a period not exceeding seven days."

Mr. Trousset maintains that the working of this clause, which he regards as extremely severe, leaves no option to the Magistrate but to punish the accused if the non-production of the ticket be proved, and that even if the non-production be only temporary, and be the result of having accidentally left the ticket at the immigrant's home. To such an extent does Mr. Trousset carry this construction of the law, that he informed us that although it had been proved to him in several cases that the man's ticket had been detained by another person, he had nevertheless

condemned the man, and all he felt justified in doing was to tell him to prosecute the detainer, a procedure of which we find an example in the case of Poolchund, sentenced by him on the 14th April, 1871, and of which the following is the Magistrate's note:—

"Not producing ticket. Defendant admits he is under verbal contract and did not produce his ticket, as it was with his employer, Mr. Laguardette. Seven days' hard labour."

Mr. Trousset further conceives that there is no discretion left to the Magistrate but to inflict the full penalty of 2*l*.

849. Mr. d'Emmerez de Charmoy did not apparently hold so extreme a view, but contented himself with inflicting a reduced fine,

"in order that the Indians should know that they were bound to carry their portrait-tickets with them."

Thus, on the 4th September, 1871, he fined Hamadkun 2*s*. for not having produced his portrait-ticket, although the said ticket was produced in court.

850. Mr. Baudot on the other hand had refused to consider the accidental and temporary inability to produce the ticket as an offence meriting punishment at all, and had rebuked the police for bringing such frivolous charges before him.

851. However consistent the conduct of Mr. Baudot may be with what we may regard as common sense, it is not in accordance with the opinion of Mr. J. Colin, when Procureur-General, as appears from the following case:—

On the 7th January, 1870, Cuniapen was charged by the police before Mr. Lablache with having failed to produce his portrait-ticket at "Rivière du Rempart." He, however, on the production of the ticket in court released the defendant.

852. The law itself enacts that—

Article 58 of Regulations under Ordinance No. 31 of 1867 of August 1869. "any immigrant who, not being engaged under written contract of service, shall fail to exhibit his portrait-ticket on demand to any officer or constable of police, shall be liable to a fine of £2 sterling, or to imprisonment for a period not exceeding seven days, without prejudice

"to any further punishment to which he may be liable for vagrancy or otherwise," and consequently every Old immigrant ought, in fulfilment of the law, to carry his portrait-ticket about with him, and if he leaves it at home, even while working in his garden, the constable demanding it need not allow him to go into the house to fetch it, but is justified in summoning him before the Magistrate for "non-production." And if, when he appears before the Magistrate in answer to the summons, he brings his portrait-ticket with him, still the Magistrate must convict him, in strict pursuance of the law, for not having produced his ticket to the constable. But common sense revolts from such Draconian application of the law.

853. The circumstances having been brought to the notice of the Procureur-General, he sent for the proceedings in the case, and on the 24th January informed Mr. Lablache, that in his opinion, he

"should not have abstained from inflicting upon Cuniapen the penalty provided by law for the offences which he had committed."

854. Our view of Mr. Lablache's conduct agrees with that held on another occasion by Sir H. Barkly, and does not coincide with the opinion expressed by Mr. Colin, for Sir H. Barkly blamed Mr. Dupuy for fining men, notwithstanding they urged as an excuse for the non-production of their tickets, that they had been left at home and could produce them in half an hour. Whereupon that Magistrate sought an interview with the Procureur-General, who told him his view was perfectly right, and that he could not conceive how he was not supported by Government.

855. It yet remains for us to trace briefly the change which has latterly come over public opinion with respect to the necessity for maintaining the labour law in its full stringency, and to point out, as far as we are able, what practical effect the law has had in driving men to bind themselves by written contracts, whether on estates or otherwise.

856. In the first place we must state that we are unable to find any indication whatever of any change of feeling before the arrival in the colony of Sir Arthur Gordon, and we therefore cannot recognise the justice of the insinuations that it was in his power to have relaxed the Regulations, by an Order of the Executive Council, in virtue of the same authority as that by which they had been imposed. It must not be forgotten that it was contended at the opening of our enquiry that the Old immigrants' petition was not a *bonâ fide* statement of grievances, but had been got up as a matter of speculation by Mr. de Plevitz, a man with no ostensible means of gaining his living; while the tenor of the cross-examination of that witness by Mr. Newton certainly impressed us with the idea that the abuses and hardships complained of were denied *in toto*; and if we are correct in our impression of the feelings of the community as shown by this cross-examination, even though it took place after the publication of the Report of the Police Enquiry Commission had revealed many of the shortcomings of the system, we may readily imagine what the feeling might have been upon the subject fourteen months earlier, immediately after the arrival of Sir A. Gordon, and before attention had been directed in an especial manner to the subject by the Petition, the de Plevitz Pamphlet, and the Report of the Police Enquiry Commission.

857. We cannot, therefore, feel the same confidence that was expressed by the Honourable Mr. Naz, that there was, or rather would have been, no feeling of opposition to the relaxation of the law, even though Mr. Currie, in his address to the Chamber of Agriculture, delivered on the 13th November, 1871, gave it as his opinion that the restrictions upon Old immigrants might be relaxed; and he stated to us that, personally, he never had thought some of the Regulations quite justifiable, except for very exceptional reasons and circumstances; and that, as some of these exceptional reasons had decreased in force, the relaxation ought to have been made some time ago.

858. Mr. Fraser, too, in his reasons of dissent from the Report of the Police Enquiry Commission, protests against the sentiment expressed in the 160th paragraph of that Report, that

"there must be numberless cases of oppression which the framers of the law never contemplated, but which are the necessary consequences of their policy," as an attempt to shift the blame from the proper quarters.

"It is clear to me," he says, "that all such cases as those referred to, were principally the consequences of the inaction of the Executive Council and Executive officers, especially the Procureur-General's Department."

We are surprised at Mr. Fraser's bringing a charge of "inaction" against the Executive officers in this matter, for, on the contrary, up to the close of 1870, we think great activity was shown in the direction of increasing the stringency of the law to be enforced with unabated rigour.

859. We find that on the 24th January, 1870, Colonel O'Brien wrote to the Colonial Secretary, dilating on the general satisfactory working of the law, but at the same time expressing a fear that,

"owing to 'laches' in the law, such as job-labourers, and permits to work, passes, hawking licences, &c., many evade the proper operation of Ordinance 31 of 1867."

860. He observed, that though the law made provision for the return of passes to the Police Department of men leaving the island, &c., in cases of death, there was nothing to prevent a misappropriation of, and trading in, dead men's passes;

"in fact, allowing but for the ordinary rate of mortality and deportation from the

Vexatious  
Articles—  
how enforced.  
Mr. Dupuy's  
view.

Change in  
public opinion  
as to the  
necessity for  
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Not traceable  
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hardships of  
the Labour  
Law, until  
de Plevitz's  
Pamphlet.

Opinions of  
Messrs. Naz  
and Currie  
regarding  
relaxation of  
restrictions.

Mr. Fraser's  
view regard-  
ing the  
framers of the  
restrictions.

Inaction  
imputed to  
the Executive.

Executive  
active in the  
direction of  
stringency.

Col. O'Brien's  
proposal for  
an annual re-  
registration of  
Old immi-  
grants.

Trading in  
passes.

"colony, it will be seen that in a few years we will be but collecting records of men who are non-existent."

861. Under these circumstances he suggested an amended re-registration of the Indian population coming under the law, to be brought into operation on the 1st of May following, which would allow time for giving the necessary publicity and making the preparations for it. As, however, it would involve expense, he suggested that, as heretofore, the police pass should be at first issued gratis to the labourer on the completion of his industrial residence, but that he should pay either 1s. or 2s. for every subsequent annual issue, and he argued that this could not be considered a hardship upon the immigrant as the alternative of working under an engagement was always open to him should he be unable to pay for his pass. He also recommended that a special police staff should be organised for the detection of vagrants, the cost of which, after the first year, he estimated at £1473; but, as he reckoned the new tax of 1s. or 2s. for the re-registration would bring in £2250 or £4500, it would, in any case, leave a considerable balance in favour of Government; a proposition which appears to us to belong to the same category as Mr. Garreau's suggestions (*vide supra*, paragraphs 665 to 668) for increasing the revenue of the colonial railways, and reducing by one-half the wages of agricultural labourers.

862. That there was no inclination to relax the Regulations later in the same year we infer from the fact that a petition from certain Indians for a general police pass available for all the districts to be issued to their priest Mimotte, met with a refusal from Government, on the advice of Colonel O'Brien. And, we gather that, at the close of 1870, the law was enforced as strictly as ever, from a letter of Police

Inspector Bell, who, on the 31st December of that year, reported "another" case of an Indian being illegally arrested. Sevathian, the man in question, was a gardener and proprietor residing at Les Marres in Grand Port, and he stated that, on the 27th December, he went by train to Pamplemousses, where he had business to transact, and, on applying for information at one of the outposts, for the residence of a Mr. Thompson, whom he wished to see, he was arrested, taken before the Stipendiary Magistrate, and sent back to Grand Port.

863. We must, however, do the police the justice to say that they appear, so far as regarded the pass system, to have enforced it with equal stringency upon employers as well as labourers, as the following case will show; and we can only express our wonder that a state of things which must have become so great a nuisance should have been tolerated so long when planters themselves were the sufferers.

864. In January 1871, Mr. Wiché, the proprietor of "Labourdonnais," one of the largest and finest estates in the island, purchased some bullocks from Mr. de Belloguet, the proprietor of "Schœnfeld," which were sent by the latter under the charge of certain drivers to "Labourdonnais." Having delivered the cattle they were given a pass by Mr. Wiché to take them back to "Schœnfeld," a distance of some four or five miles, but they were stopped on the road by the police, who, finding that they were in the service of Mr. de Belloguet, summoned Mr. Wiché under Article 57 of Ordinance 31 of 1867, for having given a pass, or permit, to a labourer not lawfully in his service—a vexatious proceeding which, however, the Magistrate very naturally refused to listen to, and dismissed the case. Yet we hear of no protest against such vexatious laws so stringently applied, nor of any movement made which might lead the Governor to think that action in the Executive Council would suffice for the necessary reform.

865. If from the records of the Police Department we turn to the Reports of the Protector of Immigrants, we still find nothing but congratulation upon the efficacy and stringent enforcement of the new law. In his annual Report upon the immigration of 1868, submitted on the 31st May 1869, Mr. Beyts pointed out the difficulty which arose in enforcing the law upon Indian immigrants who were subject to the special restrictions under it, from which Indian Creoles and Indians who had arrived as free passengers were totally exempt, and remarked that it had become a subject for serious consideration, whether in regard to their labour and their locomotion—all persons who were not above the status of the ordinary field-labourer should not be completely assimilated and brought under the same Regulations; a difficulty which is apparent to the most casual observer.

866. In the 35th paragraph of the same Report he says:

"Of the efficacy of the new Labour Law in regard to the repression of vagrancy some idea may be formed from the fact that about 1200 vagrants are now in the vagrant prisons atoning for the lawless lives they had been leading. These prisoners are under the management of the police authorities, by whom they are kept in an excellent state of discipline."

867. Of the "excellent" discipline maintained over the prisoners at the Vagrant Depot, we shall have occasion to speak hereafter; and we wish we could share Mr. Beyts' satisfaction at the thought of the number of persons confined in 1868 and 1869 in the Vagrant Depot; but as we do not feel so sure as he appears to have been that the lives of many of these men had been of a lawless character, and when we call to mind the cases hereinbefore cited, and, further, that in these two years (1868 and 1869) there were altogether arrested on the charge of vagrancy, 46,273 persons, we think the reflection will be a subject of regret rather than congratulation.

868. Further on in the 46th paragraph, he says:

"A close observation of the effects of the new Labour Law (Ordinance 31 of 1867) leads me to declare that its operation has, in my opinion, been highly beneficial. It has given greater precision to many points which were indefinite and uncertain in the rules which governed the relations between masters and servants; it has increased the protection of the honest labourer; and it has also, as was intended by the Legislature, weighed more heavily than the previous system upon the vagrant, whose idle and disorderly habits were both injurious to himself and dangerous to all around him."

869. In the following year, 1870, Mr. Beyts still seems to have been satisfied with the law and its effects, for on the 23rd April he submitted his Annual Report for 1869, in the 54th paragraph of which he commented upon the decrease of absenteeism and desertion, the greater regularity in the payment of wages and the decrease in litigation between masters and servants, all of which he attributed to the beneficial effects of the new law, and in paragraph 55 he writes thus:—

"At the commencement of this year when the new labour Regulations had just been brought into full operation, the vagrant depôts were scarcely large enough to hold the numbers of vagrants arrested; they contained 1200 prisoners. At the end of June the number fell to 868 and at the close of the year to 610, although no less vigilance be exercised now than there was a year ago by the Inspectors of Police; the numbers of vagrants convicted and imprisoned have considerably declined—unmistakably testifying to the effectual working of the system."

870. But at length, on the 13th April 1871, in his Annual Report for 1870, Mr. Beyts began to change his opinion and to think, that,—

"the restrictions set on free labour (had) been carried too far;" and he proceeds to say,—

"the limit to which they should be extended ought, I think, to be re-considered, —so that while a proper check is laid on vagrancy, no undue restraint should be cast on the exercise of honest industry."

"As the rules imposing those restrictions weigh exceptionally on one single class of the community—the class of Old immigrants—it is undeniably just and proper that every relaxation of those rules consistent with public order should be conceded to them as soon as possible."

871. In the next paragraph he mentions the extent to which he was prepared to relax the Regulations, viz.:

"(1). That every Old immigrant who is the holder of a licence authorising him to carry on any business, trade, or profession should be exempted from the obligation imposed on Old immigrants by Regulation No. 56 (that of paying for a day-labourer's licence if he work by the day).

"(2). That the fee imposed on the Old immigrant who is a day-labourer, by Regulation 78 should be reduced from £1 to 10s. per annum.

"(3). That Old immigrants who have paid for hawkers' or carriers' licences should be placed quite on a par with all other hawkers and carriers as to the liberty of proceeding from one district to another.

"(4). That every Old immigrant who is not under written engagement, and changes his abode or occupation within the district of his domicile, should be allowed at least 48 hours to declare the change to the police officer of his district.

"(5). That Old immigrants who are not under engagement (verbal or written) should be free to go and visit their friends in other districts, or to proceed to other districts on business, provided they do not absent themselves more than 10 days from the district in which they are domiciled without having previously obtained the permission mentioned in Regulation 45, or given notice to the principal police officer of the district in which they so prolong their stay."



Renewal of  
police passes  
without  
charge.  
Protector to be  
given power of  
exemption  
from fees.  
Power of  
authorising  
change of  
residence to  
be given to  
Protector and  
Magistrates.  
Speedy  
delivery of  
police passes.

Royal Com-  
missioners  
approve of  
Mr. Beyts'  
suggestions.

Effect of the  
New Labour  
Law.

Statement of  
Inspector Rice  
regarding the  
effect of Ordi-  
nance No. 31  
of 1867.

Statement of  
Inspector  
Shellam.

Statement of  
Mr. Beyts re-  
garding Creole  
Indians.

Col. O'Brien's  
view of the  
effect of  
Ordinance  
No. 31 of 1867,  
and of its  
result.

- "(6). That police passes when renewed because they are torn, soiled, or so much written upon as to have no space for further entries, be issued free of charge.
- "(7). That the power of exempting an Old immigrant from the payment of a fee on any police pass be extended to the Protector of Immigrants.
- "(8). That the power of authorising any Old immigrant to go and reside in a foreign district for a specified time be extended to the Protector of Immigrants and to the Stipendiary Magistrates.
- "(9). That every police pass applied for by an Old immigrant who is entitled to receive it should be delivered to him without any delay or postponement, provided the application be made between 8 A.M. and 4 P.M. and, that, the officer entrusted with the duty of delivering such passes be subjected to a penalty in the event of his not delivering any such pass on the day it is applied for when he has no lawful ground for refusing its delivery, such penalty to be summarily inflicted by the Stipendiary Magistrate on the complaint of the applicant or any person on his behalf."

872. In the propriety of these amendments we fully concur, merely observing that we think such a Regulation as that first recommended for repeal, namely, to oblige an Old immigrant who holds a licence to carry on any trade, to take out a day-labourer's licence as well, if he worked by the day, was an injustice which never ought to have been passed; and, also, that the sixth recommendation, relative to the gratuitous issue of passes renewed on account of their being worn out, or so written over that there was no room left for any further endorsements, had been adopted more than a year before by the police in virtue of General Order No. 8 of 1870.

873. We must, also, recollect that these proposals were not made until Sir Arthur Gordon had been some two months in the island, and, as pointed out by Mr. de Plevitz in his pamphlet (paragraph 8), not until after the Old immigrants' petition had been for about three weeks open for signature; and that subsequent events in that year do not give much ground for hope that, had Sir Arthur Gordon attempted the thorough reforms which we believe to be necessary, he would have succeeded; but rather would immediately have shared the fate which in 1846 the Secretary of the Anti-Slavery Society had declared to be in store in Mauritius for persons who pointed out an abuse, viz., to be "treated as an enemy" (*vide* Chapter VI., *Contingent System*, paragraph 270).

874. We lastly have to consider what has been the effect of the New Labour Law upon the numbers of labourers engaged upon sugar estates. And here, again, we must point out that, until the close of 1870, the supposed fact of its having compelled or induced labourers to take work on sugar estates was always appealed to as proof of the success of the measure.

875. Thus Mr. Rice, on the 25th July, 1868, wrote to Colonel O'Brien upon the Appendix F 42. operation of the law:

"Judging from the large number who have engaged, and who previously had been living in the district, partially or completely in a state of idleness—within the past two months nearly one thousand—I think it cannot be much beyond the mark—nearly all this had been arranged without coercion."

We do not know how far Mr. Rice may be correct in his estimate, but with regard to his last statement, we are most decidedly sceptical.

Appendix F 42. Mr. Shellam at the same time wrote from Flacq:—

"Many immigrants who formerly called themselves gardeners, &c., have lately abandoned their vagabond and unprofitable life, and have engaged themselves to planters and others."

876. Two months later Mr. Beyts wrote to the Colonial Secretary:—

"It is worthy of notice, that the number of Creoles of Indian origin employed, rose from 1255 in December 1867, to 1595 in January 1868.

"I believe this to be attributable to the New Labour Law, which has required them to keep themselves free from circumstances rendering them liable to the charge of vagrancy."

877. Lastly, on the 7th December, 1870, when apparently some doubts had been expressed of the satisfactory working of the Labour Law (Ordinance 31 of 1867), especially as to its having sent on the estates a large number of the Old immigrant population previously not under engagement,"

Colonel O'Brien called the attention of the Colonial Secretary to the fact that out of a batch of 112 prisoners recently sent from Plaines Wilhems to the dépôt, the greater portion appeared to be men who had

"been forced by the operation of the law to re-engage, but who [had] subsequently misconducted themselves."

878. Mr. Naz, on the other hand, shows, from the figures given in Mr. Beyts' Annual Reports, that at the beginning of 1867 there were 76,486 engaged labourers on sugar estates, which, at the census in April 1871, had diminished to 63,374; or, in other words, that, after allowing for the new arrivals, and for the deaths during that period, about 10,000 had been free to leave the labour on estates.

879. With some slight corrections, Mr. Naz is right in contending that, according to the Returns of the Stipendiary Magistrates, the number of labourers on estates have diminished since 1866. The numbers at the end of 1866 were 79,963,\* and by the Returns of the Stipendiary Magistrates at the end of 1871 (Mr. Beyts' Annual Report for 1871, Table D) they were 70,842; thus showing a difference of 7474 from the Census Report which was taken in April, and which (Appendix, No. 10) returned the numbers of those above ten years of age at 63,374 (which possibly may be partly accounted for by supposing that the job-contractors' men were not returned as residents on sugar estates).

880. If, therefore, the addition be made for new arrivals, and the deductions for deaths during those years, as given by Mr. Naz, namely, 5973 for the arrivals, and 7948 for the deaths, the number of men on estates at the end of 1871 was less by 7146 than it was at the beginning of 1867. The great fall took place in 1867, at the end of which year the number had fallen from (1)† 79,963 to (2) 73,018, which probably may be accounted for by the depression consequent on the great epidemic.

881. At the end of 1868 notwithstanding that the New Law came into operation in the course of the year, the numbers fell to (3) 72,140. During 1869, the year in which the law was being enforced with the greatest rigour, a still further reduction took place, viz., to (4) 70,611. In 1870 they fell to (5) 69,042, and at the end of 1871 had increased to (6) 70,842.

882. If, however, we turn from the numbers of individuals alleged to be employed on sugar estates in each year to the numbers of contracts alleged to have been entered into in each year, we shall find that the number of these has very largely increased since 1867, when they amounted to only 59,118; in 1868 they amounted to 67,289, in 1869 to 69,468, and in 1870 to 76,921; thus showing that whilst the number of labourers on estates has decreased by about 7000, the increase in the number of servants under engagement has, in the five years, amounted to 17,803: as near as we can reckon there must, at the close of 1870, have been subsisting 75,438† contracts of service, of which 69,042 were employed on sugar estates, thus leaving 6396 contracts passed with others than sugar planters; a number which, considering that it will include the labourers in the Surveyor-General's Department and the Railway Department, besides many domestic servants who are engaged under written contract, is not, we think, hard to account for.

883. Finally, we must note the difference of opinion which appears to exist among the officers of the police regarding the effect of the law as a check upon vagrancy; for, while Mr. Timperley, Mr. Shellam, and Mr. O'Connor think that the New Law has been a boon to the honest Indian and has improved his condition by checking the depredations of the vagrants, Mr. Spencer, the Superintendent, maintains that, so far as Port Louis is concerned, it has encouraged vagrancy; while, at the same time, it is a hardship upon the honest man.

\* Mr. Naz has made the mistake in Question 113 of volume ii. of excluding in 1866 men engaged with job-contractors, which are included in the other estimates of Mr. Beyts, cited by him in the same answer.

† (1) Mr. Beyts' report for 1866, paragraph 54; (2) *Ibid.*, 1867, Table J; (3) *Ibid.*, 1868, Table J; (4) *Ibid.*, 1869, Table M; (5) *Ibid.*, 1870, Table E; (6) *Ibid.*, 1871, Table D.

‡ We arrived at this number by first deducting from the total number of contracts passed in 1870 those which were passed for less than six months, namely, 4877 (Table L of Mr. Beyts' Report for 1870; secondly, by adding those contracts which in 1869 were passed for more than two years, namely, 1446 (Table D of Mr. Beyts' Report for 1869); and thirdly by adding those contracts which in 1868 and 1867 were passed for five years, and must, therefore, have been still subsisting at the end of 1870, amounting together to 1918. This estimate is, and can only be, approximate.

|                                                          |        |
|----------------------------------------------------------|--------|
| Total number of contracts passed in 1870                 | 76,921 |
| Deduct those passed in the year for less than six months | 4877   |
| Add those passed in 1869 for more than two years         | 1446   |
| Add those passed in 1868 for five years                  | 1513   |
| Add those passed in 1867 for five years                  | 435    |
| Difference to be deducted from the total                 | 1,438  |
|                                                          | 75,438 |

Number engaged on the sugar estates at end of 1870, according to the Stipendiary Magistrates

Difference

## CHAPTER XII.—The Protector.

884. The Protector of Immigrants, and the office of which he is the chief, are the object of one of the strongest attacks made by Mr. de Plevitz in his pamphlet, in the 5th paragraph of which he thus writes of the immigrant:—

"Arrived in Mauritius, he is not even left to the ordinary protection of the laws; but is saddled with the so-called protection of the so-called Protector of Immigrants, the worth of whose protection may be estimated from the fact that, in his office, the employés have for years been in the habit of walking about the office with rattans in their hands, with which, instead of words, they make their way through the crowds of immigrants waiting there to obtain their tickets, for which they must pay; and, in default of which, they would be sent to break stones by the roadside by day, and sleep in a prison by night.

"The Protector is the great support of the whole system, and, if his office was instituted to facilitate the oppression of the immigrants, it has certainly answered its purpose.

"His very title seems a guarantee for the good treatment of the immigrants, and it is natural to think that, if their Protector gives his consent to a measure affecting them, that measure must be for their advantage. The value of his name is here well understood, and it has probably often caused to pass unchallenged elsewhere measures that otherwise would have attracted sufficient observation to defeat them."

885. We fully agree with the opinion that the very title of "Protector" seems, and ought to be, a guarantee for the good treatment of the immigrants; and, at the commencement of our enquiry, we were led by that very title to assume that one of the first principles upon which immigration had been allowed, was, that the Indian, transplanted from his own to a foreign country, and being in an exceptional position by the temporary surrender of his liberty, under his indenture of service, is placed at a disadvantage relatively to his master, and is not competent to protect himself, but requires to be protected by special legislation, and by special officers appointed to see that legislation properly carried out; that the treatment of immigrants under indenture was the object of his special care; and, in the event of any case of oppression coming to his knowledge, that it was his duty to intervene on behalf of the immigrant, and, if necessary, institute legal proceedings; and to see that no lawful means were omitted to secure full justice being done him. In a word, that the Protector stood to the immigrant much in the same relation as a guardian does to his ward.

886. We were, consequently, not a little surprised to find that this view of the office of the Protector of Immigrants was entirely erroneous; as, on the seventh day of the examination of Mr. Beyts, he put in a copy of a Report, made shortly before, by the Honourable the Acting Procureur-General, in consequence of the question having arisen how far an engaged immigrant had by law any right to seek redress from the Protector for any wrongs, real or imaginary, without subjecting himself to the penalties for illegal absence; from which it will be seen that the title of Protector, being given to the head of the Immigration Department, is calculated to mislead immigrants as much as it had misled us, and must have misled others for several years, for although Mr. Murdoch, the Chairman of the Board of Emigration, in 1864 pointed out the deceptive nature of the office, still the delusion appears to have been adhered to in Mauritius, and not dissolved until the 3rd of June, 1872.

887. Report 188:—

"From the name, Protector of Immigrants, given to the head of the Immigration Department, it would be natural to suppose that that officer was intended to act as official guardian of the rights of immigrants, and that it was contemplated that he should be an adviser, to whom immigrants should have a right to apply, in the event of any difficulty, for advice and assistance.

"To ascertain whether this natural presumption is well or ill founded, reference must be made to the law on the subject.

"The legal right of an engaged immigrant to absent himself from work, for any purpose, is a limitation of the right to his services, acquired by the employer, under the contract of service between them.

"Such a right, if it exist in the case of an engaged immigrant going to the Protector for the purpose of complaining, must be based upon express enactment, or be deduced by clear implication from the provisions of some Ordinance.

"In our law there is no express enactment conferring on an engaged immigrant any such right.

"If the right has been conferred on engaged immigrants by legal implication, it would be natural to look for the enactment from which it is deduced either

"I. In those laws which relate to the constitution of the office, and declare the powers and duties of the Protector; or

"II. In the provisions of our Ordinances which define absence, and impose penalties on account of illegal absence from work.

"I. After a careful review of the duties and powers of the Protector, as laid down in the various Royal Orders in Council and Ordinances relating to his office, I am unable to discover any provisions from which a right may be held to be impliedly given to an engaged immigrant, having a complaint to make against his employer, to apply to the Protector.

"I do not find that the duty of interfering to assert the rights of immigrants under engagement has in any but a few special and well-defined cases, been imposed by law upon the Protector. Nor do I find that the powers which would naturally have been vested in him, concurrently with such duties, have ever been conferred on him.

"The first mention in our Statute Book of the Protector of Immigrants is to be found in an Order in Council of 15th January, 1842."—(See Paragraph 202 of Chapter V.)

"That Order contains a recital of the probability that the laws preventing immigration from India to Mauritius will be shortly repealed; that immigration will be sanctioned by the law in India, subject to provisions for the protection of immigrants and prevention of abuses, and in particular a provision enabling the Governor-General in India to appoint at ports in India officers charged with the care, protection, and supervision, of those proposing to emigrate; that provision will be made by the law of Mauritius for defraying from the public revenue the expense of introducing immigrants from India, and of the necessity that effectual provision should be made by law at Mauritius for regulating all such expenditure, and for the prevention of abuses in the introduction of immigrants from India into that island.

"On this recital the Order declares that certain Regulations contained in a subjoined Schedule shall have force of law in Mauritius. The first Article of the Schedule (See Paragraph 202) empowers the Governor to appoint Emigration Agents in India at all the ports of embarkation, and also to appoint a proper person to act as Protector of Immigrants in Mauritius. Articles 2 to 10 inclusive deal with the duties, &c., of Emigration Agents, and regulate the conveyance of emigrants from India to Mauritius. Articles 11 to 17 impose on the Protector of Immigrants duties with regard to the inspection of every vessel arriving at Mauritius with immigrants, requiring him to ascertain whether the rules and regulations for the conduct of the voyage have been observed.

"By Articles 18 and 21 it is declared that no emigrant shall be capable of entering into any contract of service within forty-eight hours of landing, and except for the period, in the manner, and under the superintendence which, by Royal Order in Council of 7th September, 1838, is required in the case of contracts of service made by labourers in agriculture or manufactories.

"It would appear, therefore, that the original functions of the Protector of Immigrants were the complement of the Protector of Emigrants.

"The appointment of the former was declared to follow from the appointment of the latter. His duty was to regulate the expenses of emigration, and, to prevent abuses in introducing immigrants from India, he was to exercise that duty in the way pointed out; but no power was conferred or duty imposed on him with relation to immigrants after they had entered into contracts of service.

"A careful review of the subsequent legislation regarding the powers and duty of the Protector has satisfied me that the functions assigned to that officer by the Order in Council of 1842, as the Guardian of Immigrants on arrival, and, until they entered under contract, has never been changed to the effect of assigning to him any power or duties relative to the prosecution of any grievance alleged by an engaged immigrant. His duties have, indeed, been more clearly defined, and new functions bestowed on him with reference to issuing to immigrants, who have completed their industrial residence, those tickets and papers which are required by them in order to establish their status as Old immigrants.

Opinion of the Procureur-General upon the duties of the Protector. Immigrant has no legal right to absent himself from service to complain to the Protector.

Protector has no legal power to protect.

Order in Council, 15th January, 1842.

Appointment of Emigration Agent.

Transport of emigrants to Mauritius.

Protector at Mauritius. Duties.

Engagements on arrival to be after 48 hours residence.

Protector to prevent abuses in introduction of immigrants.

Protector had no power or duty after immigrants had entered into contracts.

Protector has no power of prosecuting on account of immigrants' grievances.

Protector's duties as to the issue of immigrants' papers.



Opinion of the  
Procureur-  
General upon  
the powers of  
the Protector.  
Order in  
Council, 15th  
January, 1842.  
Duties as to  
Return  
Immigrants.  
Duties as to  
Immigrants  
Wanting  
Employment.  
Original con-  
dition never  
materially  
changed.

Powers under  
No. 16 of 1862.

As to con-  
tracts of preg-  
nant women.

Power of  
Inspection.

No power to  
interfere on  
inspection, or  
to sue on  
behalf of  
engaged  
Immigrants.

Powers under  
No. 28 of 1863.

Intervention  
in appeals and  
institutions of  
suit for  
damages.

Want of  
General  
powers.

Provisions of  
Order in  
Council of  
15th January,  
1842.

The  
Stipendiary  
Magistrates'  
duties.

Regulations  
of 11th No-  
vember, 1868.

"The supervision and making arrangements for their return to India has been committed to him by Article 61 of Ordinance 31 of 1867; and he has also been required and empowered to procure for immigrants not under contract occupation and employment; but the original conception of the Protector's duties, as confined to the oversight of immigrants not actually under contract, has never been materially changed.

"The only cases of any importance in which his province has been enlarged so as to embrace duties with regard to engaged immigrants are as follows:—

"By Ordinance No. 16 of 1862, Article 12 (See Paragraph 428 and following Chapter VII), a co-ordinate power is given to the Protector and to the Stipendiary Magistrates to modify or suspend the contract of any female immigrant who shall be unable to perform the duties imposed by it on account of pregnancy or domestic duties.

"This exceptional power was conferred in order to facilitate the employment of women under contract, and to enable the large number of female immigrants then in the colony (40,000) to become useful members of the community, and to rescue them from the state of prostitution into which they had fallen.

"The power conferred on the Stipendiary Magistrates, as well as on the Protector, is confined to the one sex, and is of so comparatively rare exercise as to leave the position of the Protector practically unaltered.

"By Article 17 of the same Ordinance the Protector is empowered to visit any establishment in which Indian immigrants are received. From the report of the Procureur-General, on the Ordinance, I find that the provision was designed to enable the Protector to

"exercise over them a more thorough protectorship than under the (then) 'present law.'

"If this were the design of the Article, I do not think that it has been effectively carried out, as the power to visit is unaltered by any provision enabling the Protector to interfere to remedy any abuse which he might discover in the course of his inspection.

"The law gives him no general power of intervention by complaint in the name of engaged immigrants, and the provision is unaccompanied by any of the special machinery necessary for such a purpose.

"Ordinance 28 of 1863" (See Paragraph 433 and following Chapter VII.) also contains one or two provisions bearing on this subject. Those provisions are to be found in Article 2 and 3, which empower the Protector to intervene in any appeal from the judgment of a Stipendiary Magistrate on behalf of any immigrant interested in the case; and also to institute and carry out any action of damages accruing to an immigrant relating to any contract of service. It will be observed that these proceedings do not enlarge the Protector's powers with reference to the grievances of immigrants against their master, but merely entitle him to intervene in support of, or in opposition to, a judgment already pronounced in such a matter. Indirectly, however, these provisions throw great light on the position of the Protector. For if legislative intervention was considered necessary to entitle him to a *locus standi* in these particular cases, there arises the strongest presumption that in all other cases he was held to have no power or duty whatever.

"The duty of receiving and enquiring into the complaints of engaged immigrants has not, then, been imposed on the Protector. But their interests have been committed to other officers.

"As we have already seen, the Order in Council of 1842 provides that the same rules shall regulate their entry under contracts, as those which then regulated the employment of agricultural labourers,—contracts of service between Agricultural labourers and employers were introduced by Order in Council dated 7th September, 1838. By this Order (Chapter IV., Article I.), exclusive and summary jurisdiction in all matters relating to the enforcement, breach, and neglect of contract of service was conferred upon the Stipendiary Magistrate.

"The immigrants, therefore, being only capable of working under such contracts, their engagements necessarily fell under the jurisdiction of the Stipendiary Magistrate.

"In the case of an engaged immigrant, as of an agricultural labourer, any complaint he might have against his employer fell to be made to, and disposed of by, the Stipendiary Magistrate (Chapter IV., Article 8), and, by recent Regulations (11th November, 1868, Articles 76, 77), to facilitate engaged immigrants in

"bringing and carrying out complaints, it is declared that, on reasonable cause shown, the Stipendiary Magistrate may order the issue of summonses and writs, at the instance of the immigrant, without pre-payment of fees.

"From a comparative consideration of the duties and powers of the Protector of Immigrants, and of the Stipendiary Magistrates, it appears, therefore, that the functions of these officials are not cumulative but complementary, the functions of the latter beginning when those of the former cease, viz., on the engagement of the immigrant.

"The care and the guardianship of the Protector of Immigrants only extends, with very few and clearly defined exceptions, to immigrants newly introduced and un-engaged, and the whole duty of affording assistance and redress to the engaged immigrant is devolved upon the Stipendiary Magistrate. The law does not, therefore, recognise any right on the part of an engaged immigrant to apply to the Protector for redress from grievances.

"The wisdom of this policy is very apparent. It is conducive to the interests of the immigrant, because it entitles him to seek redress from an official who must, in every case, be within a comparatively short distance from his residence while under contract, access to whom is easy, and who can, without delay, enquire into, and, if necessary, make provision for his protection or indemnification. It is just to the employer, as it does not entail upon him the serious loss of labour which would, in a large majority of cases, be the result of the time which would necessarily be spent by his labourers in making complaints to, and enforcing them before the Protector of Immigrants.

"There can be no ground for inference from the functions and duties of the Protector as defined by our law, that the absence of an engaged immigrant from work in order to complain to him is justifiable: *prima facie* such absence is not absence with a justifiable cause. Of course there are exceptions to the rule, for example, if the Stipendiary Magistrate has already refused to receive, or improperly dismissed, the complaint carried to the Protector; or, if the labourer has good reasons to doubt the impartiality of the Magistrate.

"In these and similar cases, of extremely rare occurrence, an application to the Protector might be a justifiable cause of absence, though I am of opinion that, in such cases, the proper source from which to seek redress would be His Excellency the Governor, and the proper mode that of a complaint, not against the employer, but against the Magistrate.

"II. If we now examine the provisions of Ordinances defining 'absence,' and imposing penalties for illegal absence, we shall find that the same inference must be deduced from them.

"The provisions, under which unlawful absences are dealt with, are to be found in Ordinance 16 of 1862, Article 18; and the term, unlawful absence, is defined by Ordinance 31 of 1867, Article 49.

"By the first of these enactments three forms of penalty are provided for 'unlawful absence':—

- "(1.) Forfeiture of wages, and of one halfpenny *per* shilling of monthly wages *per* day of absence.
- "(2.) Imprisonment for a period not exceeding fourteen days; and
- "(3.) Prolongation of the contract for a time, equivalent to the length of absence.

"The first of these penalties may be imposed by the employer, subject to review by the Stipendiary Magistrate, on complaint for non-payment of wages at the instance of the immigrant. The second and third penalties prescribed can only be inflicted by the Magistrate.

"The second enactment above referred to defines 'unlawful absence' to be absence without leave of the employer, or any 'justifiable cause.' The decision of what shall constitute justifiable cause is thus left immediately, or ultimately, to the discretion of the Stipendiary Magistrate; where it is sought to punish absence by imprisonment, or prolongation of the contract, the question of justifiable cause is one entirely within the jurisdiction of the Magistrate; and, when the employer punishes absence by the prescribed forfeiture, his decision may form the ground of a complaint by the immigrant to the Magistrate. The question of justification thus resting in every case with the Magistrate.

"The decision whether absence on a visit to the Protector in order to complain is justifiable or not, must, I apprehend, be left to him also. In deciding on any particular case of absence there will be two points to be considered:—

Opinion of the  
Procureur-  
General upon  
the powers of  
the Protector.  
Functions of  
Protector and  
Magistrates  
comple-  
mentary.

The Magis-  
trates alone  
have power of  
protection.  
An engaged  
immigrant has  
no right to  
apply to the  
Protector for  
redress from  
grievances.

The Magis-  
trates alone  
have powers of  
protection.

Wisdom of the  
limitation.

Absence of  
engaged  
immigrant to  
complain to  
the Protector.

Definition of  
unlawful  
absence.

Penalties for  
'unlawful  
absence.'

The "Double  
Cut."  
Imprison-  
ment.  
Prolongation  
of contract.

Indiction of  
the penalties.

Definition of  
unlawful  
absence by  
Article 49 of  
No. 31 of 1867.  
Justifiable  
cause.

Punishment  
of unlawful  
absence.

Justification  
of absence to  
complain to  
the Protector.

Opinion of the  
Procureur-  
General upon  
the powers  
of the Pro-  
tector.

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Engaged  
wa-immigrants  
an-have to legal  
On-right to absent  
or-themselves to  
ma-complain to  
the Protector.

Question of  
No-justifiable  
absence for the  
Stipendiary  
Magistrates'  
judgment.

Comparison  
between  
powers of  
Protector at  
Mauritius and  
those of  
Agent-  
General of  
British  
Guiana.

The Protector  
can only  
report.

Power of  
reporting  
int. intellectual.

No-idea of  
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Title of  
Protector a  
misnomer.

In-  
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Reasons for  
thinking the  
opinion sound.

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Functions of  
the Protector  
as considered  
by the Immi-  
gration Com-  
mittee in 1850.  
Report of the  
Immigration  
Committee,  
9th January,  
1850.

" 1st. Whether the grievance was such as to justify absence at all, and

" 2nd. Whether it justified the particular absence in question, having regard  
to its duration, &c.

" The period of absence justifiable by any ground of complaint seems to me, as a  
general rule, to be the time which is reasonably necessary for invoking the legal  
remedy—though there are exceptional grievances which entitle the engaged  
immigrant to absent himself until the grievance has been removed.

" I am, therefore, of opinion—

" (1.) That by our law *no right* is given expressly, or by implication, to engaged  
immigrants to absent themselves from their employers' service in order to go to  
the Protector to complain.

" (2.) That the question whether such absence is, or is not justifiable, is one  
entirely within the jurisdiction of the Stipendiary Magistrate.

" In conclusion I would point out that, in regard to this matter, our law stands in  
a widely different position from that of British Guiana. By the Ordinance No. 4  
of 1864 of that Colony, the Agent General, who is the official corresponding in  
general functions to the Protector of Immigrants, is empowered to enquire into  
any case of complaint for non-payment of wages, or other ill-usage by an immi-  
grant, and, also, to lay an information before a Magistrate against the employer or  
any other person. No similar powers have been accorded to the Protector of  
Immigrants in Mauritius. The only provision at all similar is contained in Ordi-  
nance 16 of 1862; by Article 17 of which the Protector is empowered to enter  
and inspect any establishment in which Indian immigrants are received, and  
to investigate the condition and state of any immigrants who may be therein.

" No power, however, is given to him to institute prosecutions in the event of  
finding existing abuses; and the only mode in which his investigations can be  
turned to practical use appears to be by report to His Excellency the Governor:  
a mode of proceeding which, while it may answer in the case of widely extended  
and serious grievances, is evidently quite unsuited for cases of individual hardship,  
or minor evils in which the remedy to be efficacious must be direct and  
speedy.

" The only power conferred on the Protector to intervene in immigrants' pleas is  
(Ordinance 28 of 1863, Article 2) in appeals against the judgments of Stipendiary  
Magistrates, and (*idem*, Article 3) in certain actions of damages: his powers being  
of this limited description, it is to be regretted that the name of Protector of  
Immigrants should have been given to his office; a name which would better suit  
the functions of the Stipendiary Magistrates, who must, to a certain extent, be the  
*quasi* guardians of immigrants, and which applied, as it now is, to the head of the  
Immigration Department, must often mislead immigrants as to their rights with  
regard to that officer, and lead them to consider him as the proper person to  
whom to apply for redress for grievances, real or imaginary."

888. If this opinion be sound, it follows that the Protector, instead of being what we  
erroneously imagined him to be, is little more than an agent for the transmission of  
requisitions to India, for the introduction of immigrants into Mauritius, for the distribution  
of them upon their arrival there, and for despatching them back to India should circum-  
stances require it, or should they themselves desire it on the expiration of their industrial  
residence; and it only remains for us to state our reasons for thinking that, according to  
the law as it stands, this opinion is sound; which we shall do by showing that these  
have been always regarded as the first and principal duties of the Protector; and that  
the only attempt which, so far as we are aware, was ever made by that officer to obtain  
such an extension of power from the Legislature as would have made him, indeed, what  
he only is in name, was viewed with jealousy and suspicion; and that the Ordinance  
introduced with that object was so modified in its passage through the Legislative  
Council as to have remained a dead letter to the present time; and, further, that the  
doctrine of the Magistrate, and not the Protector, being the true protector of the  
Indian, when once they have landed in the colony, was laid down with considerable  
force by Governor Stevenson.

889. We have seen (Chapter VI., paragraph 317) how, early in 1850, the Immigra-  
tion Committee of the Council in their Report upon Sir G. Anderson's Minute of  
the 2nd July 1849, repudiated with indignation the idea that the immigrant, once  
arrived in Mauritius, required any protection, and expressed themselves as perfectly  
convinced that, it is not the servant, but the master, who really now is wanting of  
protection.

890. In the earlier part of the same Report they had shortly reviewed the objects for

which the Protector's office and establishment had been created, the expenses incident  
to immigration having been one of the points to which their attention had been drawn  
in the minute of Sir G. Anderson:—

" The Order in Council of 15th January 1842, regarding the immigration of  
natives of India to Mauritius requires the Governor to nominate a proper person  
to act as Protector of Immigrants at Mauritius; and directs such Protector, on  
his receiving notice of the arrival of a vessel with immigrants, to proceed on board  
of such vessel to inspect both it and the immigrants, for the purpose of ascertain-  
ing whether the Regulations established by the said Order, and by law in India  
respecting emigration to Mauritius, have been duly complied with; and, further,  
when the immigrants are landed, to register them.

" 6. By Colonial Laws and Regulations the Protector is also charged with super-  
intending and regulating the distribution at the depôt of newly-arrived immigrants,  
of registering as 'Old immigrants' all those whose 'industrial residence' of  
five years has expired, of expediting, under nearly the same rules as the agent  
of India expedites the emigrants for Mauritius, all immigrants who leave the  
colony at their own or at Government expense.

" 7. These duties of the Protector, and others of minor importance, which it is  
not necessary to specify, entail upon his office an expense for clerks which must  
necessarily be considerable; yet, the Committee are not prepared to say that such  
expense may not be diminished.

" Under any system of immigration, there must, they apprehend, be an  
officer charged with most of such duties. Exposed as the colony is, and will  
probably continue to be, so long as it produces annually 50,000 tons of sugar, to  
suspicions and accusations none but a slave colony could possibly deserve, the  
Committee deem it most important, in the interests of the whole community, as  
well as of the immigrants themselves, that Government should, as far as possible,  
protect the immigrant against embarking under false impressions, and secure to  
him, during his passage to or from Mauritius, all that is necessary to ensure his  
health and safety."

891. Hence, it appears very clearly that, in 1850, the Protector was looked upon  
merely as an agent for the receiving and distributing of immigrants, as well as for  
registering their names with the view of keeping a certain control over them until they  
had completed the term of their industrial residence; but, that, when once they had  
quitted the precincts of the depôt, or had become Old immigrants, all necessity for his  
supervision or intervention ceased, until they had presented themselves once more to  
claim their passage back to India.

892. Ten years later, the Government of India, dissatisfied with certain points con-  
nected with the Mauritius immigration, evinced an inclination (see Chapter VII.,  
paragraph 412) to assert the right of appointing the Protector in Mauritius, which  
it possessed under the arrangement made between the two Governments in 1842;  
and, the correspondence upon the subject being transmitted by the Secretary of  
State to Governor Stevenson, the latter wrote as follows, regarding the functions of the  
Protector:—

" The duties of that officer have so completely changed since 1842, that he is  
more in the position of the colonial agent or head of the Immigration  
Department than of 'Protector.' His name continues, but the office of  
Protector is limited only to the arrangements of the depôt."

" The Stipendiary Magistrates are now the 'Protectors' of immigrants. The  
laws are their Protector likewise: and the Protector can no more interfere in  
the protection of an immigrant out of the depôt, and in actual service, than can  
any other person, who is not appointed by law to do so, or who does not  
specifically act for the immigrant.

" This must be more clearly explained to the Secretary of State, for the position  
and duties of this officer are evidently not known to the Indian Government, or  
the Secretary of State."

893. Shortly before the writing of this Minute, Mr. Beyts had, in consequence of the  
sudden illness of Mr. Hugon, been called upon to take charge of the Immigration  
Department; and some idea will be formed of the high opinion entertained of him by  
Governor Stevenson from the following extract, from the Despatch in which His Excel-  
lency communicated the appointment to the Secretary of State:—

" Of all persons whose merits I could bring under review, there are none in this  
island, who, in my opinion, equal Mr. Beyts in general qualifications for the full  
and satisfactory performance of the functions of this complicated department."

Functions of  
the Protector  
as considere  
by the Immi-  
gration Com-  
mittee in  
1850.

No idea of pro-  
tection being  
necessary dur-  
ing residence  
in Mauritius.

Governor  
Stevenson's  
view of the  
functions of  
the Protector  
in 1860.

Complete  
change in  
duties since  
1842.

The  
Stipendiary  
Magistrates  
and the law  
are the pro-  
tection of im-  
migrants.

Position and  
duties of Pro-  
tector not  
known to  
Secretary of  
State or to  
Government  
of India.

Appointment  
of Mr. Beyts  
as Protector  
of Immigra-  
tion in 1850.

High opinion  
entertained of  
Mr. Beyts by  
Governor  
Stevenson.



High opinion  
entertained of  
Mr. Beyts by  
Mr. Stevenson.

"He is an Indian by birth, and, besides speaking French and Creole, he is able to converse freely with the Indian immigrants in their own language; he has been nearly 20 years in the island, during a great part of which he has filled responsible places under the Government, and been frequently employed as an acting Magistrate, and, since my arrival here, I had the satisfaction of conferring upon him the permanent District Magistracy of Flacq, the duties of which, as well as all the other services of the district which are expected of the Magistrate, he has performed to my perfect satisfaction, as well as to that of all the inhabitants of Flacq. I am glad to say that among all classes this acting appointment of Mr. Beyts has been very well received; his perfect knowledge of the laws, to which he has devoted much attention, and his aptitude for business, give him facilities for the performance of the various duties of the Protectorate, which few others possess, and, none, I think, in equal degree: and, as the department of the Protector is, at this moment, one of the most important in the island, I am glad I have so easily succeeded in filling the vacancy by an efficient officer."

High opinion  
entertained of  
Mr. Beyts by  
Mr. Antelme.

894. We have the authority of Mr. Antelme for the improvement which took place in the arrangements at the immigration depôt, with regard to the distribution of newly-arrived immigrants, after Mr. Beyts' assumption of the office of Acting Protector, and which Mr. Antelme attributes to his superior management; an opinion, the accuracy of which we have no intention to call in question, further than to remark, that, in justice to the memory of Mr. Hugon, it should be borne in mind that Ordinance No. 30 of 1858 had only come into operation on the 23rd October, and the Regulations under it not until the 13th November of the preceding year; and, that, by their aid, it is probable that, even had Mr. Hugon remained at the Immigration Depôt, the necessary reforms might have been effected; and, that, without the powerful assistance of these laws, perhaps neither Mr. Beyts nor any one else would have been better able to preserve order, where so many were determined to disturb it, than Mr. Hugon had been.

High opinion  
entertained of  
Mr. Beyts by  
the Duke of  
Newcastle.

895. However that may be, it is certain that improvements did take place in the condition of the depôt at this time; and, further, that Governor Stevenson had, to the day of his death, the same high opinion of Mr. Beyts. This we find from a correspondence, which was transmitted by the Secretary of State to Sir H. Barkly in 1864, in consequence of Mr. Beyts, who was then on leave in England, having on the grounds of impaired health, owing to long residence in the tropics, applied for employment in some less unhealthy climate than that of Mauritius; wherein Sir F. Rogers wrote to Mr. Waddington recommending Mr. Beyts for employment in England in the following words:—

"Such applications, under such circumstances, are very frequent; and the answer His Grace is accustomed to return is, that there are no employments at his disposal in this country, nor, indeed, generally speaking, in colonies where the climate is temperate, since, owing to the establishment of Responsible Government, the appointments in the American and Australian colonies are not made, either by the Secretary of State or by the Governor. He is induced to do otherwise in this instance by a sense of the more than ordinary value of the services which have been rendered by Mr. Beyts in Mauritius, and by a belief that very valuable services might be rendered by him in any climate in which he would retain his ability to serve. Mr. Beyts was selected and promoted by the late Sir W. Stevenson (a Governor himself of rare administrative ability), whose testimony was never lightly given, and who stated that

"there was no better public servant in the colony than Mr. Beyts; an opinion which His Grace is able to confirm, from the reports drawn up by Mr. Beyts, which have come under his own consideration."

Efforts made  
by Mr. Beyts  
to obtain  
increased  
powers.

896. Whether or not it was suggested to his mind by the threatened intervention of the Indian Government, as above mentioned, we do not know; but Mr. Beyts, in his second Annual Report, submitted to Sir William Stevenson on the 15th January of the following year (1861), when remarking upon the number of cases of complaints brought in the Magistrates' Courts by labourers against their employers, advocated the extension of the powers of the Protector by investing

"(him) with full powers of inspection and enquiry in matters in which the interests of immigrants are involved;"

and it was upon his recommendation, as we shall see (*vide infra*, paragraph 913), that the 17th Article of Ordinance 16 of 1862 was passed, by which the Protector was empowered to visit hospitals and camps: but for any power that it gave him to remedy any abuses which he might discover when he got there, the

Ordinance, as Mr. Ellis points out (*vide supra*, paragraph 887), might as well have never been passed.

897. Neither does Mr. Beyts himself appear to have rested satisfied with his position, as in his next report, for 1861, he made certain suggestions regarding appeals, which, as we have seen (Chapter VII., paragraph 432), were warmly approved by the Secretary of State, who made the adoption of them a condition precedent to the allowance of Ordinance 16 of 1862, and the five years' contracts, and which, though not received with the same favour by the Chamber of Agriculture and the Magistrate of Pamplemousses, and though modified in important particulars by the Committee of Council, to whose consideration they had been referred, were embodied in Ordinance 11 and 28 of 1863, which were passed during the administration of Government by General Johnstone, in the interval which elapsed between the death of Sir William Stevenson, on the 9th January 1863, and the assumption of the government by Sir Henry Barkly in November following.

898. Ordinance No. 28 of 1863 was passed on the 2nd October; and two days later an incident occurred which was reported to the Secretary of State, and which led to some important correspondence with the Emigration Commissioners respecting the duties of the Protector, in the course of which we find laid down by Mr. Murdoch, with great clearness, what they had always imagined to be the functions of that officer; and whence, we find, that they had been labouring under the same delusion as we ourselves had done previously to the submission by Mr. Beyts of Mr. Ellis's opinion.

899. On Sunday, the 4th of October, at about 1 o'clock p.m., a band of immigrant labourers appeared at the residence of General Johnstone, complaining of having been detained at field-labour by a certain Mr. Plaideau; His Honour directed them to a Government employé in the neighbourhood, with a written order to him to take down the complaint and transmit it to him in manuscript.

The men never returned.

900. Suspecting the cause, General Johnstone set on foot enquiries; from which he learnt that fear of the results had deterred all parties from carrying the case forward.

901. Satisfied that labour had been extorted from the men, he consulted the Procureur-General, by whose advice the case was remitted to the Protector of immigrants, Mr. Chasteauneuf (then acting for Mr. Beyts, who was in Europe on leave), who, after about three weeks, submitted his report to the General, to the effect that, on visiting Mr. Plaideau's estate, he had found all in good order, and no complaints.

902. In the interval, however, one of the original complainants appeared again at General Johnstone's house, exhibiting on his person marks of violent usage; declaring that he had been most cruelly beaten, his teeth driven down his throat, and he himself placed in confinement for three days and three nights without nourishment.

903. Limiting his proceedings to the requirements of the law, General Johnstone referred the man to the Stipendiary Magistrate, to whom he reported the complaint in writing; but he had the mortification to find that, notwithstanding the interest he had previously taken in the case, the ends of justice were again defeated.

The man, cowed by former punishments, dared not appear at the Magistrate's Court, and, therefore, the complaint was never heard.

904. Resolved, however, that justice should be obtained, he directed the Magistrate to proceed to the estate, find out the man, and give him a fair opportunity of making his complaint.

The Magistrate did so. The man was nowhere to be found. It was reported that his engagement as an immigrant had been broken, and that he had been allowed to depart. The case, consequently, again fell to the ground.

905. Such were the facts of this case, upon which General Johnstone dwelt in order to show that the master in Mauritius could, and did, compel his labourer to work on Sunday against his will; and that the law, as it stood, was inoperative in providing due protection to the labourer, who protested against either the will or the violence of his master.

906. Appeal to the Protector he considered illusory, and to the Stipendiary Magistrate doubly so, in consequence of the difficulties existing in the way of the immigrant's obtaining access to either of those functionaries. His own wish, therefore, was to legislate for the Indian in reference to Sunday labour as he would for a minor under guardianship; and, with this view, he proposed to repeal the whole of Ordinance No. 17 of 1841, in as far as it gave the planter any right to general service of "Corvée" on the Sunday, by which the planter was enabled to employ the Indian in the service of cleaning the stables and feeding the cattle,

The proposed  
increase of  
power of the  
Protector  
viewed with  
disfavour by  
the Chamber  
of Agriculture  
and the  
Magistrate of  
Pamplemousses.

Complaint of  
a band of  
Indians to  
General John-  
stone respect-  
ing compul-  
sory labour on  
a Sunday.

Further com-  
plaint to  
General John-  
stone of gross  
ill-usage.

General John-  
stone baffled  
in his en-  
quiries.

General  
Johnstone  
satisfied of  
the insuffi-  
ciency of the  
protection  
afforded to  
immigrants  
in Mauritius.

the grass having been provided the day before, and this indispensable duty being confined to 2 per cent. upon the whole number of men engaged.

907. This course, however, he was induced to modify, in consequence of the urgent remonstrances of both the Colonial Secretary and the Procureur-General; the latter of whom, at General Johnstone's request, put his views upon the question upon paper to be submitted to His Grace the Secretary of State, and to which we shall refer again.

908. A circular was sent by the Colonial Secretary to the Magistrates, calling their attention to the state of things disclosed, and extracts from the Ordinance No. 17 of 1841, were forwarded, translated in the "Nagree" and "Tamil" dialects, which were ordered to be posted up in the most conspicuous parts of the Court, with a view of generally informing the Indians of their rights in that behalf.

909. The Magistrates were further directed to make the law known to the immigrants on their entering into engagements, and also to make occasional visits to estates throughout their districts, so as to ascertain whether the provisions of the law were carried out; and copies of the extracts above mentioned were, at the same time, sent to the Inspector-General of Police to be posted up at the different police stations in the Island.

910. General Johnstone's Despatch, together with the Procureur-General's opinion, was submitted to the Chairman of the Board of Emigration; whose report was transmitted to Sir Henry Barkly on the 22nd January, 1864.

911. Mr. Murdoch held that, in deprecating the total prohibition of labour, whether voluntary or compulsory, on Sunday, the Procureur-General was probably right; and that a law to that effect, in a country where the majority of the educated were Roman Catholics, and the majority of the labouring class Pagans, could not be really enforced, and that an attempt to enforce it would give rise to dissatisfaction and resistance.

912. But, Mr. Murdoch proceeded to observe, General Johnstone's Despatch opened a much wider question than that of Sunday labour only, viz., the completeness of the protection afforded to immigrants in Mauritius; and which the case in question showed to be very imperfect. It showed, further, that the appointment of a Protector for their especial benefit was little more than illusory; and that the officers of the Government had a very insufficient apprehension of the duties which they were bound to perform in respect to immigrants.

"(7.) This state of things is so different from what had been supposed to exist in Mauritius, and, so unlikely apparently to have escaped the notice of a Governor like the late Sir William Stevenson, that it is difficult to suppose that General Johnstone may have been misinformed as to the general question. But there can be no mistake as to the facts which he witnessed himself, and the conclusion he draws from them receive considerable support from the principles as to the conduct of the Executive Government towards employers and immigrants, laid down by the Procureur-General in his minute enclosed in the Acting Governor's Despatch. The Procureur-General gives it as his opinion that, even though the immigrant is unjustly treated, it would be highly inexpedient for the Government to interfere, except upon his own complaint; that it should not 'force on him' 'redress from a wrong which he is willing to bear,' and that, as Government does not compel the master to punish his labourer in case of misconduct, so it should not compel the labourer to seek redress from his master where he does not care to do so.

"(8.) It is scarcely possible to conceive a line of argument more opposed to the principle on which immigration from India to the British Colonies has been allowed by the Home and Indian Governments than what is here laid down by the Procureur-General.

"That principle has been that the Indian, when transplanted from his own to a foreign country, and placed under an indenture of service to a foreign master, is not competent to protect himself, but must be protected by special legislation, and by special officers appointed to see that legislation carried into effect. If any doubt has existed as to the correctness of that principle, the circumstances now brought to notice would remove it, for it is here shown that the employers if left without control, will not hesitate to abuse their power, and ill-treat their labourers; and, that, without the intervention of a special officer to act as guardian to the immigrants, the employers, whatever may be the provisions of the law, are practically without control. If proceedings are to be taken against the

"employer only on the complaint of the labourer, and the opportunity of the labourer to make a complaint is to be left in the power of the employer, it is evident that proceedings can scarcely ever be taken, and that the employer may treat his labourers in any way he chooses with impunity.

"It was to prevent the occurrence of such cases that a Protector was appointed to afford to immigrants the advice and assistance required by their natural helplessness, but it may be inferred by the present papers that the Protector has not so understood his duties, and that his appointment has, in effect, been of little use.

"(9.) In the West India Colonies which import Indian immigrants, it is generally required by law that the Immigration Agent (who answers to the Protector in Mauritius) should inspect all estates on which immigrants are placed, whenever he may think it necessary to do so; and at least twice, and some colonies four times, in each year; and a penalty is imposed on any person obstructing him on these occasions; and, on such inspections, the Agent is to enquire into any complaints that may be brought before him, whether by employer or labourers, and is authorised, in cases of ill-treatment of a labourer, to cancel his indenture and remove him to another estate. In several of the colonies the Governor has the further power, in gross cases of ill-treatment or neglect, to remove all the immigrants from an estate.

"(10.) The law in Mauritius is not, at first sight, very different from this, but the difference is, in the working, very material.

"By the Ordinance No. 16 of 1862 the Protector is authorised either personally or by deputy to inspect any asylum, hospital, school, camp of labourers, or other establishment in which Indian immigrants are received on any estate on which they are employed, whenever he may think fit; and he is entitled, at such time, to require the immigrants to be brought before him, or his deputy; and any person obstructing him or his deputy is liable to a fine not exceeding £20.

"The Protector is thus armed with the same power, as in the West Indies, of visiting estates, &c.; but the essential difference is that he is not required to visit them, and, looking at the disclosures contained in the present Despatch, it is not unfair to assume that the Protector has not been in the habit of visiting estates, &c., unless actually required to do so. It appears to me that his visitation of estates should not, in future, be left to his own discretion; but that, as in the West Indies, he should be required to visit every estate at least twice in every year; that, on such occasions, he should muster and inspect all the labourers, should ascertain their condition of health, and general treatment; and should give them the opportunity of making any complaint which they might desire to prefer; and that, after such periodical visitation, he should furnish the Governor with a Report, describing the condition of the people as to health and material well-being, and stating the number and description of complaints brought before him.

"The necessary Regulations to enforce this system might be made by the Governor in Council, under the 24th Section of the Ordinance No. 16 of 1862. If it shall be thought right to entrust the Protector or the Governor with the further power of cancelling indentures in cases of gross ill-treatment or neglect, it would, I presume, be necessary to seek the aid of the Legislature for that purpose.

"(11.) But whatever law or regulations may be made will be ineffectual, unless they are aided by an energetic and earnest determination on the part of the Executive Government to see that they are carried out. General Johnstone expresses an opinion that the immigrant should be regarded, in the protection to be afforded him, as a minor under guardianship. This appears to me exactly to describe the immigrant's position; and the Protector is the officer appointed by the Government to exercise the functions of guardian, and, as a guardian, is bound to protect the interests of his ward, of his own accord, without waiting till he is called on to act; so is the Protector bound to see that no injustice is done to the immigrant, without waiting till a complaint is brought before him.

"This view of his duties, it is clear, the Protector in Mauritius has not hitherto acted upon; but it is desirable that it should be put distinctly before him, and it may be hoped that Sir H. Barkly, who will before this have assumed the government, and who has had ample experience of the immigration system in the West

The Emigration Commission's denunciation of the administration of the Colonial Government in the case of immigrants. Object of appointment of a Protector.

Protective powers in the West Indies.

The Protective System of the West Indies and Mauritius compared.

Protector in Mauritius not required to visit estates. Compulsory inspections by the Protector required.

The great want in Colonial administration.

The immigrant to be treated as a minor.

The Protector bound to act without waiting for a complaint.

Energetic action expected from Sir H. Barkly.

Hig. ante. Mr. Murdoch's question on Sunday labour. Wider question than that of Sunday labour. The Procureur-General's opinion entirely opposed to the principle upon which immigration had been allowed. Employers, if let uncontrolled, do not hesitate to abuse their power. Want of protection in system pursued.



Tendency of Government officers in Mauritius to favour interests of planters rather than those of immigrants.

General Johnstone's Despatch referred to Mr. Beyts.

Views of Mr. Beyts as to protective powers required.

Mr. Beyts' opinion on the enforcement of Sunday's rest in Mauritius. Extract from Mr. Beyts' Letter to Sir F. Rogers, dated 1st February, 1864, upon the same subject.

Magistrates lax.

Protector's powers to be strengthened.

A stronger administrative action required.

Magistrates to be vigilant and carry out the laws.

Regular inspection of estates by Magistrates.

Protector to visit estates and to be supplied with necessary information by Magistrates.

Legislative authority for inspections.

Improvements already made in the system.

Protection of immigrants imperfect.

"Indies. will enforce for the future a more efficient performance of the duties of the Protector, and a more effectual protection to the immigrant.

"It seems as if, up to the present time, when the interests of the planters and of the immigrants have appeared to conflict, the bias of the officers of Government has been towards the planters, rather than towards the immigrants; towards the strong rather than the weak."

913. By order of the Duke of Newcastle, General Johnstone's Despatch was further referred to Mr. Beyts, who was at the time in England. He, in a letter addressed to Sir Frederick Rogers, dated 1st February, 1864, after giving his opinion against the advisableness of enforcing the observance of absolute Sunday rest, in such a community as that of Mauritius, proceeded to give his views upon the wider question of the measures necessary for the protection of immigrants:—

"(6.) I beg to state that, in my opinion, what is chiefly wanted in Mauritius for the evil in question, as well as for the prosecution and suppression of other abuses and grievances which might arise amongst masters and servants, is a *stronger administrative action* than has hitherto obtained.

"(7.) If the powers held by the Stipendiary Magistrates were wielded with greater vigilance and energy, if the control exercised by the Protector of Immigrants were rendered more efficient than it is, I do not think it likely that such abuses and grievances would often arise; if they did occur, they would not be likely to remain undiscovered till they overspread the whole country. They would not be suffered to strike such a deep root as to require violent efforts, on the part of Government, to eradicate them.

"(8.) I consequently think that it should be impressed on the Stipendiary Magistrates that they ought not to wait unconcernedly till the abuses in question have actually overstepped the threshold of their Courts; that they ought not to confine themselves exclusively to their *judicial* duties; but that it is furthermore expected that, in the discharge of their *ministerial duties*, they shall exercise so careful a supervision over their districts as will ensure the best possible relations between masters and servants, and the greatest possible protection to their respective rights and interests.

"(9.) I think that the Stipendiary Magistrates ought to be directed regularly to visit the estates on which immigrants are employed, at least once every three months, in order that they might ascertain, by personal inspections and inquiries, whether the reciprocal obligation of masters and servants are fulfilled or not; and so that, if any causes of complaint exist on either side, the removal of such causes might immediately be taken in hand.

"(10.) They should also be directed, in my opinion, to forward to the Protector detailed Reports on all such visits, in order that he may submit them with his own remarks and suggestions to the Governor.

"(11.) The Protector himself should, I think, be required to visit as often as may be necessary all places where immigrants are employed or located, and to make all necessary inquiries respecting their treatment and conduct; and the Stipendiary Magistrates should be instructed to supply him with any information that he may want from them, touching the rights and interests of immigrants.

"(12.) For this latter purpose an order from the Governor would be sufficient; for the other, that of enabling the Protector to perform inspections and investigations, it would require legislative authority.

"In the new Immigration Ordinance which, shortly before I left the island, had been sent to England for approval, a clause had been introduced on my recommendation, conferring the necessary powers on the Protector.

"Whether this enactment has been put into operation or not, I am not aware. If it has not, I strongly recommend that it be not delayed any longer.

"(13.) When I left the island the system of immigration had been greatly improved in many important respects; the recruitment, conveyance, and distribution of immigrants had been placed under new regulations carefully devised; but there remained an important field within the province of the Protector, where the hand of reform had still its work to accomplish: the protection extended by Government, through him, over the immigrants in the island was still imperfect, it required to be strengthened and rendered more efficient.

"(14.) The authority of the Protector scarcely extended beyond the walls of his office; beyond them he could make no enquiry *ex officio*, with the view of defend-

"ing the rights of immigrants; he could not by personal investigation ascertain whether they were well treated or not. His protection, in fact, was almost illusory. I lost no time in representing this to the late Governor, who, I believe, intended to remedy the evil by investing the Protector with the powers he ought to hold to be enabled to carry out the objects for which the Protectorship was organised.

"(15.) If, as I have taken the liberty of suggesting, the Stipendiary Magistrates be brought to discharge their *ministerial duties* more carefully, and the supervision and control of the Protector be rendered more efficient, I think that the unlawful employment of immigrants on Sundays would soon be brought to an end.

"(16.) I should, however, recommend a continuation of the practice initiated by the late Acting-Governor, of bringing to the knowledge of the immigrants, through translations into their own dialects, their principal rights and duties, not confining the measure to the law relative to Sunday work, but extending it to all laws materially bearing on their interests.

"(17.) If the course I propose were followed, there would be no necessity, in my opinion, to cancel Ordinance 17 of 1841, and enact another law in its stead, as suggested by the late Acting-Governor.

"(18.) The impediments which the late Acting-Governor has described as standing in the way of the immigrant who wishes to seek for redress, would, I think, also disappear under the effects of the remedies I have proposed.

"There is one of these impediments, however, which deserves special consideration, that is, the obligation under which the immigrant is placed by the Regulations in force—to provide himself with a pass from his master whenever he absents himself from his master's estate.

"(19.) This rule, hindering the immigrant, as it does, from circulating freely, can but be regarded as unfavourable to him; but if it were done away with, a greater evil would be incurred, a wide door would be immediately opened to desertion and vagrancy.

"(20.) To reconcile the expediency of maintaining the rule, with the necessity of leaving the immigrant quite free to carry his complaint to the Magistrate or to the Protector, a right from which he should certainly, on no account, be deterred, the following principles might be laid down:—That no immigrant found without a pass, on a high road or other public place, shall be deemed liable to arrest on the presumption of his being a deserter or a vagrant, if he allege that he is going to make a complaint to the Stipendiary Magistrate or to the Protector, and be actually on his way to the Magistrate's or Protector's office. But that the immigrant under such circumstances shall be forthwith conducted to the Magistrate or the Protector (as he may require), in order that his complaint may be received; and then, if no complaint be made, or the complaint be a false one, made for the purpose of screening an unlawful absence from his master's estate, that the immigrant be deemed liable to punishment.

"(21.) The Stipendiary Magistrates' Courts are represented by the late Acting Governor, as being '*attended by employes from the estates, who are ready to arrest complainants, and deliver them over to the police as deserters.*' This abuse should surely not occur if the Magistrates resolved to suppress it.

"An employé who is not a member of the police force, has no right to make arrests. If he usurps the power of the police, he ought to be punished; if he, unlawfully, *i.e.*, on a false charge, cause an immigrant to be arrested by the police, he is surely punishable; and the members of the police force might easily be deterred from arresting and imprisoning *complainants*.

"(22.) The late Acting-Governor also refers to the '*dread of further ill-treatment*,' as having been in the case which he investigated a hindrance to an immigrant's claiming and finding redress. He alludes, likewise, to the *false witnesses* which are frequently found in the Stipendiary Magistrates' Courts, to the failures of justice to which they lead, and to the risks to which they expose complainants. These are evils for which the law has already provided *ample remedies*; it only remains for the Magistrates to apply these remedies with proper severity.

"(23.) In begging that the foregoing observations be laid before His Grace the Duke of Newcastle, I feel bound, in justice to the planters of Mauritius, to add this further remark, that, notwithstanding the abuses pointed out in the report now under consideration, the immigrants of Mauritius are generally treated by their masters with humanity and kindness.

Views of Mr. Beyts as to protective powers required. Protection almost illusory.

Sir William Stevenson's intention to give powers.

Immigrants to be informed of their rights and duties through translations.

No necessity for repeal of Ordinance No. 17 of 1841.

Cases of grievances would disappear if suggestions enacted.

Pass required from masters unfavourable to immigrants. If passes abolished desertion and vagrancy.

Immigrants going to the Magistrate or Protector to be free from arrest.

Employes attend Courts and cause complainants to be arrested.

Police to be deterred from arresting complainants.

Ample remedies provided for redress of grievances in the administration of justice.

The immigrants of Mauritius are generally treated by their masters with humanity and kindness.

"(24.) I say so, because I believe it to be the truth, and not with a view of palliating the evils which have been brought to light. Respecting these evils, my opinion is, as I have already stated, that it is the duty of the Government to use its utmost endeavours to remove them. Whether they exist as extensively as was believed by the late Acting-Governor, or not to so great an extent; whether they proceed from the deficiencies in the laws, or from laxity on the part of the officers of Government. I think they unquestionably show that the *system of administration* still requires to be improved."

914. Upon this letter Mr. Murdoch remarked:—

Extract from Mr. Murdoch's letter to Sir P. Rogers, dated 1st February, 1864.  
"The complaint is not that immigrants are generally ill-treated in Mauritius, but that the state of the law, and the spirit in which it had been administered, made it easy for an evil-disposed employer to ill-treat them with impunity. It is to prevent this that additional action on the part of the Government becomes necessary."

"There is nothing to object to in what Mr. Beyts proposes, all of which may be done under instructions from the Governor without further legislation."

"The visits of the Protector, however, as well as of the Stipendiary Magistrates should, I think, be periodical and obligatory. If left optional, they will be regarded with jealousy and dislike by the planters, and will become so distasteful to the Protector himself as to be gradually discontinued."

"But their unpopularity, so far as the Protector is personally concerned, would cease when it was known that they were performed in the regular execution of his duties, and that he had no authority to omit them."

"In other respects the arrangements proposed by Mr. Beyts seem well calculated to attain their end. It must, however, remain with the Local Government to decide upon the measures best calculated for the effectual protection of the immigrant, and I would, therefore, submit that a copy of Mr. Beyts' letter should be transmitted to Sir H. Barkly."

We do not know whether Sir Arthur Gordon had ever perused this correspondence, but we might almost believe that His Excellency had it before him when, seven years later, he penned his reply to the Honourable Mr. Naz on the measures he intended to adopt relative to the pamphlet of Mr. de Plevitz, and wrote:—

"I propose to repeat the expression of my own belief as to the general well-being of the Indian population, and to add that, although it would be idle to affect to deny what any one acquainted with the immigration laws of other colonies cannot fail at once to perceive—that the law is in this colony wanting in many checks on possible abuses which have been provided elsewhere, yet that, so far as I can learn, little practical evil has resulted from their absence."

915. On the 10th March, 1864, Sir H. Barkly transmitted the reports of the Stipendiary Magistrates upon their visits to estates in compliance with the Circular of the 18th November. These reports are all short, and, for the most part, merely state that they had made known the provisions of the Ordinance, but that no case of its infraction had ever been brought to their notice.

916. The only estate on which any complaint was made was "Schœnfeld," in the district of Rivière du Rempart, where one gang complained of having been made to work after the time fixed by law, but they did not persist in their complaint, and on the following day the greater part of them re-engaged with Mr. de Belloguet for five years. Otherwise they appear to have been assured that the law was duly observed.

917. Upon such assurances, transmitted through the Magistrates, Sir Henry Barkly came to the conclusion that the representations upon which General Johnstone had relied were greatly exaggerated, and that if the Sunday rest was sometimes infringed upon, it was willingly given by the labourer for remuneration, and, as far as he could learn, that the usual arrangement was the same as that in the case of extra labour on week-days in crop-time, viz., that holidays were allowed him in exchange at the Yamsé, the "Doorga-Poojah," and such other Mahomedan or Hindoo festivals as occurred at less busy seasons of the year.

918. He observed with satisfaction, from the testimony of the Stipendiary Magistrates, that the practice of the Government of Mauritius had been much more in accordance with the principles adopted in the West Indies for regulating the treatment of Coolie immigrants than might have been inferred from Mr. Dickson's report.

919. His Excellency added his own personal impression, formed after having visited almost every part of the island, that the general condition of the Indian immigrant was

ne of great comfort, and expressed his doubt whether he had any substantial grievance to complain of; but he proceeded to observe

"that a perfectly good understanding does not always exist between the employer and his contract-servant may be inferred from the extent to which desertion and vagrancy prevail. The fault, doubtless, often lies with the latter, who seeks to get higher wages, or to perform less work than he engaged for on arrival here, or, it may be, before leaving India; but facts have been brought to my notice in petitions, and confirmed by the reports of the Stipendiary Magistrates, which lead me to suppose that in the struggle to obtain labour on any terms which is ever going on, the same spirit of fair play is not always evinced by managers of estates that I have been accustomed to observe elsewhere, and that it requires greater vigilance on the part of the Protector of Immigrants to ensure the punctual delivery of the certificate to which immigrants are entitled on the completion of their term of service, which are sometimes withheld in order to prevent their seeking employment on other properties."

920. He stated his intention, on the return of Mr. Beyts, of conferring with him, and arranging a more systematic visitation of estates by him, and he concluded his Despatch with the reflection that anything like real oppression was perfectly impossible when the competition for labour was so keen, and the consequent desire to conciliate the labouring population by every possible means so intense: that population, moreover, being almost entirely Indian.

921. The result was that, towards the end of 1864, a system of inspection of estates was ordained, of which we shall have more to say when we come to consider that subject in the next chapter.

922. In the earlier part of the same year power was conferred upon the Protector by Ordinance No. 4 of 1864, Article 8, of visiting the Vagrant Dépôts to be established under that Ordinance, and to make to the Governor such reports and recommendations as he might think proper regarding the treatment of Indian immigrant vagrants confined in such dépôts. But neither under this nor any other Ordinance was either the Protector or the Governor empowered to take any action upon these Reports (vide next chapter, paragraph 1001). And by Article 66 of Ordinance 31 of 1867, he is appointed

"to act as guardian *ex officio* to all orphans of Indian extraction whether born in (the) colony or elsewhere, who have no relatives in the colony competent to form a family council for them, in conformity with the requirements of the Civil Code."

923. In this capacity he is one of the two Directors of the Orphan Asylum which he visits every two months, and oftener, when he can.

924. His guardianship lasts until the orphan attains the age of twenty-one years, but at fifteen or sixteen they are apprenticed out to trades, after having gone through a course of tuition; while those who are considered by the superintendent as not having any aptitude for trade or handicrafts, are given out as domestic servants. They are usually indentured for three or five years, at the end of which they are brought back to the Protector.

So, too, in cases in which the orphan has any friend, who is willing to take charge of him; the Protector requires him to be produced before him at intervals, as we learn from a letter from Mr. Beyts to our secretary respecting a boy of the name of Takoor, the son of Bissoony, who died in Pamplemousses in 1872, and who was taken charge of by another immigrant, named Putty, who was directed by Mr. Beyts to bring the boy to him every three or four months.

925. Such is, shortly, the history of the powers possessed by the Protector for the protection of immigrants beyond the limits of the Immigration Dépôt.

926. But, although the duties of the Protector are thus circumscribed, as far as relate to the protection of immigrants, and consequently inadequate to the large salary drawn by Mr. Beyts, other duties, wholly foreign to his department, have been from time to time imposed upon him. These have occupied a very large portion of his time, and some of them cost him, he told us, an immense deal of labour, and were quite enough to prevent his visiting estates, that is, of discharging one part of his legitimate duty.

927. In 1867 he was called upon to serve on a Committee of Examination into the state of the Custom House—an enquiry which took up the greater part of 1867, and the beginning of 1868. He was next appointed one of the Commissioners to investigate the working of the District and Stipendiary Magistrates' Courts, with a view to their amalgamation.

The administration of the laws requires to be improved.

The Chairman of the Board of Emigration on Mr. Beyts' letter.

Impunity of planters.

Instructions to Governors sufficient.

Necessity of periodical inspections insisted on.

Inspections to be obligatory.

Mr. Murdoch's views in 1864, identical with those of Sir A. Gordon in 1871.

Reports of the Magistrates upon the question of Sunday labour.

Only one complaint on Schœnfeld.

First impressions of Sir H. Barkly.

Exaggerations made to General Johnstone.

Greater similarity to West Indian Administration than supposed. Condition of immigrant one of great comfort.

First impressions of Sir H. Barkly.

Good understanding between masters and servants not general.

Faults on both sides, often with immigrants.

In struggle for labour. Fair play not always given to labourer by planter.

Anything like real oppression asserted to be impossible.

Institution of periodical inspections of estates by Protector and the Magistrates.

The Protector empowered to visit the vagrant dépôts under Ordinance 4 of 1864.

The Protector appointed *ex officio* guardian of all Indian orphans under Ordinance 31 of 1867.

The Protector appointed a Director of the orphan asylum.

Guardianship of Indian orphans.

Extra duties of Mr.



Civil status inquiry.

Poor Law re-organisation. Census Commissioner.

Plan of enquiry.

Institution of periodical inspections by the Protector and the Stipendiary Magistrates in 1864. Difficulties.

Travelling allowance to Protector.

No increase to Magistrates' salaries.

Circular, ordering the Magistrates to visit estates.

Regulations under Ordinance 16 of 1862, ordering the Protector to visit estates.

Mr. Beyts points out the difficulty of visiting estates and managing his office without further arrangements.

Almost immediately after he was appointed Chairman of a Committee to enquire into the Civil Status Office, to report upon the defects in its organisation, and to suggest such changes in the law as might be required to remedy those defects.

His next duty was, single-handed, to re-organise the Poor Law system; and lastly, in 1871, he was called upon to take the census of the island.

All these different duties were honorary, though, at the end of 1868, he was appointed President of the Poor Law Commission, on a salary of £200 per annum.

928. Whatever, therefore, may have been Mr. Beyts' omissions in the administration of the Immigration Department, there can be no doubt that, in these several other capacities, he has rendered important services to the public; and we must remember that, if he has failed in being a "Protector" of immigrants, in the most obvious sense of that word, such a function is not imposed upon him by law, and that the measures suggested by him in his earlier reports towards that end were regarded as superfluous, if not dangerous, by the public opinion of the colony.

929. It now remains for us to show how far the other means existing in Mauritius for the protection of immigrants on estates are such as to supply the place of the active powers conferred in some other colonies upon that officer; and we shall, therefore, proceed next to examine into the character of the inspections both of the Protector and the Stipendiary Magistrates, which were the first result of the attention thus drawn by General Johnstone to the question.

CHAPTER XIII.—*Inspection of Estates.*

930. On Mr. Beyts' return from England, about the middle of 1864, Sir Henry Barkly lost no time in concerting measures with him for ensuring periodical and obligatory visits by the Protector to Estates, as well as for organising a system of subsidiary visitations by the Stipendiary Magistrates.

931. The difficulties which most obviously presented themselves were of a pecuniary nature, arising out of the expense of travelling and the necessity of increasing the staff of the Immigration Department, both to aid in this new branch of the service and to supply the place of its chief during his frequent absences.

932. With this view, Mr. Beyts' travelling allowance was raised from £100 to £200 per annum. No additional allowance, however, was made to the Stipendiary Magistrates, although Sir Henry Barkly drew attention to the fact that, owing to the immense immigrant population, the judicial duties of the Magistrates' Courts were heavy, whilst the salaries (£450 in all) were, he feared, too small to enable them to perform regularly the journeys required, without putting themselves under such obligations to planters for conveyance or entertainment as would tend to defeat the object in view.

933. A circular was, on the 9th September, 1864, addressed by the Colonial Secretary to the Magistrates, directing them to visit and report half-yearly upon every estate in their respective districts; and a number of points were therein mentioned upon which information was required; and, on the 29th of the same month, Regulations were issued under Ordinance No. 16 of 1862, the 9th Article of which declared:—

"The Protector of Immigrants, or a deputy appointed by him, in terms of Article 17 of the said Ordinance" (*i.e.* No. 16 of 1862) "shall visit and inspect every sugar estate in the island at least once in each year, for the purposes mentioned in the said Ordinance, and the Protector shall present to the Governor as soon as may be a full report on all such visits."

934. The 11th Regulation provided, as far as lawful, for the discharge of the functions of the Protector, during his absences, by his chief clerk; and it was decided that the Protector should, as he had himself proposed, visit about thirty estates a-month, so as to go through the whole island in the course of the year.

935. Mr. Beyts commenced his tour of inspections on the 1st September 1864; and on the following day submitted to His Excellency that he found it impracticable to undertake so many visits at a time as it would be necessary for him to go through every month, unless provision were made for his replacement in Port Louis during his absence, as the duties imposed by law upon the Protector in the Immigration Office were incompatible with the complete carrying out of such inspections on estates; and having

pointed out sixteen of those which he considered the most important duties cast upon him, amongst which he enumerated

"keeping charge of one of the keys of the money-chest, in accordance with the rules relative to the custody of public money;" and "superintending the management of the whole department,"

he suggested that his chief clerk should be empowered to act for him when absent, a suggestion which the Procureur-General held could only be carried out by the passing of an Ordinance.

936. Sir Henry Barkly, however, deemed it prudent to

Sir H. Barkly to "pause before asking for these additional powers from the Legislature, Mr. Cardwell, "as the establishment of this new system of inspection has created No. 263 of 1864. "some perturbation among the planters, and was unfavourably commented on by the press;"

and His Excellency considered that it would

"require a little time, and the exhibition of a conciliatory spirit by the Protector and the Magistrates before that feeling subsides."

We here find a continuance of the same sensitiveness already noticed (*vide* Chapter IV., *Early Immigration*, paragraph 158), which was evinced by certain of the planters in the district of Flacq in the year 1839, which led them—

though "anxious to show how scrupulously exact they were in fulfilling their engagements with their Indian labourers, and the kindness and humanity with which they are treated, and how happy is their state in Mauritius"—

to protest against the inspection or enquiry then ordered by Government.

937. The Secretary of State expressed his approval of the arrangements proposed by Sir H. Barkly, and intimated his readiness to advise the confirmation of any Ordinance requisite for the appointment of a deputy to act for Mr. Beyts during his temporary absences.

938. On the 20th January 1865, a Draft Ordinance was presented by the Governor, Minutes of Com- "to enable the chief clerk in the Immigration Department to act in cil, No. 1 of 1865, "the absence of the Protector of Immigrants,"

Minutes of Com- which was read a second time, and passed as Ordinance 5 of 1865, on the cil, No. 4 of 1865. 14th February following.

939. It was probably in deference to the perturbation above alluded to, that, on the 29th September, a Circular was issued to the Magistrates, informing them that,

"from certain representations which have been made within the last few days to the Governor, there is reason to believe that the Stipendiary Magistrates have, in some instances, gone beyond both the spirit and letter of the instructions conveyed in the Circular XX. of the 9th instant, requiring them to take advantage of their occasional visits to the different estates in the districts for obtaining certain statistics connected with each property, and including the information thus gained in half-yearly reports on the welfare and condition of the Indian immigrant population. . . .

"But in your endeavours to obtain the most accurate data on these points, I have to impress upon you the necessity of using both discretion and tact, and of avoiding all semblance of any official demand.

"His Excellency also apprehends that a like caution is necessary, in the course to be taken by the Magistrates, for ascertaining the social condition of the Indian immigrant labourers on sugar estates; and it is the wish of His Excellency that each Magistrate be instructed that this portion of his duty should be performed with calmness and moderation; and further, that it is to be borne in mind that, while it is the duty of the Magistrate to pay every attention to any complaint made to him while on his inspection, whether proceeding from the employer or the labourer, yet it forms no part of his mission to provoke complaints through unnecessary interference on his part.

940. What the "representations" were, which led to the issuing of this Circular, or how the "perturbation" (of which Mr. Naz had never heard) manifested itself, we have not been able to discover. The records of the Colonial Secretary's Office are a blank on this point. Rumour, however, asserted, that one of the Magistrates when visiting an estate had rung the bell, in order to muster the men for the purpose of questioning them with reference to their condition on the estate, which circumstance, on being reported to the Governor, caused the issue of the Circular.

Cautious policy of Sir Henry Barkly.

Approval of the proposed arrangements by the Secretary of State.

Passing of Ordinance No. 5 of 1865.

Circular warning the Magistrates to be cautious.

Report of a Magistrate ringing a bell.

941. It is difficult to conceive a position more false than that in which the Magistrates were thereby placed. They were directed by the Governor to visit estates, and they were bound under the Order in Council of 7th September 1838, chapter 5, section 2, to obey such order; but there was no provision in the law giving them authority to do so; and consequently, their visits could only be made so long as they were tolerated by the planter, who might if he chose, order the Magistrate off the premises as a trespasser; while the circular above quoted amounts in our opinion to little more than a warning to them against looking too closely, and has had the result, practically, of endorsing the view of the Procureur-General, so strongly denounced by the Chairman of the Board of Emigration, that, unless immigrants complained of wrong themselves, it was not incumbent upon any one else to do so for them.

942. The Magistrates' visits of inspection have consequently been reduced to a mere form, and those officers, well aware of the false position in which they were standing, have restricted their enquiries within the most discreet limits, such as were well described by Mr. Daly, the first Magistrate who in recent times appears to have made an inspection worthy of the name, and who prefaced his report with the following statement:—

"I have been far from attaining all the results desired from these enquiries. It appeared to be a general opinion that a minute inspection was a matter so little within my province and course of duty, that I often felt compelled to refrain from pressing my demand for information. I am far from thinking that there existed or exists any desire to withhold information from me, but the motive for my curiosity appeared so likely to be misunderstood, and my rights to the knowledge sought for, and my very *locus standi* being well known to be non-existent, I was unwilling to allow any false impression or unpleasant feeling to arise by examining things too searchingly.

"This difficulty is one which I am sure occurs only because the Stipendiary Magistrates generally have not been, I believe, in the habit of making any but the most limited investigation of matters in their visitations, confining themselves for the most part to casting a glance over the pay-book and hospital register, and having a look at the camps, and this, not because the Magistrates were indifferent, but the anomaly of the duty imposed on them rendered a closer inspection extremely delicate and almost impracticable.

"The expectation appeared to be, whenever I visited, that the Magistrate could not possibly have occasion to do more than look at the pay-book and hospital register, and that there terminated his duty. As I was fully conscious that the legal authorisation of the Magistrate in his character of inspector was wanting, and as all had to proceed from sufferance and the courtesy of my informants, I had to resign myself to many disappointments which will account for this report not being complete."

943. However incomplete this report may have appeared to Mr. Daly, there can be no doubt that it was the most thorough and valuable report that ever had been made upon the condition of the labourers on the sugar estates in Mauritius; and the accuracy of his observations, and justness of his opinions expressed in it, have been fully borne out by our own inquiry, not only in Savanne, but in every part of the island.

944. But we are now considering the character of the inspections made at a somewhat earlier period, and which we shall find to have been very different.

945. These appear to have consisted in nothing more than the Magistrate's proceeding to the estate, and looking at the hospital and the camp; and, if he found anything wrong, of going through the farce of despatching an inspector of police to "constater" the defect, as Mr. Renouf did in 1869, when he found the hospital at "Villevallio" and at "Agrément" very dirty, and the visits irregularly paid by the medical attendant; and at "Mon Espoir," where he found no medicines; in all of which cases, however, the police officer found the defect had been, of course, removed before his arrival, and the contravenant escaped all punishment for his negligence, which might have been prevailing for the six previous months, and be repeated the next day.

946. The Magistrate was also provided with a form, which had to be filled up, and was afterwards sent to the Protector, and then, having been tabulated by him, was sent half-yearly to the Secretary of State.

947. It will be seen, on referring to the form in question, that it contains statistical information upon various points; that to fill it up properly will occupy a considerable time, and hence we find that the Magistrates generally left it with the planter or manager to be so filled up. The result, of course, was that these returns were utterly

False position of the Magistrates.

Superficial character of the Magistrates' inspections.

Views of Mr. Daly.

From experience, Mr. Daly's Report confirmed by the Commissioners.

Character of early inspections.

Powerlessness of Magistrates to redress abuses.

The Printed Form of the Magistrates' Report.

Mr. Daly's Report.

unreliable, as the planter was enabled thus to furnish only so much information as might be convenient.

948. The difficulty of procuring accurate statistics respecting Coolies employed in agriculture, owing to the irregularity or negligence of the planters in making returns, if not to their

Sir W. Gomm to Earl Grey, No. 49 of 1847. "disinclination to contribute, for arriving at precision in the formation of estimates, resting better satisfied with vague generalities, transmitted through other channels for submission,"

was, however, a grievance of very old date. We find it a subject of repeated remark or complaint from three successive Governors, Sir William Gomm, Sir James Higginson, and Sir William Stevenson; and, notwithstanding the readiness which, as a general rule, was professed towards assisting the Inspecting Magistrates, by furnishing information to them, we yet find cases in which such information was withheld, or refused pointblank, when asked for.

949. Thus, in Pamplemousses, Mr. Renouf, in three of his reports in 1871 and 1872, excuses himself for the incompleteness of the information he transmits, which he attributes to the apathy, negligence, or unwillingness of the planters, in filling up and returning to him the forms left with them at the time of his visit.

950. In Rivière du Rempart, Mr. Lablache, who, we have been informed, was the Magistrate who caused the bell to be rung, in his first report made some very sensible remarks, showing the uselessness of these so-called inspections. He said:—

"Although there are no complaints made by the Indians against their masters for non-payment of wages, there is ground enough, as in some instances four and five months' wages are due, and as the Stipendiary Magistrate has no power whatever to interfere, except when a complaint is made, this, I will take the liberty to observe to His Excellency, is a point in which the law is mute, and is, nevertheless, a very serious one, as, for instance, if an Indian dies before the pay arrives, where do his wages go? Do his relations, if any, receive anything accruing to them? I doubt it. His master, who not only reaped the benefit of his toil and labour, but again the wages which might be due to him. I consider that in such cases the masters should be bound to acquaint the Curator of Vacant Estates when there is no known heir of the deceased. If the pay-book were produced, the magistrate might be able to form an idea of the amount due to each Indian, but I am sorry to say that in some instances I met with formal refusal on the part of some of the planters to produce the same."

951. One other report of this nature was made by Mr. Lablache on the 28th of March 1867; but all the rest of his reports consist merely of a formal covering letter transmitting the returns to the Colonial Secretary.

952. From Flacq and Grand Port we find no reports beyond the formal covering letters transmitting the forms filled up as above described, with the exception of Mr. Messiter's, twice drawing attention to the irregularity with which the medical attendant had paid his visits, and to an explanatory letter from Dr. Finnimore upon the subject.

953. From Mr. De Boucherville, in Savanne, there are no reports beyond the form between January 1865 and July 1868. In this last year Sir Gabriel Fropier succeeded him as magistrate, and had

"no remarks to add, except that more estates are in arrear for the last six months as regards the payment of wages than during the previous half-year; but no complaint having been made to me, I thought it inadvisable to do more than caution the employers against the danger of not complying with the regular payment of wages, inasmuch as it may deprive them of the right of deducting double the time of absences."

954. In three of his reports Sir Gabriel Fropier, like Mr. Renouf, apologises for the lateness in the transmission of them, or for their incompleteness, which, as he says in Report of the 7th February 1870, is

"always owing to the same cause, viz., the difficulty of obtaining as soon as required the informations to be furnished by the planters.

"The magistrate may visit the camps, hospitals, and books of each estate, but he cannot ascertain for himself the other desiderata for the report—number of acres under cultivation; of men, women, and children of each category; the average

Character of early inspections. Negligence of Planters as to supplying information.

Reports from the Magistrate of Pamplemousses.

Reports from the Magistrate.

Rivière du Rempart.

(s. i. o.)

Flacq and Grand Port.

Savanne.



Character of early inspections. Negligence of Planters as to supplying information.

Plaines Wilhems.

"number of daily absent and sick; the number of men necessary to work the estate, &c., and must depend on the planter to answer such queries; but some of them, through apathy, indifference, or negligence, never send their informations, but after having been requested several times, and used to give as an excuse that, having not taken a copy of the queries contained in the circular letters addressed to all of them, they are unable to answer."

955. From Mr. Martindale, in Plaines Wilhems, we find no reports but the forms, with the exception of the first, in February 1865, and that on the 13th March 1868, which last was one which had been specially called for by the Colonial Secretary, in two circulars, requesting information; one respecting "the means in use" (not recognised by law) "by employers for punishing their servants;"

and the other respecting the manner in which the hospitals were kept up, and the medical service performed; and, in the Report of the 13th March 1868, we find several instances of the same irregularities in the way of cutting wages for unfinished tasks, as we ourselves have noted in the course of our enquiry five years after.

956. From Mr. Gautier, of Moka, we find only one Report, all others being merely formal.

Black River.

957. From Black River the Reports throughout have been fuller, from both Mr. Rennards and Mr. d'Emmerez de Charmoy. The former opens his first Report as to his mode of inspection, which was, to obtain from the planters the information required by his instructions—

"more through the medium of general conversation with them, than by having recourse to any direct or pointed questions."

958. If from the Reports of these visits by the Magistrates we turn to the evidence given by them before us, we shall not find anything to induce us to alter our opinion as to the futility of the former system of inspection.

959. Mr. Renouf told us that, by giving up one day in the week for the purpose, his visits of inspection extend over a period of from 2½ to 3 months in each half-year; that each visit occupies half-an-hour or three-quarters of an hour, or sometimes even an hour. He only visits the camps and hospitals, and generally finds very few men in the camps, as the majority are working in the fields. He derives information from the hospital-book and an overseer, and trusts to the proprietors for the filling-up of the tabular statements, which, however, he does not verify.

960. Mr. Farquharson, the District and Stipendiary Magistrate of Rivière du Rempart, told us that his visits gave him but little trouble, as they did not occupy more than five or six days in the half-year—half-an-hour or an hour being the average time spent on each estate. He does not often see many men, as he visits in the daytime, when they are generally in the fields, and his inspection consists in a walk through the compound, the hospital, and sometimes the sugar-house. Should the proprietor or his manager not be on the estate at the time of the visit, he leaves his form to be filled up. He never looks at the pay-book, though he used to do so formerly, when the forms contained a great many questions, and he was instructed to examine the manner in which the pay-book was kept. Subsequently, however, the form was altered, and there was no mention as to the manner in which the book might have been kept, so he thought it more prudent not to go beyond his instructions, having always been of the opinion

"that there was no law permitting these questions to be made."

961. Mr. Messiter, in Grand Port, visits the sugar-house and the other places about the yard, and thinks that the men have ample opportunity of knowing that he is on the estate, and of complaining to him, should they desire to do so. He does not visit the fields, and does not think that would be allowed.

962. Mr. d'Emmerez de Charmoy is of opinion that these visits are not of much use, being only made on sufferance, and the Magistrate "having no legal position;" and he has never considered it his duty to be policeman and judge at the same time. He thinks further, that his authority does not extend so far as to allow him to take any action, whatever irregularity he might find, but only to instruct a third party, the Inspector of Police, to do so; and herein he was more successful than Mr. Renouf appears to have been, for he did recollect one case in which a small fine had been inflicted for contravening the Hospital Ordinance.

963. We fully concur with Mr. d'Emmerez de Charmoy in the opinion that such visits are of little use; and it is only fair to point out the fact that the attention of the

Evidence of the Magistrates examined before the Royal Commission.

Mr. Renouf.

Character of the Magistrates' inspections.

Mr. Farquharson.

Mr. Messiter.

Mr. d'Emmerez de Charmoy.

Government has been more than once called to the false position of the Magistrates, as we find Mr. Gautier, in his Report of the 25th July 1866, pointing out the want of authority of the Magistrates in the matter of arrears of wages; and that, although the observations he had considered it his duty to make on certain estates had been followed by immediate payment of the men,

"it is to be regretted that the law does not invest the Magistrates with any authority for interposing themselves when the Indians do not claim. The consequence is, that the Magistrate has sometimes to bear with unpleasant observations, as was the case on Mr. Arnot's estate;"

and in the following year, again, in his observations upon the draft of Ordinance 31 of 1867 Mr. Renouf suggested the propriety of introducing into the Ordinance an Article relating to the visits:—

"As the Magistrates during these visits may meet with some opposition on the part of the planters, I would request that these visits be made by them under the protection of the law, and that it should be obligatory on the part of the planters to receive the same."

964. No notice, however, was taken of the suggestion, and recently the same Magistrate, when about to visit the "Mont Choisy" estate, and uncertain of the reception he might meet with at the hands of Mr. Poulin, applied to Mr. Beyts for a special authority under the 17th Article of Ordinance No. 16 of 1862, to visit the estate as the deputy of the Protector, the only official in whom the law vests any authority to visit estates, and the character of whose visits, therefore, we will now consider.

965. We have seen (paragraph 933) that by the Regulations of the 29th September 1864, the Protector was required to visit every estate at least once in each year—a regulation which, it is perfectly plain, could not be complied with by any single individual, if he had any other duties to perform, except by making the most superficial inspections.

966. For the first year or two after 1864, however, Mr. Beyts tells us that he visited every estate in the colony. We do not find that he made any special report upon the several estates which he visited before the end of 1871, and indeed he could not have done so, as he kept no record at all of his visits, nor any notes. He, however, soon found that, notwithstanding the relief given to him by Ordinance No. 5 of 1865, the annual visit to every estate interfered too much with those other duties which he was from time to time called upon to perform. In consequence, since 1867, though not entirely giving up visiting estates, he has

"not gone through a complete annual tour;" and the Regulations of 1864, under which the Protector was required to visit estates, having by the Regulations of the 8th September 1869, under Ordinance No. 31 of 1867, been repealed *in toto*, Mr. Beyts' recollection as to the number of estates he has visited since then is by no means clear. He tells us that, in 1870, he visited more than in the following year, in which he visited only twenty, the organisation of the Census and the Presidency of the Poor Law Board absorbing nearly all his time.

967. In the course of 1871, Mr. Beyts' attention was drawn to the subject by Sir Arthur Gordon, then newly arrived as Governor. Sir Arthur Gordon pointed out to him that it was necessary to obtain further information with reference to estates, and also the inability of the Magistrates to obtain all the information that was required, as well as the incompatibility of the union in one person of the functions of a Magistrate with those of an Inspector.

968. We think it would be but a wasting of time to discuss whether or not inspections were called for at all, though the cross-examination of witnesses by the learned counsel who represented the Chamber of Agriculture was evidently with the object of establishing that the law, as it stood at the time of the arrival of His Excellency in the colony, was amply sufficient, and that the idea of the necessity of a more efficient system of estates' inspection had originated from, and been suggested to Mr. Beyts by, the Governor; an hypothesis which we certainly believe to be correct, as we find that he drew the attention of the Earl of Kimberley to the absence of any real system of inspection, and of many other safeguards which in the West Indies have been thought necessary in order to prevent serious abuses; and we must add that, in our opinion, the complete oversight and neglect of many of the provisions which were intended by the law to be for the protection of the labourer, which have been brought to light by recent investigations, have abundantly justified the

False position of the Magistrates pointed out by Mr. Gautier in 1866 and Mr. Renouf in 1867.

Visits of the Protector.

In 1865 and 1866 the Protector visited every estate in the colony, but made no report and took no notes. Protector's visits gradually discontinued.

Protector's visits revived by Sir Arthur Gordon.

Necessity of inspectors considered.

remarks made upon this subject by Sir Arthur Gordon, and prove that efficient and periodical inspection is fully as much required in Mauritius as in the West Indies.

969. Acting upon such impressions, the Governor required the Protector to resume periodical visits to estates, and, in the course of the first three months of 1872, he visited forty estates; his reports upon which visits will be found in the Appendix.

970. The enquiries made during these visits, Mr. Beyts tells us, were more minute than any he had made previously; although even in these he did not wholly carry out the instructions which he had received, and he left particular points, into which he had not sufficient time to enquire, for subsequent visits.

971. We can readily believe that the points so deferred must have been numerous, when we find that, on the 1st of February, he visited five estates, among which were "Antoinette," "Espérance," and "Schœnfeld;" all of which were visited by us, and any one of which might have well occupied an entire day; and that, on the following day (the 2nd of February), after visiting "Labourdonnais," an estate, the inspection of which occupied both of us together nearly five hours, he visited six other estates also. He further informed us that his enquiries into the arrears of wages were chiefly directed to ascertaining the amount due, but that he had never undertaken a thorough auditing of any books, nor had looked into the details except when complaints were made to him.

972. He, too, like the Magistrates, derived some portion of his information from written questions left behind to have the answers supplied afterwards by the planters, such as returns of sums paid, which, as they involved numerous calculations, would have taken him too much time to have gone into himself.

973. We, therefore, think that the inspections of the Protector were not, and indeed, under the circumstances, could not be, more efficient or real than those of the Stipendiary Magistrates.

974. It now only remains for us to show how the present system of inspection by officers regularly appointed by Government was instituted, and is now carried out.

Appendix D 25. Dr. Icery, in his pamphlet, tell us that, about July 1871, "the Governor asked the Immigration Committee of Council to approve the appointment of two Inspectors of Immigrants, to be charged with the inspection of sugar estates."

"As there would be no objection to give the Protector of Immigrants the necessary assistance to enable him to make the regular inspections of sugar estates which the law requires to be made, the Immigration Committee adopted a Report, on the 14th of August 1871, in which it recommended the nomination of two Inspectors, but upon the express condition that they should be placed under the direct orders of the Protector of Immigrants."

975. Sir Arthur Gordon's account of the course pursued is as follows:—

"I requested the Protector of Immigrants to bring the subject under the consideration of the Immigration Committee of the Council of Government, and I addressed to him a long private letter, which I authorised him to show the members of that Committee."

"In this letter I pointed out that many of the checks by which the immigration system is surrounded in the West Indies, and many of the precautions against abuse which are there in force, were wanting in Mauritius, and that, without attempting harshly to introduce too considerable changes, it appeared to me highly desirable that provision should be made for a more regular and frequent payment of wages, as also that re-engagements should not be permitted until after the close of a previous engagement, whilst a more efficient system of inspection seemed, in my opinion, not only highly desirable but absolutely indispensable, as, without it, it was impossible to know with any accuracy what the condition of immigrants on estates really was. I added that the recommendation of such inspection, emanating from themselves, could not but reflect credit on the planters who compose the majority of the Immigration Committee, and would go far to allay any suspicions which might exist in some quarters, and to neutralise the operations of those who were unfriendly to the continuance of Indian immigration."

976. This subject was accordingly brought by the Protector of Immigrants before the Immigration Committee, and the observations which he then submitted will be found in the Appendix, with the Report of the Committee upon them; in which we look in vain for any express recommendation that should be by Dr.

Icery, the nearest approach to one being in the fourth paragraph of the Report, which is as follows:—

"In order that a proper and judicious discharge of their duties may be ensured, we think it desirable that the two new inspecting officers be placed under the direction and control of the Protector of Immigrants. If they were allowed to take any action independently of his instructions, it is obvious that a divided responsibility would follow, the consequences of which might prove mischievous."

977. No further action was taken until after the return of the Governor from a visit to the Seychelles Islands, when, on the 7th November, a draft of an Ordinance was laid before the Council, and read the first time.

978. We are informed, however, by Dr. Icery, in his pamphlet, that "a first draft of Ordinance, in conformity with the conclusions of the Report of the Immigration Committee of Council, had been framed. It was replaced by a second draft Ordinance, the clauses of which were not in agreement, upon important points, with the conclusions of that Report."

"The Chamber of Agriculture having named a Committee to examine this draft of Ordinance, adopted, on the 24th of November, a Report presented by the Committee, in which Report it was asked that the draft Ordinance should be modified and made more in accordance with the conclusions of the Immigration Committee. This request was not without result; for when the draft Ordinance was discussed by the Legislative Council it received important modifications in the sense, in a large measure, of the observations of the Chamber, the Governor having agreed that the Inspectors should be attached to the Immigration Department, instead of being in direct dependence on the Governor himself, which would have been the practical result if the draft of Ordinance had been passed without amendment."

979. This passage excited our surprise, because we had failed to discover any material difference between the draft and the Ordinance, as passed; the only alteration being one which appears to us more verbal than real, in the 7th Article, which in the draft ran as follows:—

"It shall be the duty of the Inspectors of Immigrants to make such reports to the Protector of Immigrants as the Governor may from time to time direct, and such Inspectors shall at all times comply with all lawful orders of the Protector of Immigrants;"

while, in the Ordinance, it is,—

"The Inspectors of Immigrants shall be under the control and direction of the Protector of Immigrants, and shall at all times comply with all his lawful orders, and it shall be their duty to make reports to the Protector of Immigrants at such times and touching such matters as the Governor may direct."

980. We, therefore, were at a loss to understand why Dr. Icery should have laid so much stress upon so very immaterial a point; and it was not until some time after Sir Arthur Gordon had left the colony that we accidentally became possessed of a copy of the draft, as originally drawn up by the Procureur-General, and which we can readily believe was more in accordance with the wishes of the Committee, although no expression of such wish appears in their Report; for the 3rd Article provides that—

"It shall be the duty of the Protector of Immigrants to visit officially, or direct an Inspector of Immigrants to visit officially, at least once every three months, every plantation or estate throughout the colony upon which there may be any immigrant under contract of service, on some day to be by the said Protector of Immigrants fixed, and of which he shall give notice to the manager of the said plantation or estate, by letter duly posted at least seven days before such official visit actually takes place; and if from any cause the Protector of Immigrants or Inspector of Immigrants shall be unable to visit the plantation or estate on the day so fixed, he shall notify the same to the manager and appoint some other precise day as the day of such visit, giving the manager at least twenty-four hours' previous notice thereof."

981. If such was the kind of inspection which the Committee was prepared to sanction, it was certainly not one of the kind contemplated by Sir Arthur Gordon; and we are not surprised that, on seeing the draft before it was circulated among the members of Council, he should at once have stopped the issue of it, and that he should have directed, and we believe personally superintended, the preparation of another and a more sensible draft.

Since writing the above, we have received a letter from Sir Arthur Gordon, dated the 10th of December, 1873, in the 11th to the 17th paragraphs of which

Report of the Immigration Committee upon the appointment of Inspectors.

Draft Ordinance submitted.

Obscure statement of Dr. Icery.

Unimportant character of the alterations made in the Draft.

Discovery of the Original Draft.

Visits of the Protector in 1872.

Appendix Q, 159 to 169.

Appendix.

Question 1018.

Questions 990-993.

Questions 1000 to 1002.

Questions 1047 to 1049.

Questions 1479 to 1480.

Inefficient and unreal nature of former inspections.

Present system.

Origin of Ordinance 31 of 1871.

Dr. Icery's account.

Mr. Gordon's account.

Sir Arthur Gordon to the Earl of Kimberley, No. 219 of 1871.

Mr. Gordon's account.

Mr. Gordon's account.

Mr. Gordon's account.

Report of the Immigration Committee upon the appointment of Inspectors.

Appendix K 44 and 45.

2 D



Present system. Origin of Ordinance of 1871. Discovery of the Original Draft.

he gives an account of what took place with respect to the preparation and introduction into Council of the Ordinance in question. Sir Arthur Gordon states (paragraph 13)—

13. "It is usual to submit drafts of Ordinances which are to be brought into Council by the Procureur-General to the Governor before they are printed, but sometimes when of only slight importance, or, as I presume in this case, with a view to expedition, they are printed before being sent to me."

14. "On receiving the draft of the Inspector's Ordinance, I perceived in it two serious mistakes:

"1st. The nomination of the Inspectors was conferred on the Governor, and not (as in all cases of officers having a salary of £200 a-year it ought to be) on the Queen;

"and

"2nd. In preparing the Article on inspection, the whole of a clause from the Demerara Ordinance of 1864 had been copied, including its provision for previous notice of the visits of Inspectors, which, though very useful as regards the half-yearly visits there contemplated, would have completely defeated the objects of the Ordinance here."

15. "When making these necessary alterations on the draft presented to me, some others were introduced. I think in the original draft the Inspectors were only to act when called on to do so by the Protector, and at other times were to work in his office. I objected to this provision, which I thought would prevent any regular and systematic inspection. The inspectors would have become clerks in the Immigration Office, and only have been sent out on some occasions of special complaint to the Protector, or when the Protector was specially ordered by me to send them—a course which would have brought the Governor's name and authority more into use than would be the case with inspections proceeding in a regular routine."

16. "As to the Inspectors being under the control of the Protector, the Committee and I were at all times perfectly in accord."

982. With regard to the first draft: who suggested it, who drew it, or who divulged the fact of its existence, we have wholly failed to discover.

Mr. Greene, who is at present acting Crown Solicitor, and who was at the time chief clerk in the office of the Procureur-General, and in whose handwriting the draft is, Vol. II, question 1086. professed before us that he knew nothing about it, and that he would not have recollected having copied it, had he not been shown his own handwriting; and, owing to his absence from the colony, we were not able to examine Mr. Colin, the Procureur-General, as to who had instigated such a proposition.

983. Mr. Naz suggested that the existence of the first draft might have been divulged by the printers; but, he added, that, though he had heard a good deal about it, he had never mentioned the subject to Mr. Beyts; and, with reference to the Draft Ordinance laid before council, we have his authority that "very strong things were said about this draft,"

and that

"strange rumours were afloat at the time,"

the nature of which we may guess from the distrust and suspicions entertained by the public, as to the results which would follow the passing of the Ordinance, and which Mr. Naz described as an apprehension that

"the Governor, considering that the Protector of Immigrants could not be expected to be sufficiently pliant to secure the Governor's direct interference in all that concerned the immigration department and the inspection of estates, His Excellency wished to appoint inspectors of immigrants who would take orders direct from him, and who would more obediently carry out his interference in all matters concerning immigrants. The Commissioners will understand that I wish to be as reserved as possible on that point; but they will at the same time gather that, as the Protector was responsible to the Council of which he was a member, it was thought important that officers should not be appointed to his department who would not be entirely responsible to him. And the fact, which had been very much talked of already, seeming apparent from the draft, that the inspectors of immigrants were to be under the direct influence of the Governor" (an inference which we are wholly unable to draw from the wording of the draft), "that they were to obey him and make direct visits to estates, created, rightly or wrongly, considerable excitement and roused the public feeling."

Evidence of Mr. Greene upon the authorship of the Original Draft.

Evidence of Mr. Naz upon the distrust felt by the public as to the objects of Government.

Vol. II, Question 1270.

984. We find this account of the feeling of the public corroborated on referring to the newspaper articles published at the time; as, though the 'Commercial Gazette,' on the 13th October 1871, wrote of the proposed Ordinance as being

"welcomed by our planters and approved by the public at large;" on the 16th of November, in reviewing Sir A. Gordon's reply to Mr. Naz's questions, as to the course His Excellency intended to adopt with reference to the pamphlet of Mr. de Plevitz, it observed that

"His Excellency's testimony in our favour is of a certain value, but this is diminished by the fact that he conceives it indispensable to establish by Ordinance a system of espionage on sugar estates, and on all establishments where Indian labour is employed."

"For years and years the Home and Indian Governments have been quite content with the periodical visits to estates of the Protector of Immigrants and the Stipendiary Magistrates, and no wonder they have been content, for they could not but be certain that Mauritius treated Indian immigrants fairly and even generously. The tens of thousands among them who have returned to the presidencies after working either under contract or on their own account, have loudly testified in our favour, and Mauritius enjoyed, before Sir Arthur Gordon came among us, the full confidence of the Home and Indian Governments."

"Now we are told that our planters must be spied upon, and the Legislature is invited to place the spies, who are to be appointed under the direction and control of the Governor, in direct opposition to the recommendation of its Immigration Committee, to the effect that if spies there are to be they should be placed under the direction and control of the Protector of Immigrants. And let it be remarked that His Excellency can think of no better means to reassure the Home and Indian Governments as to the condition and treatment of Indian immigrants here, no better answer to the falsehoods and calumnies of de Plevitz, than to forward to those governments copies of the Ordinance which will authorise the spy system in question."

985. We cannot but suspect, when we find the principal newspaper of the colony, that, moreover, which has the reputation of being the exponent of the views of the planters, writing in this strain, that, however heartily Mr. Naz and Dr. Leery may accept the system of inspections, such a feeling was not so general as the latter would have us believe; but, on the contrary, that it was then, and always had been in times past, regarded with impatience; an impatience, too, which had been sufficiently influential to reduce the visits of the Magistrates to a nullity.

If anything more were wanting to confirm us in our suspicions, we should find it in the report of the discussion in the Chamber of Agriculture upon the draft of this Ordinance, when Mr. Macpherson, the proprietor of "Cluny," and one who probably had as little to apprehend from the proposed inspections as any man in the colony, as we found on our visit to "Cluny," stated in plain terms—

"Je ne vois donc pas l'utilité de ces inspecteurs, qui ne peuvent qu'occasionner des ennuis aux habitants. On connaît la nature de l'Indien. Il suffira qu'un de ces inspecteurs lui demande s'il est bien traité pour qu'il se plaigne immédiatement de son employeur. On lui donnera de la sorte des idées qui ne lui seraient jamais venues autrement."

an opinion which was cordially endorsed in the following terms by Mr. Hart, the Treasurer of the Chamber, to whom we regret we cannot pay the same compliment as to Mr. Macpherson.

"Je maintiens que nous avons le droit de dire que ces inspections ne sont pas nécessaires. Depuis bientôt trente ans que nous avons l'immigration, tous nos Gouverneurs ont reconnu que les Indiens sont bien traités à Maurice. Dès lors, qu'y a-t-il d'extraordinaire à ce que nous disions que ces inspections sont sans utilité?"

And, in the early part of 1872, objections were raised to the Protector's having inspected an estate in the absence of both master and manager, and comments were made upon his having questioned subordinates in the absence of their superiors, and the matter was taken up by the Chamber of Agriculture. Mr. Beyts had an interview with Dr. Leery, to whom he gave such an explanation of the facts as satisfied the Chamber.

986. That the Home Government "rested quite content" with the previous inspections must have been because they had believed them to be something very different from what they really were, as we learn from a letter of Sir

Present system. Origin of Ordinance No. 31 of 1871. The 'Commercial Gazette' upon the proposed Ordinance.

The planters' impatience of inspections.

Observations made in the Chamber of Agriculture on the draft.

Mr. Macpherson's sentiments.

Mr. Hart agrees with him.

Surprise of Sir C. Macdonald on learning that the Protector had ceased to visit estates.

Inter alia. No. 130 of 21st September 1871.

Present system.  
Ordinance No. 31 of 1871.  
Letter of Sir C. Murdoch on hearing that the Protector had ceased to visit estates.

C. Murdoch to the Colonial Office, commenting upon certain despatches received from Sir Arthur Gordon, in which the former wrote :—

"It is, therefore, with much surprise we received the statement that practically he" (the Protector of Immigrants) "had ceased to visit estates, a proceeding which, unless a satisfactory explanation of it can be given, appears to merit very serious notice."

"The defect in the law which authorised only, but did not require, periodical inspection by the Protector, was supposed to have been cured by the instructions issued by Sir H. Barkly."

"The visits of the Stipendiary Magistrates, acting as delegates from the Protector, were also supposed to be real and effective."

"It appears from the Governor's despatch that they were in many cases a mere delusion, and as such, worse than nothing, by inspiring the Government with false security."

"There can be no doubt as to the necessity of providing for an effective inspection of estates in future, not only by the Protector, but by either the Stipendiary Magistrates or officers specially appointed by the service. Whether, after what has occurred, the inspection can be confidently entrusted to the present Protector, is a question which I submit for the consideration of the Earl of Kimberley."

987. It now only remains for us to show the chief provisions of the Ordinance, which eventually passed on the 22nd of December, 1871.

Appointment of two inspectors.

988. The first two Articles enact that it shall be lawful for your Majesty to appoint two fit persons to be Inspectors of Immigrants, at salaries of £500 per annum, with a further sum, not exceeding £200 per annum, for such travelling expenses as shall be actually incurred by such officers.

Powers and duties of inspectors.

989. By the third Article, the inspector is empowered to enter upon and inspect any establishment of any kind in which Indian immigrants are received; and, also, to enter upon any estate or premises, except private dwelling-houses, in which any immigrant is employed or located, and to investigate the condition and state of any immigrants who may be therein respectively, and may require any such immigrants in any such places respectively to be brought before him upon any such visit.

"Every such inspector shall be vested with all the powers and liable to perform all the duties assigned to the inspecting medical officers by Ordinance 29 of 1865."

E. M. up at the D.

Visits to be made by inspectors.

990. Article 5 empowers the Governor to assign districts to such inspectors, and provides that every such inspector shall visit at least once in every three months every estate, or other establishment of any kind, in which Indian immigrants are received, upon which there may be any indentured immigrant, except private dwelling-houses; and that he shall also do so at any other time if so directed by the Protector of Immigrants.

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Inspectors may call for estates' books.

991. Article 6 empowers the Protector, or an Inspector of Immigrants, when making such visits, to call for and inspect any, or every book, or other written record regarding the attendances, absences, wages, hospitals, and treatment of, or matter concerning immigrants employed on such estate.

Inspectors under orders of Protector.

992. Article 7, as we have said, provides that the Inspectors of Immigrants shall be under the direction of the Protector of Immigrants.

Abolition of Inspecting Medical Officer.

993. Article 8 abolishes, on vacancy, the office of Inspecting Medical Officer created by Ordinance No. 29 of 1865.

Half-yearly Returns to be furnished by estates.

994. Article 9 requires that every employer of immigrants exceeding 20 in number, shall, within the month of January and the month of July in each year, transmit to the Protector a return of all immigrants, whether under written contract or not, in his employ during the whole or any part of the preceding six months, together with the date and number of births and of deaths, of the names of all immigrants who may have ceased to be employed on the estate during the preceding six months, and also of the number of absences and desertions that have taken place on such estate during each month of the preceding six months, together with the names and numbers of such deserters,

"and the Protector of Immigrants shall keep all such returns, and shall at the end of each year make an abstract of the numbers, increase and decrease of such immigrants employed as aforesaid, births, deaths, absences, and desertions."

Penalties.

995. Article 10 imposes a penalty, not exceeding £10, upon every employer failing to make such returns; and Article 11 imposes a penalty not exceeding £20 upon every person obstructing officers in the discharge of their duties under this Ordinance.

Appointment of inspectors.

996. In pursuance of this Ordinance, Sir Arthur Gordon, in the course of the year 1872 appointed, first, Mr. Jenner, and, subsequently, Captain Blunt, to fill the office of

Inspectors of Immigrants; assigning to the first the districts of Grand Port, Savanne, and Plaines Wilhems,—containing in all 81 estates; and, to the latter, the districts of Pamplemousses, Rivière du Rempart, and Flacq,—containing 92 estates. The districts of Moka and Black River, containing 36 estates were assigned to the charge of the Assistant Protector of Immigrants, an officer appointed by a subsequent Ordinance for the special object of assisting the Protector during our stay in the island: while the establishments in Port Louis, and the labourers employed thereon, were left, as usual, altogether unnoticed.

997. The Reports of the Inspector's visits will be found appended hereunto: the only districts which as yet have been completely inspected being Grand Port, Plaines Wilhems, and Pamplemousses.

998. It will therefrom be seen that Mr. Jenner, the first to enter upon his duties, between the 22nd May 1872, the date of his first Report upon Grand Port, and the 17th May 1873, the date of his last Report upon Plaines Wilhems, visited once 58 out of the 81 estates, all of which the Ordinance requires that he should have visited 4 times.

999. It must be borne in mind, however, that, in addition to his visits of inspection, he has repeatedly been called upon by us, during that period, to make special investigations for our information upon cases which are, perhaps, not likely to recur; and moreover that, as these inspections are, perhaps with the exception of Mr. Daly's, the first that have ever been made that deserve to be called by the name of inspections, they have, necessarily, been more minute, and have occupied more time than will probably be requisite in future.

1000. Still, the visiting of 81 estates 4 times a year,\* together with writing Reports upon the condition of them, appears to us to be more than can be efficiently performed by one man.

1001. And, however conscientiously the inspectors may discharge the duties imposed upon them, it is perfectly plain that, so long as their powers, and those of the Protector, are limited to writing reports for the information of the Governor, and so long as the latter has no power to order action to be taken upon the strength of such reports, any system of inspection must be vain; as, though it may reveal the existence of abuses and irregularities, it invests no one with the power of redressing them, and the law still remains in the same condition as when, in 1866, Mr. Renouf having reported certain camps as being in a bad condition, Mr. Beyts requested to be informed what steps had been taken by him to have them placed on a more satisfactory footing, and Mr. Renouf answered that he did

"not know of any Article in the stipendiary laws which authorised the Magistrate

"to take the first steps in any matter, subject to complaint on the part of either the

"master or servant,"

and that he did not feel himself justified personally to take any steps in the matter, but "left it to the men," after his visits,

"free to complain as they thought proper."

1002. We therefore are of opinion that the system still requires further reform, and the alterations which we recommend should be made in this respect will be found hereafter.

1003. But it will be proper here to state the opinions expressed by some of the leading witnesses examined by us upon the limits within which it would be safe to extend the powers both of the Governor and of the Protector of Immigrants and the inspectors.

1004. Sir Arthur Gordon explained to us the effect in the colony of Trinidad of the power possessed by the Governor and the Immigration Agent (that is, the Protector), under certain circumstances, to refuse to allot immigrants, and, in extreme cases, to withdraw them from the estates.

1005. The former power His Excellency had frequently had occasion to exercise, and it was generally found efficacious in obviating any necessity for having recourse to the latter, which he informed us was very rarely called for.

1006. He does not look upon such refusal to allot labourers as a punishment for the misconduct of the planter; as, if there has been any infraction of the law, it falls upon the Magistrate to decide upon that, but rather as a measure for the protection of the immigrant that he should not be exposed, even with his own consent, to such and such things as may be wrong. Thus, for example, if the inspector were to report that the dwellings on an estate were in such a state of dilapidation that they were unfit for habitation, the proprietor would be informed by the Agent General,

\* The Inspector of Pamplemousses, Rivière du Rempart, and Flacq, has 92 estates to visit.

Ordinance No. 31 of 1871.

Number of inspections required by law not made.

Impracticability of requirement.

Uselessness of inspections the absence of any power redressable.

Further reform necessary.

Opinions of witnesses upon reform necessary.

Evidence of His Excellency the Governor.

Protection of immigrant sought; no punishment of planters.



Present  
system.Evidence of  
Mr. Beyts.

that until he had made them fit, no further immigrants would be allotted to him, the result of which was, in his experience, that the inspector on his next visit usually found the buildings in a very satisfactory condition.

1007. Mr. Beyts' views upon the question are by no means clear from his evidence, and in order to explain his hesitation and contradictions, we are disposed to agree with Mr. Currie that he had "fallen between two stools," and that,

"while at once desiring to maintain the opinions he had formerly expressed," he was

"anxious not to go against the wishes of the present Governor;" to which, however, we should add, that, having been convinced by His Excellency that certain reforms pointed out by him were desirable, he was anxious, if possible, not to express in public his conviction of the desirableness of reforms which he might apprehend would be highly unpopular with the planting interest; for we are by no means so convinced, as is Mr. Naz, that Mr. Beyts' troubles did not arise quite as much from fear of offending the planters as from fear of displeasing Sir Arthur Gordon.

Evidence of  
Mr. Rouillard  
upon the  
extension of  
the right of  
appeal.

1008. Mr. Rouillard would allow a greater latitude for appeals, and would allow the Protector the right of intervening for the Indians, to be exercised in his own discretion without reference to the Procureur-General, and would invest him with the power of instituting proceedings in behalf of immigrants in the stipendiary courts in more serious cases of breach of contract, of gross ill-treatment, and of refusal to pay wages, though he would not accord it to him in small cases; but he is opposed to giving either the Governor or the Protector power to refuse to forward requisitions or to remove labourers from estates, and rests his objection on the ground, that, when the law is properly applied, and the right of appeal availed of, there is no fear of any excess of power, and that as the Indian has every facility to obtain redress judicially, he does not see the necessity of investing the Protector with any judicial authority.

Evidence of  
Messrs. Naz,  
Pitot, and  
Mercer.

1009. Mr. Naz, Mr. Pitot, and Mr. Mercer all agree in this opinion to a certain extent, Mr. Naz defining the cases in which the Protector should have the right of initiating proceedings, to be those in which there

"would be a collective interest for the labourers, or a grievance for which it is not easy for each individual labourer to claim justice."

"For instance, if the hospital were not a proper one, if the stock of medicines were insufficient, if the medical man did not make the lawful number of visits, if the camp were unhealthy or the lodgings insufficient."

1010. With regard to the Protector's initiating proceedings in behalf of individuals, he would make the distinction drawn in Section 14 of the Immigration Ordinance of Jamaica of the 16th July, 1869, which authorises the Agent-General, in case of complaint made by any immigrant labourer under indenture

"for non-payment of wages or breach of the Immigration Laws, or for injury or damage sustained, to file an action on behalf of such immigrant in the court of the District Judge. And without complaint, . . . when he is of opinion that any employer of an immigrant, or any one acting for such employer, persistently commits a breach of the Immigration Laws."

The power to  
the Governor  
of removing  
labourers un-  
der indenture  
is generally de-  
nounced.Mr. de  
Chazal's  
opinion.

1011. The idea of investing either Governor or Protector with the power of removing immigrants from estates, or of refusal to forward requisitions for immigrants, is strongly denounced by every witness we had before us connected with the planting interest—by Mr. Pitot, Mr. Naz, and Mr. Currie; while Mr. De Chazal thinks such a measure would not only be absurd, but odious as it would place employers

"under the orders, and at the mercy, of a modern Gessler," and he could not think that anything of the kind would be allowed in the present day and under the British flag; and Mr. Mercer, the manager of the Ceylon Company, goes so far as to maintain that

"such a power, if conceded, would be enough to make the most honest man shudder;"

and that, though he has been a colonist upwards of thirty years, and has lived under, at least a dozen Governors,

"some good, some bad, and some indifferent,"

he has

"never yet seen one who could with safety be entrusted with such a power as this."

and, further, to say that if the Legislative Council passed such a law, it would lead to general insecurity of property, and ruin the credit of the colony. That for himself, as a prudent Scotchman acting on behalf of his company, he would call in his securities, and advance no more money, and be only too glad to let his offices to any other capitalists who might be inclined to step in to fill the vacancy, and that he would contemplate with greater equanimity the possibility of the stoppage of immigration by the Government of India, which would only ruin the colony; whereas the measure under consideration would also cause ruin,

"possibly with insult added."

1012. With regard to the Protector: he would

only give him the right of appealing on behalf of the Indians in matters which concern them if they felt aggrieved by the judgment of a Magistrate;

but he would not grant him any initiatory powers without first obtaining the sanction of the Procureur-General, though he thinks the Government should carefully guard against any judicial power being given to the Protector, who should appear as the advocate of the labourer, not as the judge of the employer.

1013. We are wholly unable to perceive, and not a single witness has explained to us, why a measure, which, in the West Indies, has been found to work well and produce the best results, should, if enacted in Mauritius, be attended with the calamitous results predicted by Mr. Mercer: and we can hardly imagine it possible that any man who might be selected by your Majesty to fill the high position of a Colonial Governor at the present day, would be so destitute of every qualification for such an office, as to indulge in the caprices anticipated by Mr. Mercer, or the tyrannical eccentricities of the Austrian Governor of the Middle Ages, as contemplated by Mr. de Chazal.

1014. As to making the intervention of the Protector in a case dependent upon the consent of the Procureur-General, we think such a condition would go far towards preventing the Protector ever intervening at all, until too late to be of any practical use, as the application of the Protector to the Procureur-General would have to pass through the Colonial Secretary, and the Procureur-General, with his multiplicity of other business, could not be expected to return as prompt an answer as the circumstances of such a case render desirable, and in the mean time, the wrong-doing might be continuing unchecked.

1015. We can adduce no better proof of the want of such a summary power being vested in the Governor than by stating that, on one occasion, when a planter persisted in neglecting Dr. Desjardins' instructions regarding his hospital, Sir Henry Barkly, very judiciously, but quite illegally, ordered the Magistrate to pass no more contracts between him and any labourers, the effect of which was almost immediate; as four days after, Dr. Desjardins received notice that his instructions had been obeyed.

1016. A striking instance too of the protracted delays which, from the absence of such summary powers in the Governor, may be interposed by an unwilling or obstinate proprietor, in avoidance of carrying out such requirements of the law as may be inconvenient or distasteful to him, is seen in the dispute between Dr. Desjardins and Mr. Brue, the proprietor of "Providence" in Flacq; when, in consequence of the destruction of the hospital on that estate, by the great hurricane in March 1868, the latter proposed, after various delays, to fit up as a provisional hospital a building which Dr. Desjardins, we think with good reason, refused to pass, on account of its distance from the camp. Whereupon Mr. Brue exercised the right, so tenaciously insisted on as essential to the protection of employers, of appealing in this case, under Ordinance 29 of 1865, to the General Board of Health, the effect of which was that, for two whole years, the estate continued without any hospital, beyond an empty building, which was repeatedly reported as

"closed and abandoned,"

a state of things which certainly would not have arisen had the prospect of the removal of his labourers been a possibility present to the mind of Mr. Brue.

1017. In conclusion: from our experience of the manner in which the Magistrates have discharged their duty, their having a regard to what they may conceive to be the interests of the colony, apart from the legal rights of the suitors before them, we can see no reason for placing any more especial confidence in their judgment and discretion than in that of the Governor.

1018. Mr. Rouillard is quite right, no doubt, when he says that "when the law is properly applied . . . there is no fear of an excess of power;" and, if the Magistrates had had the courage properly to exercise the power of cancelling

Present  
system.  
Opinions of  
witnesses  
upon reforms  
necessary."Mr. Mercer's  
opinion upon  
the extension  
of the powers  
of the Pro-  
tector.Validity of  
the objections  
considered.Power to re-  
move immi-  
grants.Illegal but  
judicious  
exercise of  
power by Sir  
H. Barkly.Case of the  
hospital at  
"Providence."

Conclusion.

engagements, which they possess under the Order in Council, but which we find they so often shrink from exercising, it is very probable that the question of investing the Governor with such power would never have arisen. And, further, Mr. Rouillard must remember that when the law is not properly applied, Magistrates, as well as Governors, may be guilty of arbitrary exercise of power, and we very much doubt whether even such a Governor as is dreaded by Mr. de Chazal could more flagrantly overstep the limits of his authority than have, as we shall show hereafter, some Magistrates in Mauritius.

#### CHAPTER XIV.—The Immigration Office.

1019. Having thus considered the Protector of Immigrants, and his functions as Inspector of Estates, and the duties of the Inspectors recently appointed, we will now proceed to consider the Department generally of which the Protector is the head.

1020. The Immigration Office may be regarded in a threefold aspect:

1st. As an agency for procuring labourers from India, and for despatching them back to that country on the termination of their industrial residence, and, at other times, when it may be expedient to send them, or they may lawfully return thither.

2nd. As one for enabling the Indian population in Mauritius to make remittances to India.

3rd. As a registry of the Indian immigrant population in the Colony.

1021. I.—Previously to the passing of Ordinance No. 30 of 1858, the number of immigrants to be introduced was decided by the Government, who based their decision, Mr. Beyts believes, on what would probably be the requirements of the Colony: but, since the passing of that Ordinance, which allows of contracts being entered into in India, the system has been, for planters in want of labourers, to forward requisitions to India through the Immigration Office; no limit being imposed by Government upon the number of labourers which any planter might desire to procure, provided he had complied with the provisions of the law which we shall now describe.

1022. Any person wishing specially to engage labourers in India, or to obtain an allotment of immigrants who may have been otherwise introduced, must forward to the Protector of Immigrants a requisition stating the number of male immigrants required, and containing an engagement to give each immigrant the wages and allowances therein specified, which shall not, however, be less than 8s. sterling per calendar month, or than the Government scale; as well as to provide for them proper lodging and medical care.

1023. Every such requisition must be accompanied by a bond signed by the requisitioner, and two sureties, of whose sufficiency the Protector of Immigrants must be satisfied, whereby the requisitioner undertakes to accept the number of immigrants applied for, or any less number that may be introduced; and containing a joint and several undertaking by himself and the sureties to pay all expenses incident to their introduction, and to that of the females by regulation required to accompany them; including in such expenses the cost of their maintenance at the Depot of Port Louis, at the rate of 6d. per diem for each immigrant, from the date of his landing until that of his leaving the Depot to enter on the service of the requisitioner; and, further, binding themselves to pay to the Protector all such expenses of introduction upon delivery of the immigrants previous to their leaving the Depot; and, further, in default of the requisitioner claiming the immigrants within 7 clear days after they shall have been received at the Depot of Port Louis, to pay at the rate of 1s. per diem for each immigrant as the cost of his maintenance during the interval between his arrival at the Depot and his entering a service; and, in case of default, and of any of the immigrants electing to be free from their engagement, to pay to the Protector the whole expenses of the introduction of the immigrants so electing, and of the females accompanying them.

1024. The Protector is further empowered, in the event of the requisitioner not claiming his immigrants within the time above specified, and, after their arrival has been duly notified, to allot such immigrants to any other person who may be willing to engage them; such allotment being made, if

necessary, upon payment of a less sum than the costs of introduction chargeable against the requisitioner; the amount so received being applied in reduction of the amount due to Government by the requisitioner in respect of the actual costs of the introduction of the immigrants so claimed.

1025. Any requisition may be cancelled by the requisitionists subscribing in the Immigration Office a withdrawal thereof. This, however, is only allowed to take effect in India one month after it shall have reached the Immigration Agent there. Requisitions otherwise remaining in force for 12 months.

1026. Every requisition must be made in triplicate. One copy is retained by the Protector of Immigrants. Another signed, or initialed by him, and bearing the date of its registration, is retained by him to the requisitioner; and the third is forwarded by him to the Immigration Agent for Mauritius at the port of India whence the immigrants are required.

1027. Such are the laws and regulations respecting requisitions, and the next function of the Immigration Office is, upon the arrival of the immigrants, to take charge of their landing and their distribution among the requisitionists.

1028. As soon as the arrival of a ship with Coolies on board is notified to the Immigration Department the Immigration Inspecting Officer is sent on board with clean clothes in charge of a peon, or peons, for distribution among the newly-arrived immigrants, prior to which the immigrants are all brought upon deck to be washed. The women have a portion of the deck screened off for their use, but are inspected by the Health Officer and the Inspecting Officer of the Department.

1029. The clothing taken from the newly-arrived Coolies is then counted and made up into two bundles, one of *serviceable*, the other of *unserviceable*, the latter of which is forthwith put overboard and sunk, while the former is sent to the quarantine station at Canaanier Point to be washed, and, after being so, is returned and distributed as clean clothing at the next arrival of New immigrants.

1030. By the Order in Council of 1842 the duty of inspecting ships on their arrival is imposed upon the Protector personally, and it is upon his personal inspection that the license for the disembarkation and landing of the immigrants is granted. But Mr. Beyts informed us that, in 1866, with the sanction of the Governor, he gave up personally inspecting, and Mr. Anderson, at present Acting Chief Clerk in the Department, was appointed Inspecting Officer on £300 per annum, in which capacity he ranked next to the Chief Clerk. It would appear, however, that, long before that date, the Protector had given up personally inspecting the immigrants on board ships, as we find in a letter addressed by Mr. Beyts to the Colonial Secretary not many days after his taking over the charge of the office, allusion is made to the third clerk being styled

"Inspecting Officer, because he inspects the newly-arrived immigrants before they land."

From which we infer that such was the common practice in Mr. Hugon's time. 1031. Since Mr. Anderson's nomination to act as Chief Clerk the office of Inspecting Officer has been abolished, and the duties formerly discharged by him have devolved upon a subordinate clerk on £50 per annum.

1032. Should the Inspecting Officer report anything out of order the Protector would go on board; but, otherwise, upon the Inspector's report, the Protector issues a certificate to the effect that the Immigration Inspecting Officer had proceeded on board and did personally inspect the immigrants, and that the Regulations of your Majesty's Order in Council of 15th January 1842, as well as those established by local laws in India and Mauritius regarding emigration, appeared to him (the Protector) to have been duly complied with during the voyage.

1033. These formalities having been completed the ship comes into the inner harbour, the lighters come alongside, and the immigrants are disembarked at the gate of the yard of the Depot; and, at the same time, the captain sends on shore a sealed bag containing the following papers:—

Marriage Certificates (Form 2).  
Nominal list (triplicate) (Form 3).  
Special Contracts (Form 4).

1034. These formalities having been completed the ship comes into the inner harbour, the lighters come alongside, and the immigrants are disembarked at the gate of the yard of the Depot; and, at the same time, the captain sends on shore a sealed bag containing the following papers:—

Marriage Certificates (Form 2).  
Nominal list (triplicate) (Form 3).  
Special Contracts (Form 4).

\* All the Forms in use at the Immigration Office will be found in this Appendix.



Cost of Introduction (Form 5).  
 Tickets for men, women, and children (Form 6).  
 Charter party (Form 7).  
 Ineffective list\* (Form 8).  
 Names of Planters to whom Immigrants are sent (Form 9).  
 Receipts for Remittances (Form 10).  
 Bond signed by Captain (Form 11).  
 Final Survey Report (Form 13).  
 Certificate of Clearance (Form 12).

1034. The Captain further delivers over all the medical records to the Port Doctor for transmission to the Chief Medical Officer.

1035. The immigrants being landed, they are next seated in the Dépôt Yard; and the Protector and one of his clerks, as soon as the immigrants have been counted and mustered, questions them in order to ascertain whether they have any complaints to make, and, if they have, the complaints are at once inquired into by the Protector.

1036. The Distribution Clerk now makes up the bands from the special contracts, subject to such re-arrangement as the Protector may find desirable in order to meet the wishes of relations who have engaged in India for different estates, or of those who, perhaps, have formed friendships on board ship and desire to go to the same estate; the bills are prepared, and the cost of introduction is made out.

1037. A list also is taken of the number of immigrants who have been emigrants before, either to Mauritius or any other colony. This is done in Form 50.

1038. As soon as the immigrants have arrived, a list is published in the newspapers, in conformity with the 20th Regulation under Ordinance 31 of 1867, announcing their arrival, and fixing a day for their distribution; and the amount of costs of introduction to be paid by each requisitionist (which is made out by striking an average of all the expenses borne on Form 5) is posted up at the head of the stairs leading to the office.

1039. The Captain of the ship sends on shore provisions to maintain the immigrants for the forty-eight hours next after their landing, as required by the 9th Article of the Schedule of the Order in Council; and for the next five days after the expiration of that time, should the immigrants remain so long undistributed, the planter pays at the rate of 6d. per man; and for every twenty-four hours subsequently 1s. per man.

1040. Should a newly-arrived immigrant fall sick whilst in the Dépôt before distribution, he is sent to the Civil Hospital, with an admission ticket (Form 46) from the Dépôt Medical Officer; and on his coming out he is sent to his master under escort, with a note in Form 47; the expense of his maintenance in the Civil Hospital being charged to the employer.

1041. Upon the day fixed for the distribution, which is generally two or three days after their arrival, the planter or his agent comes, and having paid for the introduction of the number of men he asked for, obtains a receipt (Form 13a), and then goes down to the Distribution Clerk, by whom the men are handed over to him.

1042. The women receive their tickets (Form 14) at once, and go away with the bands with which they arrived.

1043. The planter takes away with him the Certificate of engagement of his new men (Form 15), and after a few days he receives, either by sending to the Immigration Office, or through the Office of the Stipendiary Magistrate of his district, the tickets (New immigrants) of his men (Form 15a).

1044. Immigrants coming from Réunion or from India as passengers, go through the same formalities as do those arriving from India under engagement, with the exception that they are registered at the Police Office. Their contracts are left with the Police Magistrate, and a different ticket (Form 16) is issued to them. Further, they do not come under the Immigration Labour Law, and do not require to have Police Passes; although, should they happen to lose their Certificates, they may undergo much inconvenience from the Police, from the difficulty in distinguishing between them and immigrants.

1045. When an Indian applies for a return passage, he must first be identified at the

\* The ineffective list shows sick and infirm Indians, sent down either because they got several women to make up the percentage; or, because their healthy relations would not engage unless they were allowed to accompany them.

Immigration Office, in order to ascertain if he is entitled to it; that is, whether he has completed his industrial residence and is free from engagement.

1046. The right of a free return passage having been abolished in 1852, those only who emigrated to Mauritius previously are now entitled to claim it. If, however, an applicant be so entitled, his name is entered on Form 51, and, if not, on Form 52.

1047. The average cost of a passage to India being £3 15s., the immigrant then deposits £4, and any difference which there may be due to him is refunded when the ship is about to sail. He at the same time delivers up his Old immigrant's ticket, and receives a passport (Form 54), on to which his photograph ticket is transferred, and for which he pays a fee of 2s.; and in virtue whereof he is permitted to absent himself from the Dépôt for the time thereon mentioned.

1048. Females and children obtain a pass for embarkation in Forms 53 and 53a.

1049. Under certain special circumstances, immigrants thus registered for embarkation at their own expense are rationed by Government during this interval, and a discretionary power has always been left to the Protector to issue rations. This he does in cases where he has reason to believe that an immigrant, even though he has paid for his passage, is not able to provide for his maintenance in the Dépôt until the sailing of the ship; also in cases where a long period unavoidably elapses before the vessel is ready to receive her passengers; and to all who have been kept waiting more than two months from the date of depositing their passage-money. A proposal was made, in August 1872, by Mr. Beyts, to do away with all distinction in this respect between immigrants who pay for their passages, and those to whom free passages are granted; but neither Mr. Newton, the Colonial Secretary, nor Sir Arthur Gordon, could see the necessity for such a change, except for a day or two immediately preceding embarkation, as there are many immigrants perfectly well able to maintain themselves, and who often work up to the day of their embarkation.

1050. The average cost of passages for the past twelve months\* has been as follows:—

|             | £. | s. | d. |
|-------------|----|----|----|
| To Calcutta | 3  | 4  | 6  |
| „ Madras    | 2  | 10 | 0  |
| „ Bombay    | 3  | 18 | 0  |

If the immigrant is returning invalided, at the expense of Government, he is maintained and rationed in the Dépôt until the ship is ready to sail, and is further supplied with the following articles:—

|                  |                                 |
|------------------|---------------------------------|
| 5 Rupees.        | 1 Tin can,                      |
| 1 Calico jacket, | 8 Yards of calico for langooti. |
| 1 Cap,           |                                 |

And every female invalid receives the same, with the addition of 4 yards of calico.

1051. When the tender of a ship to convey immigrants back to India is accepted, she is surveyed by two Special Inspectors,—the Harbour-Master and another Surveyor,—at the expense of the owners; the measurements required being, for healthy Indians, 12 square feet; for invalid, 16 square feet.

1052. The Protector, or rather the Inspecting Clerk, then goes on board, and receives from the Master his "Declaration of Provisions embarked" (Form 55); after which he inspects the same, and also the fittings; and then signs the Certificate at the bottom of the form.

1053. When the vessel is ready for sea, the immigrants are assembled in the Dépôt-yard, their names are called over, and they and their luggage are placed in the lighters at the yard gate, and are towed on board.

1054. They are checked on coming over the side, and their passports and papers are taken from them by the Inspecting Clerk, who accompanies them on board.

1055. The following papers are made up and sent to the Protector of Immigrants at the port of debarkation:—

- Letter from Colonial Secretary, authorising payment of the Captain for the passage.
- List of Return Immigrants (Form 58).
- Contract of Conveyance (Form 59).
- Return of Sums received for Transmission (Form 43).
- Classification of Passengers embarked (Form 60).

\* I.e. from August 1872 to 1873.

Medical Inspection Certificates (*Form 57*).Final Survey Report (*Form 61*).

1056. As soon as the immigrants are settled down in their allotted places, and everything has been stowed away, the Government Medical Officer comes on board and inspects the Coolies, and the medicines, and makes his report thereon in *Form 57b*, certifying that, having examined the passengers and crew of the ship, none of them appear unfit to proceed, and that the hospital accommodation on board is, in his opinion, suitable and sufficient; after which the vessel clears out and proceeds upon her voyage.

1057. II.—It will be unnecessary here to say more upon the subject of remittances made by Indians through the Immigration Office, of which notice will be found in another Chapter ("Social Condition"), than to describe the form by which such remittances are effected.

1058. When any Indian wishes to remit money to India, to be paid either to himself or to some other person, he applies to the Chief Clerk, who gives him a note (*Form 42*) to the Cashier, stating the name and number of the bearer, and the sum he wishes to remit, which is entered by the Cashier on *Form 43*, in sums of 200 rupees; a system which has prevailed since 1868, and was adopted, we believe, at the request of the Emigration Agents.

1059. Thus, if a man wished to send 650 rupees, it would be entered—

Rupees 200  
" 200

Rupees 200  
" 50

And he would receive four receipts for the sums in *Form 44*, which is signed by the Cashier, and countersigned by the Chief Clerk.

1060. III.—We have now to consider the Immigration Office in its third aspect, namely, as a Registry of the Indian immigrant population; one, obviously, of the very highest importance to the social order of the Colony, and, if the Registers be kept in such a manner, as we believe they are in some colonies, enabling the Protector at any time to account for every immigrant, thereby greatly tending to check the absence of those under indenture; and, further, in the event of an Indian losing his ticket, or rather the document necessary to prove his status, enabling the Protector to identify him with little difficulty or trouble.

1061. We shall show, however, that in Mauritius the Immigration Office is very far from fulfilling these requirements; and how, from its failure in so doing, the task of identifying an immigrant who has lost his ticket is, in many cases, one of extreme difficulty, and only effected by a roundabout and cumbrous process, instead of by a simple reference to a register.

1062. A registry of New immigrants by the Protector had been ordained by the 2nd Article of Ordinance No. 22 of 1847; and a copy of it was to be delivered to the Collector of Internal Revenues, "to serve as a tax-roll" for the collection of the taxes mentioned in that Ordinance.

1063. By Ordinance 16 of 1852, a registration in the Immigration Office was ordered of all New immigrants exempted from industrial residence; and by Article 25 of the same Ordinance Stipendiary Magistrates were required to return to the Protector monthly the names of such New immigrants as, under the 24th Article, had been required to complete their contract of service after the expiration of their original term, by working out their days of unlawful absence, in order that such cases might be registered by the Protector; and the ticket of Old immigrants, if applied for, withheld until after the completion of the different periods registered against them; and by Ordinance 21 of 1854, Article 7, a similar record was required to be kept in respect to the New immigrants having to make good double the time of their illegal absences.

1064. Mr. Beyts, in his Second Annual Report, dated 15th January 1861, suggested (paragraph 50), that it was desirable, in the event of the Census being taken that year, to establish, with the view of checking desertion,

"a local registration in each district of all immigrants, New and Old, and to record their removals from one district to another, by requiring them to notify such removals to the local authorities."

But, before he could submit any mature plan for the purpose, he had left for India on his special mission, and the task devolved upon his "locum tenens," Captain Ogilvy.

1065. This officer drew attention to the fact, that, after the completion of the first term of (at that time) the three years' contract, all trace of an immigrant was lost; and that the scheme he was unfolding would extend the supervision of the Protector over the immigrant from the

first engagement only to the whole term of his sojourn in the Colony, and thus render the so-called Protector a *protector* indeed, and not merely an immigration agent. And thus

"he would, at any time, have, in fact, before him an epitome of the whole history of such a man."

1066. Among the further advantages to be derived from such a system, he enumerated:—

1st. The facilities it would afford for procuring reliable information as to the condition of immigrants; statistical proofs of the position of the Indian population being then (as they still are)

"difficult to procure, and such as are procurable are unsatisfactorily meagre."

2ndly. The almost total suppression of the use of false tickets amongst Indians.

3rdly. The detection of deserters applying for tickets at the Immigration Office; of whom it would be known at once, by a simple reference to the Immigration Register, whether or not the applicant were applying for a ticket under his real name, and whether he were under a contract of service; and thus the whole cumbrous system of declaration of absences, publication in the 'Government Gazette,' &c., would be abolished.

4th. The great reduction the system would effect in the number of habitual deserters (grands marrons); a reduction estimated by Captain Ogilvy at two-thirds; as such persons, when the procuring of false papers at the Immigration Office was rendered impossible, would only escape by

"keeping always out of reach of the police."

1067. After describing in considerable detail the machinery by which he proposed to carry out his scheme, he recommended that, in order to insure the proper working of the measure,

"it would be advisable to appoint a Mounted Police Corps especially to the duty of arresting vagrants" and ascertaining the regularity of the papers of Indian residents in each district. . . .

"Their duty should be confined entirely to the suppression of vagabondage, and to ascertaining that every Indian inhabiting the district had his papers in rule. They should not be liable for any of the other ordinary police duties, and they should be specially rendered incapable of laying information in cases of contraventions of stamp laws or other ordinances, from the establishing of which any pecuniary benefit would accrue to them, so as to avoid the possibility of their being induced to occupy themselves otherwise than with their special duties."

1068. The whole system appears to us to have much resembled that now in force in Trinidad, as explained to us by the Governor; and that any objections to it on the ground of its being of an arbitrary nature (an idea combated by Captain Ogilvy) would apply equally to the law of Trinidad, cited by his Excellency.

1069. In this scheme the idea of taking any heed at all of the Old immigrants was, so far as we are aware, advanced for the first time. Till then, whatever register had been kept related only to New immigrants, and the only object for registering these had been apparently that of insuring the completion of their industrial residence. The chief reason, too, for the Old immigrants being required to be in possession of tickets was to enable him to avoid arrest as a New immigrant, or a vagabond, by proving that he was an Old immigrant; though how or where such a man lived, it was, previous to 1867, never thought worthy of inquiry.

1070. By Ordinance 16 of 1862, Article 14, the Stipendiary Magistrate of the district, as well as the Protector, was empowered to issue tickets to Old immigrants, with the view of obviating the necessity which existed previously for every immigrant at the termination of his industrial residence leaving his district and presenting himself at the Immigration Office, which was regarded as an unnecessary burden on the immigrant, and one, moreover, which was said to throw him in the way of climps and vagabonds, who misled him.

1071. The 15th Article of the same Ordinance allowed the Protector to issue New immigrants' tickets to those whom he believed to be Indian emigrants, and who could not show that they had completed their industrial residence, and who, upon receiving

\* A duty which horsemen cannot possibly perform.



such tickets were to be dealt with as New immigrants, and be subject to alienation, according to the dates of their several tickets; but without

“prejudice to their being entitled to relief from any burden consequent thereon, upon showing that they had previously completed the whole or part of their industrial residence.”

1072. The object of this was to check vagabondage; as, under the previous law, no one who had lost his “papers” was entitled to get a duplicate, unless he could prove his identity with that of an immigrant registered in the books of the Protector; in consequence of which many immigrants, unable, after a number of years, to furnish such proof, remained without papers, and, consequently, without employment, and liable at any moment to be arrested and punished as vagrants.

1073. The form of ticket as in Schedule G of this Ordinance (No. 16 of 1862) had undergone considerable changes since the first institution of the Old immigrants’ tickets in Ordinance 22 of 1847, which will be seen by the following comparison, showing the several alterations:—

*Old Immigrants’ Tickets as required by*

| 1847 to 1862. | Ordinance 22 of 1847 and Ordinance 35 of 1840. | Ordinance 16 of 1852.                 | Ordinance 16 of 1862. |
|---------------|------------------------------------------------|---------------------------------------|-----------------------|
|               | Name                                           | .....                                 | .....                 |
|               | Number                                         | .....                                 | .....                 |
|               |                                                | Name of Father                        | .....                 |
|               | Age                                            | .....                                 | Name of Mother.       |
|               | Stature                                        | .....                                 | Stature.              |
|               | Marks                                          | .....                                 | .....                 |
|               |                                                | Caste.                                | .....                 |
|               |                                                | Native country.                       | .....                 |
|               |                                                | Number of vessel by which introduced. | .....                 |

1074. Hence it is evident that, since 1862, the Old immigrants’ ticket has borne upon it a complete description of the bearer; and that any person, by collusion with the possessor of one, and learning by heart the description, could, by presenting himself at the Immigration Office, impersonate the rightful holder and obtain a ticket under his name, should he have any motive rendering it expedient for him to obtain a ticket under another name than his own. (*Vide infra*, para. 1116.)

1075. While the law of 1862 was in force, Mr. Beyts, on the 20th July, 1864, wrote to the Colonial Secretary suggesting that a portrait should be added to the ticket “as a means of checking the false personations, desertions, and other offences, of which immigrants often render themselves guilty by procuring and using tickets which are not their own.”

1076. The additional expense, he proposed, should be charged to the immigrant; and he requested authority to try the experiment, having found a photographer (Mr. Lecorgne) willing to undertake the duty at the price of 4s. for every two copies. This authority was granted by a Government Order, No. 3176, on the 22nd July, 1864; the only doubt expressed being to whether it could be carried out with sufficient rapidity in the case of the arrival of a ship with perhaps several hundreds of immigrants on board.

1077. The idea of thus employing photography had originated with Mr. Chasteauneuf, who had supplied the place of Mr. Beyts at the Immigration Office, during the absence of the latter on leave; and had been suggested to Mr. Chasteauneuf.

1st. In consequence of his having received numerous complaints from Old immigrants that they were attacked on the high road, and their tickets taken away from them, and sold to vagrants or New immigrants, who were forthwith free from arrest; and that, in consequence, they were constantly obliged to replace their tickets by applying for duplicates at the Immigration Office at great expense.

2nd. Because he had been informed by Officers of the Savings’ Bank that depositors’ money had been several times improperly paid to persons who had stolen the tickets and Savings’ Bank book of their comrades.

3rdly. Because he had heard that false personations had taken place before Magistrates in the passing of contracts of service; and

4thly. It appeared to him that a photograph affixed to the ticket would render such ticket useless to the vagrants who might be tempted to steal it, and would

supply the Savings’ Bank Officer or Magistrate with a ready means of at once recognising the identity of any person presenting himself before them.

He did not, however, go beyond the mere suggestion, leaving the details and the carrying out of the scheme in the hands of Mr. Beyts.

1078. On the 26th September, 1864, Mr. Beyts again wrote to the Colonial Secretary, Vol. II. Question stating that the experiment had succeeded; that the immigrants had not 585. objected to pay the 4s. required of them for the portrait, and recommending without hesitation that steps should be taken

“for generalising the system;”

suggesting that the best course would be

“to require the Stipendiary Magistrate to send to the Dépôt all immigrants who do not re-engage themselves on the expiration of their contracts, in order that

“other tickets may be given to them in lieu of those they have now.”

He further requested authority to call for tenders from photographers. All these proposals were approved and sanctioned by Government Order No. 4278, of 30th September, 1864.

1079. On the 13th October, 1864, Mr. Beyts again wrote that the only tender made was one by Mr. Lecorgne, the photographer with whom the experiment had been tried, and he recommended that the arrangement should be accepted

“on a verbal agreement, subject to be cancelled at any time, should his work not be satisfactorily done; or should it be found necessary to adopt, with regard to the preparation of tickets, other measures not necessitating his assistance.”

1080. Some other photographers subsequently applied, but not until after the terms of Mr. Lecorgne had been accepted which were the following, viz.:

To provide during five years two photographs of each immigrant, the one to be affixed to the ticket, and the other to be preserved in the Immigration Office; and, further, to provide the small tin-box which immigrants are wont to carry slung round their neck, and containing their papers, for which he was to receive \$1 per photograph.

1081. Under this arrangement Mr. Lecorgne entered upon his duties, which he continued to discharge for five years, and during that time he is known to have received payment for 116,333 photographs, amounting to the enormous sum of £23,311 12s. Out of this, however, he told us that his profit was only about £5000; about one thousand pounds more may be accounted for by his having, about two years after he had begun to take the photographs, admitted a partner to the extent of one-third of his interest; and we are therefore asked to believe that the difference, £17,311, was expended upon the production of the photographs alone; for Mr. Beyts swears that neither directly nor indirectly did he receive any emolument or profit from the transaction. With this clear and explicit denial we are at a loss to account for the expenditure of so large a sum.

1082. With the view, therefore, of ascertaining whether this enormous sum could have been expended in producing the number of photographs we examined Mr. Harrison, of the Royal Engineers’ Department, who had previously prepared an estimate for the information of the Governor, as had also Major Brooke, Royal Engineers, both of which will be found appended.

1083. From these it will be seen that the calculation of Major Brooke is somewhat higher than that of Mr. Harrison; the former estimating the cost of the production of 115,000 photographs in five years at £5156 14s. 11d., or 10½d. per man, while the latter reckons it at £4145 19s. 10d., or 8½d. per man.

1084. It must be remembered, however, that these estimates are made upon the gross number taken, and upon the assumption that

“men would be supplied in such numbers as the photographer required, not that he should photograph hundreds one day, and none for the next few days;” or, in other words, that the numbers should be equally distributed over the five years.

1085. Further, to both Estimates must be added the cost of producing another thousand, as the actual numbers were 116,000, and not 115,000, as estimated; and this would make an addition to Major Brooke’s calculation of £41 15s. 10d., and of £36 9s. 2d. to Mr. Harrison’s; thus making the total expense of production, at the highest estimate, £5201 10s. 9d.; to which adding £6000 declared profits, leaves a balance of £12,110 1s. 3d. to be accounted for. Further, too, we must allow whatever may be due to the plea advanced by Mr. Lecorgne, that, between 1864 and 1860, the price of photographs in the Colony generally was higher than at the present day, and that he never charged less to his private customers than \$5.

Effect of previous law.

Successive changes made upon the form of the Old immigrants’ tickets.

Too much information on the ticket.

Origin of the photograph ticket.

Expenses to be paid by immigrant.

Reason given by Mr. Chasteauneuf which had suggested the idea of the photograph ticket.

Hardships entailed through tickets being stolen.

Impersonation at the Savings Bank.

Impersonation in contract.

The system already recommended by Mr. Beyts.

Mr. Beyts’ suggestions approved by the Government.

Contract entered into with Mr. Lecorgne for 5 years.

Lucrative results to Mr. Lecorgne.

Estimates of Major Brooke, R.E., and of Mr. Harrison.

Profits of Mr. Lecorgne.

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1086. But, even after making all these allowances, the account given by Mr. Lecorgue himself is unsatisfactory in the extreme. He paid Mr. Conier and Mr. Guerec, two clerks in the Immigration Office, reasonable sums, with the sanction of the Protector, for work done for him in the preparation of tickets out of office hours. He kept eight or ten men in the office upstairs to make out the tickets, and thirty men below for the purpose of taking the photographs, and who received pay at rates varying from \$150 to \$6 per month, and whom he retained to the end of the term of his contract; although, during the fever in 1867, he did not pay his costs, but, being

"an artist, and not a merchant,"

he never kept any accounts, and, consequently, could not tell us what had been the cost of his whole establishment.

1087. We, therefore, under these circumstances, feel it hopeless to attempt to analyse the details of this contract.

1088. But, whatever the cost may have been, it is idle to represent the charge for these tickets as voluntarily paid by the Indians in the interval between November 1864, and May 1868; for even though the carrying of such a ticket was not made compulsory

by law until the coming into force of Ordinance 31 of 1867 in May 1868; still, an order of the Executive, which had required it from the first, though a member of Council might, a Coolie was little likely to question; for we find, in 1865, Mr. Beyts, writing to the Stipendiary Magistrate of Pamplemousses requesting that all immigrants (*Old or New*) who did not re-engage on the expiration of their contracts should be sent to him with their tickets,

"so that their photographs may be affixed to their tickets."

a practice which we find was still followed in the month of June 1866; and we learn that the same practice prevailed in other districts, from numerous letters from different Magistrates about this time, requesting that immigrants' tickets,

which had been sent to the Immigration Office for renewal, and which had been there detained, might be returned to them for delivery to their proper owners, as well as from a correspondence that took place in the month of February of that year between the Honourable Mr. Pitot and the Colonial Secretary, in which the former complained of the Stipendiary Magistrate of Savanne having ordered a band of his men, on re-engaging with him on the "St. Aubin" Estate to proceed to Port Louis to exchange their old tickets for new with the portraits upon them, and having refused to deliver up the old tickets to the Overseer until they had done so.

1089. Mr. Pitot thought it hard to compel a labourer who had already got his papers in order, not only to pay the sum of 4s. for his portrait,

"but to undergo the trial and expense of a journey to and from town, and by

"staying several days in town to lose his wages for the time so spent, while the

"loss and inconvenience to the planter from the absence of so many hands is not

"less to be deprecated."

He added further,—

"that the complaint against this system is general, and, though no doubt is enter-

"tained of the good intention of it, experience seems to prove that these portraits,

"so liable to be disfigured or defaced, and, at the best, so little certain for iden-

"tifying men who may have a motive in altering the appearance and expression of

"their features, are not effective for the supposed object."

1090. Mr. Beyts, in reporting upon this letter, stated that he had been advised by

many planters to take advantage of the three or four days' leave usually given to Indian labourers on their re-engaging, to issue to such the new tickets bearing photographic portraits (a mode of spending their holiday which was, doubtless, more convenient, we should think, to the planters, than edifying to the immigrants), and he deprecated the idea that there was any compulsion in the matter:

"no immigrant having in the least demurred as yet to follow the direction of the

"Magistrate with regard to the replacement of tickets."

He had

"thought it unnecessary to recommend the passing of any regulation for the

"purpose of rendering the exchange of tickets obligatory."

1091. This is another instance of the way in which the law is so often set aside in Mauritius if it is found convenient to do so; for, though the law required the Stipendiary Magistrates to give the ticket, the Indian was required (though not by law) to take the trouble and incur the expense of going to be photographed at the Immigration Office,

losing his wages and allowances during his absence; and the idea of a Coolie remonstrating against such a direction given by a Magistrate is preposterous.

1092. Mr. Pitot, when examined before us, alluded to this correspondence, stating that as the photograph system was a measure for the benefit of public order, he had considered that the expenses should have been charged to the Government, and not to the immigrant. He appeared to have modified his opinion as to the inutility of the system, having been assured that in many cases it had been a useful measure, although he could not cite any particular in support of his general impression.

1093. To return to the contract for photographs. Mr. Lecorgue's terminated on the 15th October 1869, when tenders were again called for and were received from five photographers, whose offers were submitted to a committee, who recommended that

none should be accepted; but that it would be preferable to employ a man on a salary of about £300 per annum, supplying him with the apparatus and chemicals requisite, as well as with any manual assistance which he might need, and ultimately Mr. Carbonel was provisionally engaged at that rate of salary—an arrangement which has continued up to the present time.

1094. An attempt was, however, made by Mr. Carbonel, in August 1870, to revert to the former system of supplying portraits at a fixed, though reduced, rate (*viz.*, 2s.) for each immigrant, provided only one copy of each portrait were wanted; he taking upon himself all contingent expenses; a proposal, the adoption of which Mr. Beyts recommended on the grounds that the then existing system was objectionable,

1st. Because to secure Government against risk the fee charged had to be maintained at a rate higher than that at which the portraits were offered to be supplied by contract; and,

2ndly. That the consumption of chemicals could not be easily controlled.

1095. This proposal, on being referred to the Auditor-General (Mr. Ward), was vigorously denounced by him as meaning simply

"reverting to the former bad system which 'he could' most unhesitatingly class as one of a most objectionable nature and open to all kinds of abuses."

1096. He condemned that system, inasmuch as the enormous sum of £28,312 had been paid for the portraits by the immigrants in five and a quarter years, of which nothing had been paid into the Treasury; and he agreed that as it was not contemplated by Government to make any revenue out of immigrants, so neither had it been intended that private individuals should make a large fortune out of them, and he recommended, that as a considerable quantity of the necessary materials were then in store, and as the accounts that the original price of 81 was capable of reduction, the portraits should be paid for at the rate of 2s. per head, and the situation of Government photographer be maintained.

1097. The proposed reduction of the fee to 2s. was also advocated by Mr. Beyts, and, notwithstanding that some fear was expressed, as we have been informed, lest the diminished charge might conduce to carelessness among immigrants in taking care of their tickets, in consequence of which the lens of the camera might become worn out through the necessity for taking an increased number of (duplicate) portraits; the measure was approved by His Honour General Selby Smyth, Administering the Government, and took effect from the 1st November of the same year.

1098. By Ordinance 31 of 1867 the system of portrait tickets was rendered compulsory. Article 14 of Ordinance 16 of 1862 being repealed, and replaced by four articles (39 to 42) of the new Ordinance, which lay down the form of ticket now in use.

1099. Having thus described the origin and development of the system of photograph tickets, it will be proper, in the next place, to examine what practical advantages have been gained either to the immigrant or to the public at large, in return for the £28,312 paid by the Old immigrants to Mr. Lecorgue; how far the portrait ticket is really an assistance to the police as a complement of the pass system; how far it has checked fraudulent personations before magistrates and fraudulent sales of tickets between immigrants; and, lastly, how far in the Immigration Office it has been, or is, an aid in the identification of any man presenting himself there.

1100. Colonel O'Brien is of opinion that

"it is a great adjunct to the efficacy of the police as regards"



the Indians, and thinks that it has a great "moral effect" upon them as a deterrent to the commission of crimes, as

"the Indian who has had his photograph taken believes that he is known."

1101. It is, of course, impossible either to establish or refute a theory so incapable of demonstration; but, assuming that crime has been committed, we do not see how the photograph can be of any assistance to the police unless they have first obtained a clue to the perpetrator, or what the photograph could in any case prove, beyond the fact that the ticket or pass tendered by any person is the right and proper ticket or pass of the person exhibiting it, by enabling the officer or constable examining the ticket to see at a glance the resemblance between the portrait upon the ticket and the bearer.

1102. We think, however, that in this respect they can be but of very small use, as the portraits hitherto have generally been taken full-face, and with a fixed stare, which completely alters the natural expression, and we incline to the opinion of Mr. Pitot, quoted above, that there is little certainty of identifying by the photograph men,

"who may have a motive in altering the appearance of their features;"

an opinion, the correctness of which is greatly corroborated by the result of two experiments tried, at our request, by Mr. Mitchell, the Assistant Protector.

Appendix K 16. first, with the Serjeant-major of police and a police constable at Moka, and after that with the Stipendiary Clerk at Flacq. Out of eight men put up at Moka to be identified by the photograph only, the Serjeant-major wholly failed to identify two, whereas the less intelligent constable was unable to identify a single man; whilst at Flacq the Stipendiary Clerk, the officer on whom falls the duty of passing contracts of service between employers and immigrants (and consequently of providing against any false personation) on having 17 portrait tickets put into his hand, and being asked to pick the 17 men to whom they belonged out of a band of 38, only succeeded in recognising six.

1103. That the photograph has not put a stop to illicit transfers of tickets is shown by the fact that two batches of duplicate tickets were handed to us by Captain Blunt, one of which had been found in the possession of a job contractor in Savanne, who had procured them in order to be able to engage men as Old immigrants free from engagement, and another batch was found in a house in Port Louis, where they were for sale. A third batch was handed in by Mr. O'Connor, which must have been abstracted by some illicit means from the Immigration Office, or else issued from the Ticket Branch under circumstances of the grossest carelessness; as, though initiated by the Clerks, they are not signed by either the Protector or the Chief Clerk, whilst the age stated on the ticket is hopelessly irreconcilable with the portrait, and further, they have not been impressed with the stamp of the office. If, however, they were stolen, and the photographs affixed subsequently, and that the portrait really did exercise the powerful moral effect which Colonel O'Brien believes it to do upon evil-doers, we should scarcely expect to find (as we do) the portrait of a man of 60 affixed to the ticket of a boy of nine years old.

1104. If, on the other hand, this was a piece of gross carelessness committed in the Immigration Office itself, we cannot imagine anything harder upon the immigrant than thus exposing him to the risk of a three months' imprisonment on the charge of using a falsified ticket (Ordinance 31 of 1867, Article 58).

1105. Such carelessness would not, however, have been without a precedent in the Immigration Office, for we find that, in 1865, three tickets were deposited in the office of the Stipendiary Magistrate of Flacq, by Messrs. Montecchio, belonging to Indians in their employ; and it was found, on questioning these, that their statements did not in any way correspond with the inscription borne on their tickets, and it turned out, on enquiry, that they did not belong to these Indians, but had been sent by mistake from the Immigration Office.

1106. When the first batch of these tickets was shown by the Police Enquiry Commissioners to Mr. Anderson, the Chief Clerk of the Immigration Office, he viewed them with surprise, and said—

"There must be something far wrong somewhere;"

an opinion in which we fully concur.

1107. Mr. Conier, the "Head-Clerk of the Ticket-Branch," to whose charge the blank forms are committed, suggested in explanation that, in 1870, the Immigration Office was painted anew, and everything was disarranged, and, possibly, the tickets were then stolen by the vagrants employed to sweep the office. He repudiated the idea, however, of there having been any negligence; though he admitted that old tickets had been put in a drawer, whence they might have been stolen, and further, that he had not counted the blank forms of tickets while the office

was being painted, so that many might have been abstracted without his ever being able to find it out.

1108. When examined before us he told us that, subsequent to the Police Commission, he had discovered that one of the "armoires" in the office had a

"defective lock that could easily be opened,"

but which had since been repaired, and that, while the painting had been going forward, all the tickets and documents had been taken out of the armoires and put upon a large table, and that it was probable the vagrants might have helped themselves therefrom.

1109. It is, therefore, perfectly clear to us that the photograph does not exercise the moral restraint upon vagrants, when they see an opportunity of possessing themselves of tickets, which it has been supposed to do, and that there has been either great carelessness or great dishonesty in the Immigration Office on the part of those who have had the care of the tickets, whereby numbers of either old tickets or of blank forms of tickets have sometimes got abroad and been put into circulation; a state of things which completely upsets the assertion, so confidently advanced by Mr. Beyts, in his protest against the Report of the Police Commission, that

"the prevention of false personation has been effected by the adoption of portrait-tickets more successfully than by any other measure,"

and that

"this has not only been the means of maintaining order amongst immigrants by hindering unlawful transfers of tickets between them, but that it has moreover hindered departures under falsely assumed names, and helped in checking fraud in transfers of titles of property."

1110. We had certainly expected, from reading these words, that Mr. Beyts would have been ready with cases in support of this opinion; we were, therefore, not a little surprised, on examining him upon the subject, to be told by him that he only remembered one instance, which occurred, moreover, before the portrait system was established, in which an Indian had complained that another had appeared in his stead in some matter connected with a lease, and that the words in the protest were merely a general expression of his opinion upon the possible advantage of the system; and although he thinks the photographs an advantage in the way of identification, he cannot remember any man having been detected in the use of a false ticket by reason of the photograph on it.

1111. The only case Colonel O'Brien could adduce of the utility of the photograph had nothing to do with Coolie immigrants, having occurred in London, and not in Mauritius, and was the case of the late murder in Park Lane.

1112. Mr. Beyts, immediately before the passage just quoted, cites the opinion of Mr. Douglas, the Procureur-General, who said,—

"The system of portrait-tickets has been for some time past in operation, and has been productive of good results. Not only has it proved a check upon the use by Indians of tickets not belonging to them, and which have been stolen or purchased by them with a view to concealing their identity, but it has also proved of use in the detection of crime, the duplicate of every photograph being kept in the Immigration Department, where the portraits are taken."

1113. We can at but suspect that Mr. Douglas must have written this opinion either upon the mere assurance of some other person, or that he did not understand the true working of the system which he undertook to eulogise; for when he stated that the duplicate photograph kept at the Immigration Depot was useful as an assistance in the detection of crime, he could hardly have been aware of the method, or rather the utter want of method, with which these photographs are kept, whereby the system, which in its conception was, we fully admit, ingenious enough, and might, by proper arrangement, have been rendered extremely useful as an aid to the identification of immigrants in the office, was reduced to what Captain Blunt pronounced to be

"the greatest nonsense out."

1114. It is perfectly evident that, in order to be of any practical use in the way of such identification, the photographs should be so indexed as to be easily referred to in the event of an immigrant man applying for a duplicate ticket, or any application being made for the purpose of establishing the identity of an individual.

1115. As it is, however, such identification is utterly impossible; for the photographs are put in very large albums, each page of which is divided into thirty-six spaces. In each of these spaces is pasted the portrait of an Indian, with his name and number, and in the corner the serial number of the portrait. There is also a day-book kept, which is ruled for the serial number, the man's name, and immigration

Defective locks to the armoires in office.

Photograph does not exercise moral restraint.

Great carelessness or fraud in the Immigration Department.

Mr. Beyts' protest against the report of the Police Enquiry Commission.

Expectations raised by Mr. Beyts not fulfilled.

Opinion of Mr. Stoltz Douglas upon photograph tickets.

Utter want of method in the arrangement of the photographs.

Want of method in the arrangement of the albums in the Immigration Office.

Really reference next to impossible.

Albums.

Day-book.

Identification  
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number. Unfortunately, the serial numbers are not borne upon the nominal roll; and as there is no index either of names or of numbers, it is only possible for the Clerk to pick out the photograph of any individual by going through the album from first to last. Of these albums there are now twenty-one volumes, containing up to date of 4th June 1873, no less than 126,617 portraits. And, even should the immigration number be known, it would be necessary to look down the day-book until the number be found, and then the serial number would become known and the portrait easily found.

1116. The photograph, therefore, being no assistance towards the identification of an immigrant, the only means remaining for so doing is by comparing the description preserved in the registers at the office with the person whose identity is sought to be established; and the following case will give some idea of the inefficacy of this system, and the small reliance to be placed in it as a method of identification, and will prove, what we have stated above, that, by collusion with another person in possession of a ticket, and by learning by heart all the details respecting the holder borne thereupon it is an easy matter for one immigrant to impersonate another and obtain a ticket in his name.

1117. It was brought to our notice by the Inspector of Police of Grand Port that two Indians, Veerasamy and Harriken Thanen, both had tickets bearing the same name and number, viz., "Veerasamy, No. 90,750;" whereupon we applied to Mr. Beyts for an explanation of how Harriken Thanen had obtained the ticket from the Immigration Office.

1118. By questioning Harriken, Mr. Beyts found that he had been living with Veerasamy, and had obtained from him all the information necessary to answer the enquiries of the Clerk as to father's name, native country, &c. The false personation was further facilitated by the stature being only described as "tall," and not in feet and inches; and, further, by the fact that, while Harriken actually bore a scar on his forehead, Veerasamy's description mentioned that he had a scar over the right eyebrow. There was, it is true, a difference of seven years between their ages, as given in the registers, and Veerasamy was, moreover, described as squinting, both of which points, however, passed unnoticed by the Clerk who prepared the ticket issued to Harriken.

1119. We have seen above (paragraph 1041) the formalities with which the New immigrant, on his arrival, is delivered to his employer, and we have now to trace his further connection with the Immigration Office at subsequent stages of his career.

1120. Under ordinary circumstances the Protector will hear or know nothing more about him until the expiration of five years, when his industrial residence is completed.

1121. He is then discharged from his engagement before the Stipendiary Magistrate of the district in which he had been employed, and his New immigrants' ticket (Form 15a) is forwarded by the magistrate to the Immigration Depot, where the man himself is bound to appear, and have his photograph taken, when an Old immigrants' ticket (Form 32) is given him "free of charge," on payment of 2s. for the photograph. And this may be the last the Immigration Office ever sees or knows about the immigrant. But should he unfortunately lose his Old immigrants' ticket, he must appear again at the Immigration Office, and apply for a duplicate ticket.

1122. Duplicate tickets, the issue of which forms one of the main grievances in the petition of the Old immigrants, and is described as follows:—

"Though these (tickets) are supplied to them free of charge on the expiration of their five years' term of engaged service, yet, if they are lost, as frequently happens through being obliged always to carry them about, your Petitioners are required immediately to apply for others, for which they must pay \$5 for the ticket, and for the photograph 2s., making together 7s.; a sum nearly equal to two months' wages on an estate. To procure one of these papers some of your petitioners have had to wait many days, and to walk from 100 to 150 miles; when at the Immigration Office they have made the slightest remonstrance they have been beaten with rattans."

1123. In order to make this application, he must previously have applied to the police in the district of his domicile for permission to go to the Depot for the purpose, otherwise he would be liable to arrest as a vagrant without papers, though, on stating to the Magistrate that he had lost his papers, he would be, or, at any rate, ought to be, sent by that Officer to the Depot to be put en règle.

1124. On his arrival at the Depot, and informing the Chief Clerk that he has lost his ticket, he is asked his name and his father's name, his number, and the name of the first master with whom he served, in order that he may be identified by the entry in the Register which is kept in Form 3. It will be seen

from this that this Register is merely a copy of the Register sent from India by the ship which brought him; and as the names in the Registers have never been arranged alphabetically, it follows that, unless the applicant can give either the immigration number, or the name of the ship by which he came, and, in the latter case, state approximately the year of his arrival, the process of identification is as difficult as that of finding the photograph.

1125. Should the immigrant be able to give the number, his name can be turned up at once; but the numbers up to date of 1st August 1873 had reached 366,312, it might be imagined that it very seldom happened that the Indian can remember his number, and we have the positive statement of Mr. Canier, the head of the Ticket Branch, that he never found a man who did.

1126. Under these circumstances, the applicant is asked whether he knows any friend or comrade who came to Mauritius in the same ship with him, and upon his answering in the affirmative, he is given a pass (Form 24) permitting him to go to the Depot for a comrade's ticket and return to the Depot on a date specified.

1127. If he has made a mistake, and his comrade did not come by the same ship, he must go through the like process over again, until he does find one who has; but having obtained the number of an immigrant by the same ship, the process is comparatively easy, for his own name and number is immediately found out, after referring to the ship's register.

1128. The man having thus established his identity, the next step is to ascertain whether any person has any claim upon him for prolongation of service; he is, for this purpose, referred with Form 25, to the Inspector of Police of the district in which he alleges he works, in order to see whether his statement be true; or, should the number he has brought forth raise any suspicion that he is a New immigrant, he is sent with Form 26 to the Stipendiary Magistrate for information as to the dates of his engagement and discharge; as, if he be a New immigrant, it is taken for granted that he must be a deserter.

1129. Should, however, these several inquiries prove satisfactory, he is not absolved from suspicion, but, on payment of 3s., given a "permit to work" (Form 27), whereby he is authorised to remain absent from the Depot, and to take employment in the district therein named, for a period not exceeding one month, during which time his name is published in the 'Government Gazette' (Form 28), with notice that he has applied for a duplicate ticket, in order that, if he be a deserter, any one interested in his service may have the opportunity of claiming him. At the expiration of the month, he again presents himself at the Depot, and, if no one has claimed him, he is given Form 29 in order to have his photograph taken, for which he pays 2s.

1130. This form allows him four days' absence, within which he must return and receive his photograph and ticket (in Form 30), for which he pays 3s.; the last step in the intricate process of placing him in the position of a re-registered immigrant.

1131. It was the practice, until the end of 1871, to require that women as well as men should carry tickets, and they were charged the same fees upon duplicates as the men. For this there was no specific legal authority; but, as Ordinance No. 16 of 1862 sanctioned the engagement of females, and, as the very fact of their engaging requires a renewal of the tickets which they bring with them from India, Mr. Beyts considered the carrying of tickets by them to be necessary; and, as the regulations under Ordinance 31 of 1867 permit the fee of 1s. to be charged for "every duplicate of a ticket," no distinction was observed between the tickets of the men and those of the women, except that the latter did not, as a rule, bear upon them the portrait unless it was specially asked for; a request, however, which was rarely made.

1132. At the end of 1871 Mr. Beyts took upon himself to discontinue charging the fee.

1133. We will now, in illustration of the system, suppose the case of an Old immigrant residing at Mahébourg, who, by accident, loses his ticket, and see the amount of trouble or expense to which he will be put before procuring the duplicate in its stead. He must, in the first place, come to Port Louis to the Immigration Office, a distance of 30 miles by road, or pay a fare of 3s. (third class) by railway. We will suppose no difficulty arises in identifying him, upon which he is referred back to the Inspector of Police at Mahébourg for information as to the truth of his statements, and, these being verified, he must return again to obtain his "permit to work," for which he pays 5s.,

Difficulty in  
identifying  
immigrants  
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numbers.Difficulty in  
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charged the  
same as men  
for duplicates  
before 1871.Illustration  
the system.Amount of  
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and goes back to Mahébourg for a month, when he must return again to be photographed, and after four days, during which we will suppose he stays in town, he obtains his duplicate-ticket and photograph, at the cost of £1 2s., and finally returns to Mahébourg. He thus has had 180 miles of road to traverse, or 18s. to pay for railway fares, exclusively of £1 7s. paid in fees at the Immigration Office for the "permit to work" and the duplicate ticket, an amount of trouble and expense which fully substantiate the grievances complained of by the Old immigrants in the 3rd and 4th paragraphs of their petition.

1134. The Police Commission, in the 132nd paragraph of their report, made the following remarks upon the subject:—

"132. When the law provided (Article 42 of Ordinance 31 of 1867) that 'nothing but the photograph ticket could prove the status of Old immigrants, a system of duplicates was unavoidable, even had the amended regulations not required an Old immigrant to constantly carry his ticket with him.

"The system of duplicates was made as burdensome to the Old immigrants as possible. As the first step to getting a copy of his ticket, the immigrant had to begin by paying 5s. for a 'permit to work.' The paying of these 5s. brought him no privilege, but merely subjected him to fresh liability to arrest and punishment, if he exceeded the time mentioned in the permit. Then came the charge of £1 sterling for the duplicate ticket. At the time, when this charge was laid on, we find the Protector stating in his annual report:—

"The wages of Old immigrants fell, towards the middle of the year, below the rates of New immigrants, but they have since risen again, and are now at an average of about 16s. per month for able-bodied men, besides food, lodging, and medical care."

"The charge for the 'permit to work,' and the duplicate ticket, was thus within 3s. of two months' money-wages of Old immigrants at the time the rates were fixed, or 15 per cent. of their annual money income."

Appendix H 2. Para. 26. 1135. Against this, Mr. Beyts protested in the following terms:—

"A permit to work is a document issued to an immigrant who has no papers, for the purpose of enabling him to work during a probationary period of one month. Yet it is said to bring to its recipient no privilege but that of being arrested after its expiration, if he exceeds the time for which it is granted.

"As well might be argued that a railway ticket carries with it no privilege but that of exposing its possessor to be arrested and punished, if he travels beyond the distance for which it is granted."

1136. We do not think Mr. Beyts's illustration a happy one, as there is this great difference between a railway ticket and a permit to work, viz. that the one is the evidence of a contract between two independent parties, whereby, in consideration of a certain price, one undertakes to carry the other a certain distance; and, if the latter travels beyond that point, he is guilty of breach of contract, if not of fraud, whereas the fee for the permit is paid for no higher privilege than to be allowed to exercise a right which is inherent in every man; one, moreover, which is nowhere more insisted upon than in Mauritius, where, unless a man does work, he is assumed to be a vagrant, and is punished accordingly.

1137. Before we take leave of this subject, we must show the steps by which the charge for a duplicate ticket reached the large sum of 20s.

1138. We do not find that any charge was made previous to 1857; but, on the 25th July of that year, Mr. Hugon submitted to the Governor a sketch of a notice for publication in the Government Notice, to carry out the recommendation of a Committee of Enquiry which had been presided over by the Auditor-General.

The proposed Notice set forth that

"complaints had been made that Old immigrants under engagements having deserted from their employer, or tempted by any rise in wages that take place, apply to the Protector's Office for duplicate tickets to enable them to contract a new engagement."

1139. It was therefore suggested that a charge should be made thenceforward:—

1st. For the duplicate ticket of an Old immigrant of not less than 10s.; but, should the Protector have reason to suspect that the application was made

"with a view to change master and obtain higher wages,"

he should be authorised to charge any sum not exceeding £1.

2ndly. The Protector should be empowered to refuse tickets

"to planters bringing Old immigrants to obtain duplicate tickets for engagement of such men; but, to prevent their being arrested and to enable them to work

Travelling and expense to get duplicate.

Remarks of the Police Enquiry Commission, and Mr. Beyts's protest against the same.

Increased fee upon duplicate tickets.

"for a time without engagement, tickets of leave for one, two, or three months" (would) "be issued to give parties having prior claims to the services of such men, time to come forward and establish it;"

and 3rdly. The name and number of every applicant for a duplicate ticket would be published in the 'Government Gazette,' and no duplicate issued before the expiration of one month from the date of application.

1140. These proposed Regulations were referred to the Substitute Procureur-General, Mr. Sholto Douglas, who approved of the 2nd and 3rd, but condemned the first as open to serious objections; and imposing a heavy tax upon Old immigrants who had *bona fide* lost their tickets, while it would be no check upon fraudulent applicants, as they or the parties enticing them away from their rightful employers would always find the money to pay for the duplicate tickets.

1141. Nothing, however, was done for three years; but, on the 1st March, 1860, a Regulation came into force by which a fee of 8s. was charged for duplicate tickets, which, after being in force for six months, was raised to 10s., at the recommendation of Mr. Beyts, he having come to the conclusion that the higher fee would diminish the number of applications made under false pretences; and, for the same reason, he recommended that a fee of 2s. should be charged on every pass issued from the Immigration Office, except *passes pending embarkation*.

1142. Still, the evil remained unchecked; for we find Mr. Beyts, in the 39th paragraph of his Report upon the immigration of 1861, submitted to the Governor on the 31st March 1862, attributing the prevalence of desertion to

"the facilities with which deserters, under present circumstances, circulate under falsely assumed names and with tickets belonging to another immigrant; and to the facility with which, on the other hand, these immigrants procure other tickets in lieu of those they make over to deserters;"

and, among other recommendations, he suggested that the fee for a duplicate ticket should be raised in every case where the loss of the original ticket should not be satisfactorily proved; and in furtherance of this suggestion he proposed, on the 30th June following, that the fee upon duplicate tickets should be raised from 10s. to £1; and that upon passes (which, we presume, include "permits to work"), from 2s. to 4s., which continued to be the price of them for three years, until the charge was still further raised to the present sum of 5s.

1143. It is not to be denied that of late years the duplicate tickets issued annually have decreased in number, as will be seen from the following statements made by Mr. Beyts in his examination:—

| From 1861 to 1864         | 25000 annually | £20,000 |
|---------------------------|----------------|---------|
| 1865                      | 1865           | 5,400   |
| 1866                      | 1866           | 2,000   |
| 1867                      | 1867           | 1,500   |
| 1868                      | 1868           | 2,300   |
| 1869                      | 1869           | 1,500   |
| 1870                      | 1870           | 1,150   |
| 1871                      | 1871           | 1,220   |
| Total in the eleven years |                | £33,070 |

which would show a decrease from 12,500 duplicates issued in 1861 at 8s. each to 1126 issued in 1871 at £1 each.

1144. But, with all these precautions against a ticket being issued to an immigrant under engagement, Mr. Beyts tells us that the system does not work satisfactorily, and that he had been thinking of the possibility of improving it; as he has heard of acts of its having been eluded, though he does not remember any case having been actually detected.

1145. In cases where the immigrants can show good cause for having lost his ticket, and can prove the same to the satisfaction of the Protector or of the Chief Clerk (to whom generally falls the duty of deciding upon the inability of the immigrant to pay), an exemption order is given in *Form 31*, which entitles the recipient to a duplicate ticket free of cost, the exemption order being filed and ultimately sent to the Audit Office.

1146. Having received his duplicate ticket, the immigrant must enter into a written engagement or take out a police pass within eight days; to mark which time, and to secure him from arrest, he is given *Form 32*; and, in the event of his being unable to find suitable employment within that time, *Form 33* is given to him, whereby he

1862  
Increased fee upon duplicate tickets.

1861  
Increased fee upon duplicate tickets.

1869  
Decrease in the number of duplicate tickets issued.

The system unsatisfactory.

Exemption Order.

Permits to engage.

obtains an extension of his immunity for another eight days. (See also Chapter X., *Pass System*, paragraphs 625, 634, and 645.)

1147. Besides the permit to work there is another permit issued from the Immigration Office, also entailing a fee of 5s.—namely, a "Permit to engage" (*Form 34*). This is one under Article 37 of the Regulations of 25th August 1869, which provides that any immigrant who has lost his certificate of discharge (and without the production of which no engagement can be passed by the Stipendiary Magistrate) may, within two months from its date, obtain a duplicate from the Clerk of the Court in which he was discharged, on payment of a fee of 2s. mentioned in the *Tariff*, provided he produces his portrait ticket. But, if more than two months elapse, he must apply to the Protector for a "Permit to engage," paying 5s. for the same.

1148. Hitherto we have assumed that all applicants for duplicate tickets do so *bona fide*, and are ready and willing to supply all information requisite to lead to their speedy identification at the Immigration Office; but we must next consider those cases in which immigrants may have some motive for concealing their true *status*, and see how far the Immigration Office fulfils its functions as an Office of Enquiry into the *status* of vagrants and deserters, such as the Legislature must have intended that it should be, when it passed the 46th and 48th Articles of Ordinance 31 of 1867, which provide that the Old immigrant not producing a police pass, or found in a district in which he has no residence, and not giving a satisfactory account of himself, may be arrested and sent by the Stipendiary Magistrate to the Immigration Depot,

"to be there detained until enquiries shall have been made about him."

From which we had imagined that, by simply referring to the Office, all information respecting any immigrant would be easily obtained; or, in other words, that the Immigration Office actually was what Captain Ogilvy contemplated that it should be. (*Vide* paragraph 1065.)

1149. With regard to the recognition of deserters, we should have thought that the first step ought to have been a registry in the Immigration Office of all indentures made with immigrants, and we have the authority of Mr. Beyts that such a course would greatly diminish the chances of a deserter's escape. This is not, however, done except in the case of newly-arrived immigrants; all subsequent engagements, for whatever term, being passed by the Stipendiary Magistrates independently of the Immigration Office, and without notification thereto. The consequence is that its records are a complete blank so far as regards Old immigrants.

1150. We should further have thought that, the first step to be taken by an employer, on a labourer's deserting, would be to report the same to the Immigration Office so as to lead to his arrest in the event of his applying for a duplicate ticket; such, however, is by no means the universal rule. There is nothing to compel a master to declare his deserters; although, by the 64th Article of the Regulations of August 1869, it was ordered that a deserters' book should be opened at the Immigration Office, in which all desertions declared to the Protector should be entered with the view (Article 65) to the detention of any immigrant admitted into the Depot found to be a declared deserter, and the notification thereof to his employer, if known.

1151. Unfortunately, the Regulations did not go a step farther, and enact that declaration of desertion by the master should be a condition essential to enable the latter to invoke the law against the servant; such declaration evidently being the only means of securing the arrest of men who are really deserters.

1152. As it is, however, we have the authority of the Protector for saying that planters do not, as a rule, declare a desertion when one takes place, nor, apparently, do they take any trouble towards recovering their servant unless they should happen to see his name advertised in the "Government Gazette" on his applying for a duplicate ticket, when they would probably claim him; although, as we shall see further on (paragraph 1167 and following), Mr. Poulin had good reason to complain of the utter disregard of the notices he sent reporting deserters. It may even occur that the planter has his deserter returned without even having taken so much trouble as the claiming him; for it may well happen that the Protector, in the course of his enquiries into the status of an immigrant, particularly if he be a New immigrant, finds out that he is a deserter, although he has never been declared, nor his name entered in the deserters' book.

1153. We are not aware whether the publication of the names of applicants for duplicate tickets is likely to attract more attention in the "Government Gazette" than it did formerly in the daily newspapers, but, unless it do, we cannot think that much

good can arise from it; particularly as, on the 23rd January 1867, Mr. Beyts wrote to the Colonial Secretary stating that he found that no advantage whatever accrued from the practice of advertising these lists in the newspapers and begging for authority to discontinue it, whereby he calculated that an annual saving of upwards of £300 might be effected on the estimates of the expenditure of that year.

1154. Should, however, an Indian, being without his papers, be arrested as a vagrant and brought before the Stipendiary Magistrate of the district in which the arrest has taken place, and cannot, or will not, give an account of himself, he is, or rather should be, sent to the Protector to be identified, by whom, if not identified, he should be returned to the Magistrate to be punished as a vagrant: but the practice has been for the Magistrate to punish him first, and afterwards send him to the Protector to be identified. The names of men so sent are written in *Form 36*.

1155. Should he, however, in extenuation of his vagrancy, plead inability to obtain employment, he is offered work by the Protector, and, if he accepts it, he is sent to the railway, or some other Government Department, at wages of \$4 *per mensem* and his rations.

1156. If, on the other hand, he should refuse to accept the work offered, and persist in so doing, he is sent with a note (*Form 37*) to the Police Magistrate to be punished as a vagrant.

1157. Should, however, anything be discovered by reference to the Deserters' Book, or should the immigrant give such an account of himself as to lead to the supposition that he is a deserter, he is sent to the Stipendiary Magistrate of his district with an escort note (*Form 38*) for delivery to his master, and his name is published in the daily papers in *Form 39*.

1158. Thus, we see that if the man is willing to give true information, the identification is easy: but if, on the other hand, he persist in not giving an account of himself, or if, from malice or stupidity, or forgetfulness, he gives an incorrect account, we may gather from the following case how perfectly helpless the Immigration Office is either to detect the falsehood, or to discover by its registers who and what any immigrant is.

1159. On the 12th August 1872, an Indian named Natowah was arrested in Grand Port having upon him no papers, but a pass from the Immigration Office, dated the 24th July, which had expired on the 3rd August. He was taken before M. de Boucherville, at that time Acting Stipendiary Magistrate in that district, who sent him to the Immigration Office.

1160. The object, of course, in sending him to the Protector was, in order that he might be put *en règle* as to his papers, by being provided with another ticket and re-registered: but, before this could be done, it was necessary to ascertain whether he was a deserter bound by any subsisting engagement.

1161. We presume it must have been, in consequence of the answers he gave to the questions of the Protector, that the latter came to the conclusion that Natowah was a deserter from the "Albion" Estate, the property of Madame Chauvin, in Black River; and, accordingly, he was sent under escort, on the 14th August, by the Protector to Mr. d'Emmerez de Charmoy, the Magistrate of Black River, before whom he was brought on the 21st, and by him sent to Madame Chauvin. She, however, disclaimed all knowledge of him, and he was, therefore, taken back to Mr. d'Emmerez de Charmoy, who, on the 24th, sent him back to the Protector.

1162. We were at a loss to understand how seven days had elapsed between his despatch from the Immigration Depot on the 14th, and his appearance before Mr. d'Emmerez on the 21st; but, on enquiry, found that his peregrinations had during that time been varied by a trip to the remote district of Savanne. It appears that prisoners sent under escort from Port Louis to Black River are sent first to Rose Hill Station in Plaines Wilhems, whence they are forwarded to Bambous, the seat of the Magistrate's Court in Black River. Natowah, therefore, on the 14th, was sent from the Immigration Depot to the Central Police Station in Port Louis, whence he was despatched on the morning of the 15th to Rose Hill. By some mistake, however, he was carried on to Savanne, whence he returned to Rose Hill on Saturday the 17th: but, as no escort was sent out on Sunday, he remained at that station until Monday, the 19th, when he was sent, under escort, to Bambous, and was there detained till the Wednesday, the first day after his arrival, on which the Magistrate held a sitting of his Court.

1163. Notwithstanding the disclaimer of Madame Chauvin above mentioned, he was, on the 26th, sent again, under escort, by the Protector to Mr. d'Emmerez, and brought before him under the same circumstances, viz. for delivery to his employer, Madame Chauvin, as a deserter from her estate. On that day, however, Natowah declared to the Magistrate



that he never had worked for Madame Chauvin, but for one Beckharry, a sirdar for "Albion," who had since gone to India; that he (Natowah) was an Old immigrant, and had lost his papers; so Mr. d'Emmerez, very properly, again sent him back to the Protector "for *mise en règle* and disposal."

1164. Still the Immigration Department was not satisfied, for the man was then referred to the Inspector of Police at Black River for information by whom he was sent back on the 4th September as not acknowledged by the manager of "Albion."

1165. On the 5th September he received a pass from the Immigration Office, with what object does not appear; but, on the 27th of the same month, he was, for the third time, forwarded under escort to Mr. d'Emmerez de Charmoy by the Protector, for delivery to Madame Chauvin—a proceeding which seems to have exhausted the patience of the

Magistrate, who, on the 30th, wrote to the Protector reciting, in some detail, the different movements, and requesting that Natowah might be put *en règle*.

Natowah was, therefore, on the 2nd October, readmitted into the *Dépôt* (we presume under the 59th Article of Ordinance 31 of 1867), and remained there till the 21st, on which day his name appears struck out in the *Dépôt*-keeper's Admittance-Book, and the word "discharged" entered against it in pencil; but, on the following day, being "found wandering" with no papers, and having no master, he was taken before Mr. Dupuy, the Police Magistrate in Port Louis, and was by him condemned under Article 50 of Ordinance No. 31 of 1867, to fourteen days' imprisonment for absconding from the *Dépôt*. On the expiration of which sentence, and on his being released from prison, he was at last re-registered, and engaged himself to a master in Port Louis; after having for a space of three months been conducted up and down the country; owing to the inability of the Immigration Office to identify him.

1166. It is not clear (though, if it was the case, it should have been made so) whether this Natowah was the same person who, some months before, on the 8th November 1871, under the name of Mutowah, had been arrested in Moka, and, alleging that he belonged to Grand Port, had been accordingly sent by Mr. Didier St. Amand, the Magistrate of Moka, to Mr. de Boucherville, the Magistrate of Grand Port, before whom he appeared on the following day. It would seem that he gave a different account of himself to Mr. de Boucherville from that which he had given to Mr. Didier, and stated that he had been discharged from engagement five years before, since which time he had had no employer. On the strength of this, and of his having no papers, he was then condemned to twenty-eight days' imprisonment as a vagrant.

1167. But the shortcomings of the Immigration Office are not confined to being unable to identify Indians, for there are cases, as we have suggested above (paragraph 1152), in which, even though the desertion has been reported to the Immigration Office, the deserter has, nevertheless, been able to leave the *Dépôt*; (2) to procure a permit to work, or (3) a duplicate ticket, and so has eluded punishment.

1168. Thus, on the 5th March 1872, an Indian named Callypersaud, No. 245,427, a deserter from the service of Mr. Mémandon, the proprietor of "Gros Cailloux" Estate in Black River, was sent by Mr. d'Emmerez de Charmoy, the Magistrate, under escort to the Protector:—

1st. For the purpose of ascertaining whether or not the signature of the "Permit to work" found upon him, purporting to be that of the Chief Clerk, was genuine.

2nd. Whether the same Indian had applied for the "Permit" when applying for a duplicate ticket.

1169. This man had been a deserter since January 1870, in which month his name appears entered in the Deserters' Book at the Immigration Office.

1170. Nothing more being heard of the matter, on the 16th April Mr. d'Emmerez wrote to enquire why no notice had been taken of his queries, and why the man had not been sent back for "Judgment;" and, still receiving no answer, on the 29th April he wrote again, requesting to be favoured with one, as he had been informed that the Indian, though still a deserter, had been set at liberty from the *Dépôt*. On the following day (the 30th April) he received a letter from Mr. Anderson, the Chief Clerk, who wrote:

"In the absence of the Protector,"

to say that no such name was borne on any of the Escort Papers brought by the police to the Immigration Office since the 5th March, nor had they any document to show that any such Indian had appeared since that time at the office.

1171. A correspondence, therefore, ensued between Mr. d'Emmerez and the police, the result of which traces the Indian in question from the station at Bambous in Black River to that of Rose Hill in Plaines Wilhelms, and thence to Port Louis to the Immigration Office, from which, however, he contrived to escape, without any of the officers there being aware of the fact either of his arrival or escape.

1172. Mr. Poulin, the proprietor of "Mont Choisy" Estate in Pamplémousses, when examined before us, complained bitterly of the negligence with which duplicate tickets were issued from the Immigration Office: the consequence of which was that deserters, even though declared, were not arrested, and that, although he published the names of his deserters, and wrote to the Protector, to the Stipendiary Magistrate, and to the Inspector of Police, about them, it was just as if he had done nothing.

1173. The duty of issuing duplicate tickets belongs, Mr. Beyts told us, to the Head Clerk of the Ticket Branch, and some idea of the want of care taken by him in the discharge of this duty may be formed when we see the ludicrous discrepancies which are to be found upon tickets purporting to belong to the same person, but issued at different dates.

1174. It must be remembered that the object of these tickets is to enable the bearer to establish his identity at any moment that he may be called upon to do so; and they are supposed to contain upon them every information necessary for that purpose. Consequently, the first and most essential point must be that the description of the man's age, stature, and marks should be accurate; otherwise one of two results must follow—either, if the description be of any practical use, an injury is evidently done to the man by mis-describing him in a manner which may lead to difficulty in his proving who he is, or if the system is of no practical use, and the description on a ticket is perfectly immaterial, then a great deal of time and trouble is wasted upon a mere delusion.

1175. Thus we find that Ramboyen arrived in the colony in October 1859, when he was 18 years old. He received a duplicate ticket on the 8th September 1865, and again on the 8th May 1868. On the former of these dates he is correctly described as 33 years old and as 5 feet 3 inches tall, while three years later he is still 33, but has grown an inch and a half, being 5 feet 4½ inches tall.

Likewise, also, Tullabali or Jovalee (for his name differs in the two tickets), No. 22,854, son of Hessein Bocous, arrived in 1859, when he was 17. He obtained a ticket in 1865, when he was (correctly) described as 23 years old, 5 feet in height, but a *Chinaman* by caste; while in 1868, on the duplicate ticket, he was described three years younger than he had been four years before, viz. 20, as 5 feet 3 inches in height, and a Mussulman by caste.

1176. Another case is that of Noorally, adduced by Mr. Poulin, arrested as a deserter from his estate in April 1872, having in his possession two duplicate tickets. The first was obtained on the 4th January 1867, the second on the 31st October 1871. In 1867, his mother's name was Moony; in 1871, Mooree. In 1867, he was 27 years old, and 5 feet 2 inches in stature; and in 1871, he was 22 years old and 5 feet half an inch in stature.

1177. It is true that no register of duplicate tickets has ever been kept, and the Head Clerk of the Ticket Branch might urge that as a reason for less exactness in the duplicate tickets; though a reference to the Immigration register would have enabled him to furnish a duplicate ticket free from any such absurdities as above described.

1178. The necessity for keeping a register of duplicate tickets never occurred to Mr. Beyts; and he stated that the staff of his department having been very much smaller than it should have been, he had not liked to increase their work; but that, since the beginning of 1872, when an increase in the staff was obtained, there had been a Register of Duplicates.

1179. From all these facts it is evident that, notwithstanding the voluminous registers (of which there are, we believe, no less than 969) kept at the Immigration Office, they are utterly useless for the purpose of identifying immigrants, unless the immigrant can furnish his number, which, however, we have shown (*vide* paragraph 1125) a very sufficient reason why he never should; and even if the number be given, the information procurable at the Immigration Office extends no further than to what was furnished by him before leaving India, to the date of his arrival in Mauritius and the date of the issue of his ticket of Old Immigrant. It gives no information regarding his career in the colony—that and all other information being only obtainable, if obtainable at all, after referring to other officials, such as the Magistrates or the Inspectors of Police. When, however, a man has been identified in the Immigration Office, the only method of ascertaining whether he is a deserter is by advertising the names of applicants for duplicate tickets in the 'Government Gazette'; whereas, if all indentures of service were notified to the Protector, and such indentures duly registered in the Immigration Office, it might be known at once whether the applicant were free to engage or still bound by any contract.

Lax system in the Immigration Department.

Case of Callypersaud.

Grievances of Mr. Poulin against the Immigration Office.

Ludicrous discrepancies in tickets.

Necessity for accuracy in description on tickets.

Absurd discrepancies between different tickets describing the same individual.

Ramboyen, Tullabali.

Nearly.

No register of duplicate tickets formerly.

Explanation by Mr. Beyts.

The 969 Registers of the Immigration Department are useless.

Little or no information respecting individual immigrants to be got from the Immigration Office.

1871.

Complaints made by Captain Gordon, Acting Inspector-General of Police.

1180. Further, too, we find complaints from the Acting Inspector-General of Police of the inefficiency of the Immigration Office in preventing incorrigible vagrants, who have been deported to India, returning to the colony; and of the apparent facility with which vagrants obtained passes from the Immigration Office, enabling them to elude the efforts of the police to suppress vagabondage. In consequence of this letter, a somewhat warm correspondence took place in the months of March and April 1871, between the Police and the Immigration Department, through the Colonial Secretary.

1181. It seems that, on the 2nd of March in that year, an Indian, calling himself Dookee, was sent under escort from Savanne to the Vagrant Dépôt at Grand River, in order to undergo a sentence of 112 days' imprisonment, to which he had been condemned by the Magistrate; and that, upon his arrival, he was recognised as having been, on the 14th January, 1870, sent from the Vagrant, to the Immigration, Dépôt, for deportation to India as an incorrigible vagrant, under the name of Dawarg. He had thus been sent back to India at the public expense, and, after remaining some six months in that country, he had again enlisted as an immigrant, was passed at the Dépôt at Calcutta, and landed in Mauritius sometime in January 1871, when he was indentured to Mr. Tourette, of Savanne, from whose service he speedily deserted, and, on being arrested, was condemned, as above stated.

Marday's case.

1182. There was another among the persons sent under escort from Port Louis to Grand River on the same day, who was recognised as a boy of the name of Marday, who, having been first in the Reformatory, had been thence apprenticed to Mr. Bell, the Police Inspector of Grand Port, from whom he ran away, came to Port Louis, and went to the Immigration Office, where he obtained a pass to go and seek for work. He then engaged with one Mr. Lejour, for deserting from whom he was condemned to 14 days' imprisonment, which led to his recognition at the Vagrant Dépôt.

Carpen's case.

1183. The same day, too, an Indian named "Carpen," having no master, was brought to the Vagrant Dépôt on a stretcher, from Port Louis, suffering from ulcers, and condemned to 28 days' hard labour as a vagrant.

1184. This poor man had been discharged from the same dépôt but a very few days before, and had been sent back to the Protector to be put *en règle*, and, while at the Immigration Dépôt, he somehow wandered out into the bazaar without any pass, and was, of course, arrested by the police.

1185. These two last were represented as belonging to classes of cases of frequent and almost daily occurrence, the results of which were, firstly, to give facilities to men of confirmed vagrant habits to

"carry on a course of petty pilfering until their pass is out, when they are generally re-arrested and sent back to do another 28 or 14 days only, no matter how often they have been condemned before."

Mr. Beyts's Report upon the same.

1186. Mr. Beyts, in reporting upon these complaints of Captain Gordon, remarked that the assertions contained in it, if well founded, would obviously justify the following conclusions:—

Appendix K 24.

- 1st. That there had been a culpable laxity in the management of the Immigration Department.
- 2ndly. That there had been an overstrained severity—a severity bordering on heartless cruelty, in the administration of the vagrant laws.
- 3rdly. That there had been a culpable neglect on the part of the Police Department itself, in not having sooner informed the Head of the colony of the barbarous misapplication of the vagrant laws by the Stipendiary Magistrates.

1187. With regard to the Reformatory boy

"who went to the Immigration Department, and there is said to have obtained a pass without any enquiry having been made into his antecedents,"

Mr. Beyts wrote—

He takes very high ground.

"Here the Inspector of the Vagrant Dépôt, and the Inspector-General of Police following in his wake, simply bring forward a direct charge of culpable neglect and mal-performance of duty against the head of the Immigration Department. As the head of that Department, I am undoubtedly responsible for its proper management; and if the charge preferred against it, namely, 'that passes are issued there indiscriminately and without previous enquiry into the antecedents of the applicants' be grounded in truth, it is evident that His Excellency the Governor cannot draw any other inference from the fact than that I am wanting in the care and vigilance which Government has a right to expect from me. I am quite disposed to bow to such a reproach if it does rightly fall upon me;

"but I trust His Excellency will allow me to question whether I have incurred it—that he will allow me, before I submit to it, to challenge the Inspector-General of Police to substantiate his charge.

"Does the mere fact that a pass is found in the possession of an immigrant prove *per se* that he has obtained it without any enquiry having been made into his antecedents; that it was given to him indiscriminately, without any examination into the merits of his application? Were there any circumstances, independent of the mere possession of the pass, which authorised the belief that the document had been so obtained? If so, let those circumstances be fully stated.

"If no such circumstances can be explained, if the charge cannot be substantiated, I have a right to demand that it be retracted, or, at least, that the imputation of negligence levelled against me be turned into a rebuke against the persons who have preferred it.

"The Acting Inspector-General of Police, having just assumed charge of his department, is probably still unacquainted with the details of our labour laws, and unaware of the rules which govern the issues of passes and tickets from the Immigration Department. If so, he should make it his duty to study those rules before arrogating the right of sitting in judgment over the officers who have to administer them.

"Various categories of passes are issued from the Immigration Office. They are not exclusively given out to applicants who prove that they are not deserters.

"In many cases such a proof cannot be fully established by the applicant; then, as he is not *presumptively* a vagrant or a deserter, he is subjected to a probationary process, which is this: a pass is given to him for one month, his having applied for a duplicate ticket is advertised in the 'Government Gazette,' and, if he be not claimed as a deserter, he is held entitled to a fresh ticket at the expiration of the month's probation.

"Thus it often happens that, when, notwithstanding all the inquiries which have been made, the identity of an applicant cannot be established, or his freedom from engagement cannot be ascertained, he is subjected to a month's trial under the 'suspension' of a pass.

"It frequently happens, too, that the applicant is declared to be a deserter within the month; in which case he is arrested on his reappearance at the end of the month, and forwarded to his employer."

1188. Whether or not, in this particular case, enquiries had been instituted before the pass had been issued, appears to us a matter comparatively of small moment in considering the general merit or demerit of the system prevailing at the Immigration Office; but, the result of all these cases is, we think, to make it very clear that, if a proper register existed in the office, that the necessity for the cumbrous devices of passes to look for comrade's numbers, permits to work, and the like, would at once disappear, for by simply referring to the register it should at once be plain who the man is, whether an Old or a New immigrant, whether he is or is not engaged, and whether he is or is not applying for a ticket upon false pretences and under a false name; in which latter case, he would most justly become liable to the penalties of the vagrant laws.

1189. As it is, however, there can be no doubt that these temporary passes are made use of by deserters and bad characters, for the purpose of baffling the police, for we find, on the 4th August of the same year (1871), another complaint from Captain Gordon, stating that the verandah of the Immigration Office was the nightly sleeping place of numerous Indians, bearing different kinds of papers, issued to them by the Officer in charge for various purposes and various periods, but who had no place of abode, and committed nuisances of all kinds in the neighbourhood.

1190. These were, probably, deserters who did not make use of the passes given to them for the purpose of obtaining the information necessary for their identification in the office, but, in dread of being discovered by their masters, remained in town until these passes expired; or else incorrigible vagabonds, determined not to work at any price, and to whom imprisonment would be a lighter punishment than the obligation of returning to their work. This view of the system is held by Mr. Dupuy, the police of Port Louis, who stated before us that the issuing of passes to find a fellow-passenger's number had no effect at all, and that his attention had been called to the fact that the men availed themselves of the 8 days thereby given either to abscond or to become vagrants.

1191. Mr. Beyts then went on to consider the third case,

"Reported by the Acting Inspector-General, that of the Indian who is stated to have been allowed to leave the Immigration Dépôt without a pass; and who was

Complaint made by Captain Gordon, Acting Inspector-General of Police. Mr. Beyts's Report upon the same. He takes very high ground.

Urgent want of a proper Register in the Immigration Office.

Abuse of temporary passes issued from the Immigration Office.

Mr. Beyts's report upon the third case, advanced by Captain Gordon.



Mr. Beyts  
report upon the  
third case  
addressed by  
Captain  
Gordon.

consequently arrested by the police, and sentenced by the Magistrate to 28 days' hard labour, although he was suffering from ulcers, and had to be carried on a stretcher.

Here, again, is language used which, to say the least of it, is unmeasured and inconsiderate. Because an Indian went out of the Immigration Depot without a pass, does it follow that he was permitted to do so? Might it not be just as logically assumed that, when a police-constable gets drunk, or perjures himself, or accepts a bribe, he does so with the permission of the Inspector-General of Police?

When an immigrant leaves the Depot without a pass, he does so not with the permission, but in violation of the orders of the Officers of the Depot.

It is stated that the Indian was consequently arrested and punished as a vagrant, although he was covered with ulcers, and in so weak a state as to be unable to walk.

If he was in that state, it seems to me that he should neither have been arrested nor punished as a vagrant; that he ought to have been taken forthwith to the Civil Hospital or to the Poor-Law receiving-room, and immediately given over to the charge of a Medical Officer.

I beg to recommend that the Inspector-General of Police be directed to take this course in future, in regard to all persons found in the condition of the Indian just described.

It is, unquestionably, an act of extreme inhumanity to carry a man on a litter to the Magistrate's Court; a man suffering from ulcers, and so weak as to be unable to walk, to try him for vagrancy; and to condemn a man in that state to 28 days' hard labour seems to me to be quite inexplicable.

1192. We cannot say we think that this is a satisfactory defence to the imputed negligence of some Officer of the Immigration Department, and we regret to find so much time wasted by the Protector of Immigrants in reexamination against the Inspector-General of Police. Had the Protector of Immigrants employed his own and his Clerks' time in arranging the details of the Immigration Office, their time would have been spent to much better purpose, and the necessity for wasting time in verbose reexaminations would have been obviated.

1193. To the first place, it appears to us that there was culpable negligence on the part of the Immigration Department when a man, in the sickly condition in which Carpen is described to have been, was able to leave the Depot, whether with permission or in violation of orders, as he ought never to have been kept in the Depot at all, but should have been sent to be properly cared for to the Civil Hospital, if found to be under engagement; or to the Poor-Law Hospital (*Form 46*), if not engaged; and, secondly, considering that, under Article 60 of Ordinance 31 of 1867, any immigrant leaving the Depot, after having become amenable to its regulations, without the sanction of the Protector, is liable to 15 days' imprisonment; we think that the printed form of pass (*Form 40*) for permitting inmates of the Depot to leave it and remain absent therefrom should not be restricted to a given number of days, but should be required on all occasions, especially as, by Regulation 66 of 26th August 1869, any person wishing to employ them can only have access to them upon a written permission from the Protector.

1194. This case leads us on to consider the question of the general treatment of immigrants coming to the Depot:

What are the facilities afforded to them for personal interviews with the Protector, should they desire it?

How much truth is there in the allegation contained in the petition of the Old immigrants, and repeated by Mr. de Plevitz in his pamphlet and when examined before us, of the frequent use of the "rattan" by the Peons or the Clerks attached to the department?

1195. The admissions into the office are regulated by rules, which were approved by his Excellency the Governor in February 1872, rendered necessary in consequence, Mr. Beyts informed us, of the number of applications of all sorts made daily at the office, which average 100.

1196. Every immigrant on entering the outer gate of the Depot, and reaching the foot of the steps leading up to the office passes a gatekeeper to whom he states his reason for wishing to come into the office. The gatekeeper enters his name in a book kept for the purpose, but has no right to enquire further than to ascertain that the applicant has some business, and his duty is thereupon to pass him on, for if he were to take upon himself to turn back any one who said he wished to see the Protector he would lay himself open to punishment.

General treat-  
ment of immi-  
grants coming  
to the Depot.

He  
Liz

Regulations  
respecting  
admissions  
into the office.

The Gate-  
keeper.

1197. The applicant then passes up the steps and enters the office on the first floor by a small door, near which he passes the "Admittance Clerk," an Officer of recent institution (1872), who registers his name and number, and gives him an office admittance-note (*Form 18*), at the same time directing him to the part of the office to which he has to go. If he desires to see the Protector, his reason for wishing to see him is noted thereupon, and he is passed down the office to the anteroom of the Protector's office, when he will, if there be several applicants to see the Protector, await his turn according to the serial number of his admittance-note.

If, on the other hand, he only requires a ticket or a pass he need not go to the Protector, but is directed at once to the Clerk in charge of those papers.

1198. The number of immigrants who see the Protector average about forty a day, and the reception of them occupies a great part of his time.

1199. Many of these, however, come upon business, for which the interference of the Protector is quite unnecessary, but state they want to see him, probably thinking that by so doing they will be more quickly attended to, and they are at once referred by him to the proper branch of the office.

1200. Complaints are made to the Protector verbally, and latterly Mr. Beyts has kept a memorandum book of them. He only began it, however, in June or July 1871, a date, therefore, subsequent to the presentation of the Old immigrants' petition, and there is no record of any complaints made previously. Since that time, however, he enters the name of the complainant, the substance of the complaint, and the name of the party complained against; after which he refers the matter to the Stipendiary Magistrate of the district.

1201. At the time of our examining Mr. Beyts, a year had, as nearly as possible, elapsed since he had first taken notice of complaints; and the number during that time had only amounted to 120, most of which Mr. Beyts had found worthy of attention.

1202. In addition to the opportunities immigrants have of seeing the Protector at the Immigration Office, Mr. Beyts assured us that he was always accessible to complainants at his private house, whither some came almost every day: a statement which we find it difficult to reconcile with his assurance that the number of applicants at his private house (where there is no doorkeeper nor Admittance Clerk) did not exceed that at the office, unless we suppose that the distance (five miles) from Port Louis deterred them, or that the vast majority of those complaints made were groundless; in which case they would not be borne upon the Complaint Book.

1203. It is a somewhat curious fact that, since June or July 1871, there has been a marked increase in the number of complaints, in comparison with which the number received in 1869 and 1870 was small; a fact for which Mr. Beyts is unable to describe any cause except to suggest that there must be "increased cause of complaint."

1204. It never occurred to him, however, to enquire into the circumstances which had given rise thereto, and he could form no precise idea; but he did not think that it was owing to his being no longer employed upon committees, and business foreign to his department, as he had been since 1867 (*vide* paragraph 926 of Chapter on the Protector); and it had never occurred to him that applicants might have had more confidence in him than in the Chief Clerk, to whom in his absence they were referred.

1205. With respect to the alleged ill-treatment and beating of Indians with rattans, we feel satisfied that when the Peons carry rattans they will not hesitate to make use of them; for we find in 1863 a letter from the Magistrate of Rivière du Rempart, calling the attention of the Protector to the fact that immigrants who had gone for papers complained of having been turned out of the Depot without any satisfactory answer or their documents; and in January 1865 we find the same complaint made by the same Magistrate, on the representations of two managers of estates, "Goodlands" and "Forbach;" just at the time when the recent introduction of passport-tickets was bringing an unusual pressure of business upon the office; all of which tend to corroborate the complaint of the Old immigrant Rajchunder (No. 11 of special cases annexed to the *Old Immigrants' Petition*, *vide* page 5) that, in December 1865, he went to the Depot to have his photograph taken on five successive days, and was each day turned out with violence.

1206. Mr. Beyts, however, assured us that, since the 14th February 1866, when the Peon named Ruchaya was dismissed for having, when drunk, struck an immigrant with a rattan, the carrying of such an instrument had been strictly forbidden.

The Admit-  
tance Clerk.

Admitted to  
the ante-room  
of the Pro-  
tector's office.

Daily average  
number of  
immigrants  
seen by the  
Protector.  
Personal in-  
terviews with  
the Protector.

Complaints.

No book of  
complaints  
kept formerly.

Complaints to  
the Protector.

The Protector  
always accessi-  
ble even at  
his private  
residence.

Increase in the  
number of  
complaints.

Why, Mr.  
Beyts cannot  
say.

Alleged ill-  
treatment of  
immigrants  
in the Immigra-  
tion Office.

Dismissal of  
the Peon  
Ruchaya for  
striking an  
immigrant  
14th February  
1866.

Rattans for-  
idden in  
Depôt.

to all employed in or about the office; and by the Return put in by Mr. Beyts, of the Peons dismissed from the Immigration Office since 1860, it would seem that in twelve years only ten have been dismissed, of whom Ruchaya alone was dismissed for ill-treating immigrants.

1207. In this Mr. Beyts is corroborated by Mr. Anderson, Acting Chief Clerk, who told us that he never found any difficulty in keeping order, without using a rattan; and that, although it was the practice when he first entered the office for the Peons and guards to carry them, he had never seen one carried since February 1868.

Cases adduced  
before the  
Police En-  
quiry Com-  
mission.

1208. On the other hand, the Police Enquiry Commission had before them ten out of the 102 immigrants who signed the Old immigrants' petition, declaring that "at one time or other" they had been beaten with rattans in the Immigration Office; and all ten solemnly affirmed that they had been so treated. Most of these cases occurred about 1865 and 1866, and the circumstances in each case seem to have been the same—namely, that they went to be photographed; that, on complaining of the length of time they were kept waiting, they were struck; and that they were prevented by the Peons from obtaining access to Mr. Beyts, to complain. One (Bhundally) stated he was beaten so late as in 1868, by a white man and a Peon; and another (Dwareeka) stated he had been struck with a rattan by Mr. Conier, the Head Clerk of the Ticket Branch, in 1870; and that he had seen him beat other Indians with a rattan. Another man (Bickram) declared that he had been struck when he went for the ticket which he produced, and which was dated the 1st March 1869, by a Peon, whom he could identify; and, on being sent for that purpose to the Immigration Office, he picked out one Fakeer-Mamode, who with equal solemnity declared that he had nothing to do with keeping order in the office, was a boatman, and had never struck Bickram, as he was the father of a family, and knew that

"when any complaint is made to Mr. Beyts of a Peon having touched a Malabar, the Peon is dismissed."

Alleged ill-  
treatment of  
immigrants  
in the Immi-  
gration  
Office.

1209. Rajarathnum Moodelliar, too, spoke to having seen a rattan used in 1870, while Mr. Conier was close by and when Mr. Argent, the Chief Clerk, was not far off; but, as he thought it was done to preserve order, he made no further enquiry and took no notice of the circumstance, which, we think, is very much to be regretted, considering that he is a leading man among the Indians in the colony.

1210. But, notwithstanding Mr. Beyts' order in February 1866, forbidding rattans to be carried by the subordinate employes of his office, we find that eighteen months later they were again used. On the 27th of June 1867, Poorun, an Old immigrant intending to return to India, was robbed of £150 in the Depôt; and Beharry, Francis, and Boolaky, three of the depôt guards, together with two women, were charged before Mr. Rouillard, the District Magistrate of Port Louis, with the robbery. Beharry and the two women were convicted and sentenced to be imprisoned for twelve months. Francis and Boolaky were discharged; but Mr. Beyts, in reporting the occurrence, stated that, although the evidence had not been sufficient as against these to lead to their conviction, he had little doubt of their guilt, and he recommended their dismissal from the establishment.

1211. In the course of his evidence, Poorun made a statement relative to the conduct of the Peons at the Depôt, which shows that at that time the use of rattans had once more crept in. He said:

"It is the constant custom of all the Peons at the Immigration Depôt . . . to push the returned immigrants for India into the street at gun-fire in the morning. They use sticks and rattans to this effect, and strike the immigrants."

1212. Again, thirteen months later, in July 1868, Neeflaguntos, a Peon of the Immigration Department, was charged with accepting a bribe of 2s. from an immigrant named Meerjan, to admit the latter into the office. In this case, too, evidence was given that the accused was stationed at the foot of the stairs leading to the office, and that he was pushing and inflicting blows upon those who wished to come in: though whether with a rattan or merely with his fist, does not appear. The Magistrate did not consider the charge of taking a bribe had been proved, and dismissed the case; but the Substitute Procureur-General reported that—

"There can be no moral doubt of the guilt of the accused, and I would suggest that a strict watch be established in the Immigration Depôt for the detection on clear evidence of those servants of the department who are in the habit of receiving gifts from Indians who require their services."

Lecture No. 647  
of 1868.

1213. Lastly, on the 17th of October, 1873, Mr. Beyts's own Peon, Edwin Chavri-mootoo, was sentenced to an imprisonment of one month and to a fine of 2s. for accepting 1s. from a woman named Hurree, who wanted to speak to Mr. Beyts. Hurree further declared in evidence that this Peon had given her a kick which had knocked her down. She said she had told Mr. Beyts when he came out of his office; but this was denied by Mr. Beyts.

1214. We, therefore, are of opinion that, notwithstanding the stringent orders of Mr. Beyts, rattans have been used and blows inflicted upon immigrants in the Depôt since 1866; and, to judge from what undoubtedly went on at that time, we think such treatment by no means impossible, or indeed improbable, at any time, if Mr. Beyts or Mr. Anderson were not present, as will be seen from the following case.

1215. While Mr. Beyts was under examination, our attention was directed to a highly sensational extract from the 'Cerneen' newspaper of the 11th February 1866, giving an account of a then recent occurrence at the Immigration Office.

1216. It appeared that an Indian had given certain answers to the questions of the Clerks of the Ticket Branch, which they did not deem satisfactory; so, in order to make him confess the truth, a punishment was applied to him frequently administered to naughty children, known in the Creole patois as "Zinga," which consists in taking hold of the culprit by the ears and lifting him up and down. It was asserted that, to increase the severity of the application, heavy registers were put upon his head, while at the same time a Peon inflicted strokes with a cane, regardless of the screams and entreaties of the Indian. A day or two later, an article appeared in the 'Commercial Gazette,' ridiculing the version of the incident given by the 'Cerneen,' which, it stated, amounted to nothing more than that a Peon had been seen

"to strike an Indian with a small switch, and received his dismissal immediately;" but that there had been no brutality or torture, as was implied by the 'Cerneen.'

1217. To our surprise, however, Mr. Beyts' examination showed that the main facts were undoubtedly correct; that a complaint had been made to him at the time, which

he had investigated; the result of which showed that the book had undoubtedly been put upon the head of the Indian; and that he had been subjected to "Zinga" by Mr. Joseph, one of the Clerks of the Ticket Branch.

1218. It is also not a little remarkable that the date tallies exactly with that of the dismissal of the Peon Ruchaya, which led to the order against the carrying of rattans.

Mr. Beyts, however, did not recollect the fact sufficiently to be able to connect the two circumstances; but he came to the conclusion that it had amounted to nothing more serious than "a lark;" and that the Indian had not been subjected to any real cruelty; he therefore reprimanded Mr. Joseph

"most severely, and threatened him with instant dismissal from the office if" (he) "found that such larks were again practised on immigrants."

1219. We think that in regarding this incident as nothing more serious than a "bad form of practical joking," Mr. Beyts was probably right; but that, in attaching "no importance to the subject," he was decidedly wrong: and how little impression it left upon his mind, and how little control was kept upon the office, may be gathered from the fact that, when four years later the same Clerk, Mr. Joseph, was discovered to have been guilty of carelessness in issuing a ticket improperly

filled up, Mr. Beyts, in reporting the occurrence to Sir Henry Barkly, wrote:

"Were it not for Mr. Joseph's having been fifteen years in this office, and never having on any other occasion given me reason to be dissatisfied with his conduct, I should have deemed it my duty to recommend his immediate removal from the situation he holds."

1220. But even if, with the 'Commercial Gazette,' we dismiss all idea of torture or cruelty having been inflicted, we cannot conceive anything more scandalously indecent than the practice by the officials of an important public department of bullying, which might shame a schoolboy, openly indulged in at the expense of one of the very class for whose special benefit and assistance the department in question is maintained; and, with such an incident before us, we certainly think that Mr. de Plevitz was guilty of no very great misrepresentation or perversion, when he made the reflection (*vide Petition of Old Immigrants*, paragraph 16, page 7):

"Contemptuous and arbitrary treatment of Indians by the police seems to follow naturally. When inside the Immigration Office, where immigrants are to find protection, they have, as is well known, been habitually and openly beaten with rattans by the employes."

Mr. de Plevitz justified in his indignation.

Mr. de Plevitz justified in his indignation.

Mr. de Plevitz justified in his indignation.



Reasons for practising "Zinga," a substitute for proper registers.

Mr. Conier's solemn declaration.

Not believed by the Commissioners.

Alleged over-charge of fees.

"Battaras."

Intervention of Indians.

System disapproved of by Mr. Beyts.

Challick's case.

Alleged over-charge of fees.

Case of Ramsawmy, a day-labourer, who was paid for a pass by some person unknown.

Precautions taken against imposition.

Every precaution taken nowadays by Mr. Beyts to prevent extortion.

Pachamah's case.

1221. That this, however, was not the only time that "Zinga" was practised, as we learn from the evidence of Mr. Anderson, who, not then holding the responsible post which he does now, had seen it occasionally employed, previous to February 1866, in the Ticket Branch, with the view, as Mr. Anderson believed, of making the Indians give correct names, and thus to supply the blank caused by the laches of the Immigration Office itself in not keeping a proper register.

1222. We have only to add that, however much Mr. Beyts may have disapproved of such practices when brought to his notice, they must have been known to the Chief Clerk, who sat on the opposite side of the office, and to Mr. Conier, then, as now, the Head of the Ticket Branch, who, nevertheless, declared on oath, that he knew nothing about it, and had never seen anything of the kind, and that, if he had, he would have reported it to Mr. Beyts; a declaration which we find it impossible to believe, except upon the assumption that the repeated and simultaneous absence from the office of every person in authority was taken advantage of by the junior Clerks.

1223. With regard to the charge which Mr. Beyts told us had sometimes been made, of higher fees being charged to immigrants than were authorised, we have found no well-established case of the kind; and it is possible that immigrants may have become impressed with the idea that they have been overcharged by the officers of the Immigration Department, when in fact they have been the dupes of Battaras, or middlemen, who hang about public offices and magistrates' courts and force their services upon the ignorant Indian, to act between him and the officials. (See Chapter XXX., *Magistrates and their Courts*.)

1224. One case of this sort came under our notice wherein was concerned a certain Mr. Legoy, whom Mr. Beyts informed us he had caused to be excluded from the Immigration Office. This person styles himself a "General Agent," and gains his living mainly, it appears, by writing petitions: a system against which Mr. Beyts had steadily set his face, preferring, he told us, to see the immigrants himself, as he considers he can better ascertain their wants when they are personally explained.

1225. On the 28th June 1872, one Challick paid Mr. Legoy 8s. to procure a duplicate ticket for him. The latter, when questioned upon the matter by the Acting Inspector-General of Police, readily admitted this, and stated further that he had been to the Immigration Office, where, not finding Mr. Beyts, he returned the following day; but Challick did not appear until the evening, when he informed Mr. Legoy he did not want the ticket, and requested his money should be given back, and 8s. 6d. was accordingly returned, the difference of 1s. 6d. having, in the meantime, been spent by Mr. Legoy, who, being a licensed Agent, expected some remuneration for what he had done. And although Challick need not, and ought not, to have employed Mr. Legoy, still, having done so, the latter was justified in demanding a recompense for his services.

1226. Cases occasionally happen of Indians being imposed upon in the office itself by persons neither general agents nor Clerks in the office: thus Ramsawmy, No. 17,137, a day-labourer in Port Louis, having lost his papers, came to the office on the 6th August 1872, for a duplicate ticket, and, while waiting in the central passage of the office, was met by a person he supposed to be a clerk, who asked him for 5s. for a pass which Ramsawmy, having incautiously paid, the person went away and never returned. After waiting two hours, Ramsawmy applied to Mr. Conier and to Mr. Anderson, who then gave him a pass to go and look for a comrade's number, for which no fee at all was required.

1227. Mr. Beyts instituted an enquiry, and, Ramsawmy having been confronted with every Clerk in the office, and declaring that none of them was the person to whom he had paid the 5s., he came to the conclusion that Ramsawmy must have been defrauded by some person unconnected with the office.

1228. In justice, however, to Mr. Beyts, we must add that he appears to have taken precautions to prevent impositions being practised by any of the subordinate Clerks, as every immigrant, after passing the "Admittance" Clerk, has to apply to the Chief Clerk before applying to the subordinate Clerk, and to state to the former what they want; and, on leaving the office, they have to go before him again, to receive from him the ticket or other paper which they require, and it is his duty to ascertain from each of them what he has paid; and thus any over-payment is at once detected, unless the immigrant himself conceals it.

1229. Notwithstanding these precautions, however, against both imposition and mistake, we do find that immigrants sometimes come away with wrong papers;

for, on the 25th March 1872, Pachamah, an Old immigrant, No. 2042, was arrested in Black River, and taken before Mr. d'Emmerez de Charmoy on the suspicion of being in possession of false papers. He had been discharged from his last engagement on the 19th, and his ticket and certificate of discharge were *en règle*, yet he had procured him a pass signed by Mr. Anderson, the Chief Clerk of the Immigration Office, dated the 23rd, wherein he was borne as "number unknown," and was authorised to go for a fellow-passenger's ticket, and to return on the 30th. His own statement was to the effect that he went to the Dépôt to declare his desire of returning to India,

"that he was not admitted, and was given this pass by one of the Clerks whom he did not know."

That the object of his visiting the Dépôt was, in truth, such as he stated, would seem to be corroborated by the fact that, very soon after this occurrence, he did return to India an invalid; and we are, therefore, driven to assume either that the pass was delivered to him by error, or that he was endeavouring to procure a duplicate ticket, to befriend some comrade, by fraudulently suppressing the fact that he had all his requisite papers *en règle*.

1230. The records of the office are silent as to the reason why the pass was issued, and neither Mr. Anderson nor Mr. Beyts was able to supply an explanation.

1231. We, lastly, have to show how the work of the office is distributed between the Protector and different Clerks.

1232. The staff, exclusive of the Protector, consisted, at the beginning of 1872, of the Chief Clerk, the Accountant, the Cashier, the Comptroller; together with five Clerks in the Ticket Branch, and one in the Statistical Branch; while the Distribution Branch consists of the Inspecting Officer alone, who is also styled the Distributing Clerk.

1233. The Protector's share of the work of the office is only as a referee in cases of dissatisfaction, or where immigrants have preferred to see him upon any matter, instead of a Clerk. It is only in special cases that reference is made to him; as when an exemption is claimed from the payment of some fee, or when any decision come to by the Chief Clerk is not assented to by the immigrant interested; in which cases the Protector would be referred to.

1234. Further, as we have seen (paragraph 1196), he deals with complaints and with various matters upon which immigrants sometimes come to him for his advice.

1235. As an example of the sort of matters that thus come before him, we may cite two instances which occurred one day when we were in the office. A man came, accompanied by his wife, stating that he wanted to go to India to see his parents, and that, wishing to leave his wife and child in Mauritius, he wanted the Protector to give his wife a note by which he might "recognise her on his return;" or, more correctly, by which he might claim her, in case she should, in the meantime, prove faithless and refuse to acknowledge him, and allege the difference in the immigration number of the man after his return from what it was before his departure, as a proof against his identity. Whereupon, though there was no absolute necessity for granting such a request, Mr. Beyts gave the note asked for.

1236. Almost immediately after, another man came, claiming a succession left him by his grandfather. He had come to the colony alone, his father having died before he left India; and it could not, therefore, be shown from the Registers of the Immigration Office that he was the grandson of the man whose succession he claimed. He, therefore, wished Mr. Beyts to take any steps he could to assist him in substantiating his claim, which Mr. Beyts thought of doing, by writing to the Emigration Agent in India, so that enquiries might be there instituted.

1237. With such nondescript matters a great portion of the Protector's time is occupied, and, besides these, he carries on the correspondence of the office, except in matters of ordinary routine between his department and other departments, which, if the Protector be absent from Port Louis, the Chief Clerk is authorised to do in his stead; and even when the Protector is only temporarily absent—as when attending a meeting of the Legislative Council—the Chief Clerk disposes of correspondence which may be urgent.

1238. There are besides numerous documents, such as tickets, which, if the laws were strictly followed, ought to bear the signature of the Protector; but since the passing of the Ordinance 5 of 1865

"to enable the Chief Clerk in the Immigration Department to act in the absence of the Protector of Immigrants,"

the practice would rather appear to have arisen that the Protector signed only in the

Questions 3035 to 3038.

absence of the Chief Clerk, the form of the ticket being printed for the signature, not of the Protector, as prescribed in the schedule of Ordinance 31 of 1867, but for that of the Chief Clerk

"in the absence of the Protector of Immigrants."

Great bulk of Protector's duties shammed on to Chief Clerk.

1239. Such a course would obviously have been inevitable had the Protector often been absent in visiting estates or when employed upon work wholly irrelevant to his department; but not the less certainly does it appear to us to have followed that the great bulk of the official duties of the Protector were for several years delegated to the Chief Clerk, whose duties we shall next consider.

The Chief Clerk and his duties.

Questions 3039 to 3052.

1240. The present occupant is Mr. Anderson, who is acting for Mr. Argent, absent on leave, and he draws a salary of £400 per annum, and furnishes security for the due performance of his duties.

General superintendence. Signs documents.

Questions 2980 to 2983. Questions 3053-37. Question 3022.

1241. He superintends and directs all the Clerks in the office, each Clerk accounting to him for the work done by himself, and he reports to the Protector any breach of duty on their part. He signs permits to engage, and all other papers of the Ticket Branch, except only permits to marry.

Decides whether certain documents shall be issued. Duties in absence of the Protector. As to complaints.

Question 3024. Question 2918. Questions 3023, 3022, 3024. Questions 3025 to 3028.

1242. He decides whether or not passports shall be granted, as also whether exemption orders shall be granted, and in the event of the protracted absence of the Protector, he assumes charge of the Dépôt as well as of the office, and signs orders. He does not, as a rule, deal with complaints, which are reserved for the Protector in person, unless the absence of the latter extends over a day, in which case the Chief Clerk would receive the complaints and forward them to the Magistrate. In a word, he discharges all the Protector's duties.

The Ticket Branch.

Question 3043.

1243. The most important branch of the office is undoubtedly the Ticket Branch, of which Mr. Conier is the head, on a salary of £190 per annum. He is assisted by four Clerks, one of whom is also entrusted with the task of distributing clean clothing to newly-arrived immigrants and of preparing the lists of passengers for embarkation. Mr. Conier is, as Mr. Beyts informed us, a very valuable person in the office, and one whom he would not find it easy to replace, being thoroughly acquainted with the routine of the office, and the rules concerning the issue of passes, permits, and tickets; and, moreover, quite familiar with the contents of the registers and able to put his hand upon any reference at a moment's notice.

The "Head Clerk."

Question 3041.

Mr. Conier is a very valuable person.

Question 3042. Questions 3034-35.

1244. Complaints have, however, reached Mr. Beyts of Mr. Conier, and he has heard rumours of his not admitting Indians, and of his turning them out of the dépôt; charges, which he tells us, he has investigated, but in no case found substantiated, although he has cautioned Mr. Conier against acting in such a way as to give a colour to such complaints, and had intimated to him his displeasure at having such complaints brought, and that if they had been proved he would have been dismissed.

Rumours of Mr. Conier's misdoings.

Questions 3008 to 3111.

Mr. Beyts's displeasure.

Questions 3008 to 3111.

1245. Whatever truth there may have been in these charges, and without condemning Mr. Conier for his very unreliable testimony given before us alone, there can be no doubt that Mr. Conier has been in the habit of acting towards immigrants without due caution, and under a very imperfect acquaintance with the law, as appears from the following case, which was investigated with considerable care by the Police Enquiry Commission.

Mr. Conier's conduct impeached.

Questions 3008 to 3111.

Boodhun's case.

Report of Police Enquiry Commission. Paragraph 134. Answers 1731 et seq. Appendix H 1.

1246. An Indian of the name of Boodhun came to them at an early period of their enquiry to ask them to give him "a good paper." It appeared that he had come to the colony twelve years before, and had been engaged to Mr. Chapman at Pamplemousses from whom he deserted and was still without an Old Immigrant ticket. On his application at the Immigration Office for papers, Mr. Conier found that this man's term of industrial residence had never been completed, and, therefore, to make sure, referred him to Mr. Renouf, the Stipendiary Magistrate, who sent him back, having written at the back of the reference note,

Mr. Renouf's opinion of Boodhun's desert.

Appendix H 1.

"deserves to be made to replace five years."

Provision of Art. 6 of Ord. 16 of 1852 disregarded by the Head Clerk of the Ticket Branch.

Questions 3008 to 3111.

1247. Mr. Chapman, his master, was dead, and notwithstanding that by the 6th Article of Ordinance 16 of 1852, it had been provided that

"no proof of industrial resident (should) at any time be required of an immigrant for more than three years antecedent of such residence being called in question,"

1248. Mr. Conier, without referring to the Protector, decided the matter in accordance

Evidence. Police Enquiry Commission. Answer 1772.

with what the Police Enquiry Commission, not unnaturally, call the "off-hand opinion" of Mr. Renouf, and on being questioned about it, admitted that they had never acted upon that Article in the office, whilst he appeared to think that so long as Government were to profit, it did not much matter what illegality was committed at the expense of an individual.

Mr. Conier's opinion of the public revenue note issued with the Old Immigrant ticket.

1249. That Boodhun may have deserved all that Mr. Renouf thought he did we do not deny, but we do think it improper that the personal independence of any man should be thus disposed of for a space of five years upon no higher authority than that of a Clerk upon £190 per annum, who admits he has never acted up to the law.

1250. To return to the routine work of the Ticket Branch, the following are the documents issued from it:

Documents issued by the Ticket Branch.

1. Passports.
2. Passes.
3. Tickets.
4. Permits to work.
5. Marriage certificates.
6. Permits to marry.
7. Permits to engage.

1251. The marriage certificate (*Form 40*) is one which must be obtained previously to the marriage of any two Indian immigrants before the civil status officer, in order to prove to the latter that the parties are neither of them already married; while the permits to marry (*Form 41*) are only given in the case of orphans, to whom the Protector is "ex-officio" guardian. These cannot be given without his sanction, and are signed, Mr. Beyts told us, by himself personally, although the form is printed, as almost all are, for the signature of the Chief Clerk

Permits to marry.

"in absence of the Protector of Immigrants."

1252. We have already (para. 1103 and following) mentioned the curious incident of the number of irregular tickets which were produced before us, and which must have been either stolen or given out of the Ticket Branch by some of the Clerks belonging to it. Out of a batch of thirty-six, eleven are manifest forgeries, written upon the Immigration Office Forms, though by no one connected with it, as appears plainly from the handwriting. Ten others have evidently been filled up in the office, as they bear the initials of the Clerks, and everything necessary to constitute a genuine ticket except the dry stamp and the signature of the Chief Clerk, as in the case of those of 1871, during the time Mr. Beyts was employed as Census Commissioner of the Officer in charge.

Mystery of irregular tickets.

1253. All these ten appear taxed by Mr. Conier as issued free of charge; and, it is plain that these could only have left the office either by the carelessness or dishonesty of the Clerks; and in the case of one, of a woman, Rumunum, No. 316,317, which was prepared by Mr. Joseph and taxed at £1 by Mr. Conier, no explanation could be offered, in answer to our enquiries, why it had not been signed by the Officer in charge.

1254. The next in importance to the Ticket Branch is the Cash Branch, including the Accountant and the Cashier. The Accountant is the head of this Branch, and receives a salary of £300 per annum; and the post was occupied until June 1872 by

Cash Branch. The Accountant and his duties.

Mr. Joachim, a man in whom Mr. Beyts reposed implicit confidence, until within a few days previous to his examination before us, when Mr. Joachim was arrested on a charge of embezzlement: a quantity of rice and dholl, for which he had indented upon the Government Storekeeper for the use of the Dépôt, having been watched by the Police while it was taken into the shop of an Arab Trader: in consequence of which Mr. Joachim, the Carter who carried the goods, and the Arab Trader, were put on their trial before His Honour the Chief Judge.

Proceedings against Mr. Joachim, who was acquitted.

1255. The trial lasted four days, and a full report of it is appended, and ended in the conviction of the Carter and the acquittal of the other two prisoners: a verdict which, however, did not save Mr. Joachim from being dismissed from the Government service; and the remarks of the Chief Judge, in his summing up, upon the testimony of Mr. Conier, showed that the evidence given by him before the Supreme Court was no more to be relied upon than that which he gave before us.

Regina v. Joachim and others. Appendix K 34.

1256. The dismissal of Mr. Joachim was determined in consequence of sundry irregularities in the management of the Dépôt Stores, which were brought to light on a surprise visit being made on the 19th June to the Immigration Office, by the Officers of the Audit Department, when a quantity of provisions was found in excess of those shown by the books of the office; viz.: rice 2292 lbs., salt fish 44 lbs., dholl 283½ lbs., oil 128 lbs., salt 185 lbs., wood about 10,000 lbs., soap 22 lbs., exclusive of 3605 lbs. salt

Dismissal of Mr. Joachim.

Surprise visit to the Immigration Office by the Audit Department.



fish over-issued, of 39½ gallons oil do., 68½ lbs. salt do., 3810 lbs. wood do., and 53 lbs. of soap; whilst 348 gunny bags were missing. The only way in which the Audit Office could account for the surplus in stores was by short issues of rations, or by over-entering the number of Immigrants daily in the Dépôt, or by non-accounting for the two days' provisions landed from the Immigrant ships; as was found to have actually been the case on two occasions; whilst the surplus might still further be explained by the fact that the weights were inaccurate, as, out of a total of twenty-two, seven were found to be short, and two in excess: and further, there had been some suspicious transactions by one of which Mr. Joachim had given a receipt to a contractor for 1797 lbs. of salt fish more than had been actually supplied, and for which the contractor had merely given a "bon."

1257. In the event of a pressure of work in this Branch, other Clerks are told off to assist the Accountant; but on ordinary occasions he does all the work himself, which consists in preparing sundry returns, mostly quarterly and half-yearly, which are published in the 'Government Gazette,' and in assisting the Protector in framing his annual report; these relate to arrivals, departures, engagements, and discharges, births and deaths; also a monthly return of sums received for transmission to India; a monthly return, for the use of the Audit Department, of Immigrants to whom passage-money has been refunded; one, however, which cannot be very laborious, as it is frequently blank.

1258. There is, also, a monthly return of Immigrants indentured for by Requisitionists, which is sent to the Colonial Secretary and to India, to authorise the agents to incur the expenses of recruiting and the despatch of the Emigrants required.

1259. There is, also, an annual Immigration Return sent to the Government of India, showing, in round numbers, the arrivals, discharges, births and deaths; and there are special returns for the annual Blue Book, to show the changes in the Establishment, salaries, &c., besides various returns necessary for the estimate upon which the Government Budget is prepared.

1260. The Accountant further makes out the abstracts for the salaries and allowances of the Department, and the requisitions for authority to incur expenses. He prepares all Bills in payment of the conveyance of Immigrants from India, and the receipts for the money paid into the Immigration Office by planters for that purpose.

1261. He also assists in the verification of the statements prepared for the Protector's annual report, which refer not only to the returns already mentioned, but to various other important statements, which the Accountant assists in checking.

1262. He is also the Purveyor to the Department, and has the charge of the issuing of the provisions from the storeroom in the Dépôt to such Immigrants therein as may be victualled at the expense of the Government. He makes indents for provisions, and keeps account of all provisions received and consumed; and, also, of all tools and implements received and given out for use, such as baskets, brooms, &c., of which he makes an annual inventory; and, lastly, he has charge of all clothing that is received from, and distributed to, the New immigrants on their arrival.

1263. The Cashier is the only person in the Department authorised to receive money, and is responsible for all sums paid in; furnishing security to the amount of £1000. He keeps a cash-book, in which he enters all the moneys received and paid by him, which is checked every day by the Chief Clerk. The collections are paid into the Treasury at least once a week, and oftener when large sums have been received; a statement of such collections and payments into the Treasury being prepared monthly for the Protector, who submits it personally to the Governor, by whom it is forwarded to the Treasury.

1264. The practice followed in respect of fees paid in the Immigration Office for tickets, permits, &c., was, until recently, that, on payment of any sum into the office, a voucher was filed in the Ticket Branch, which was kept until it had been seen by the Auditor, and compared by him with the entries in the cash book; after which the voucher was destroyed, and with it was lost all power of verifying any payment made by any particular individual: for the entries in the cash book were only of the total number of tickets, passes, certificates, &c., issued each day. This system has, since the Police Commission, been altered, it having been suggested to Mr. Beyts that the entry of every individual payment in the book would be an improvement; and now the name of every person making a payment is borne upon the book.

1st. Book, "in which occupies his whole time, name and number of each immigrant, and then, as we have stated, gives...

2ndly. The Comptroller, an Officer received...

Department, upon a salary of £250 per...

in which the payments made to the...

Chief Clerk each day verifies the cash...

have, he assists in preparing certificates of engagement...

immigrants, documents connected with departures, &c.

Lastly. The "Correspondence and Statistical Office," Mr.

Protector's Secretary, has charge of the...

and reports under the dictation or...

charge of all returns received from the...

of the Civil Status, and tabulates the information the...

all deposits made in the Savings Bank on behalf of Indian orphans; writes...

complaints made to the Protector, and refers them to the Specially Magistrate...

such remarks as the Protector may have made upon them. He has charge of...

received, and forwards to their respective addresses all letters and returns which...

be despatched from the office.

1268. We cannot close this Chapter without expressing our sense of the anomaly...

in an office, the chief object of which is to afford advice to the Indian immigrant, no...

one of the subordinate functionaries belonging to it should be able to converse directly...

with the immigrants in their own language. Mr. Beyts, it is true, is...

acquainted more or less with two of the Indian dialects, and used to...

know, but has forgotten a third: but as for any of the other officials in the office,

should the immigrant not be able to converse in the Creole patois, the only means they...

have of communication with him is through an interpreter.

1269. It is perhaps hardly to be expected that Clerks in the employment of the...

Government of this colony should trouble themselves to acquire a knowledge of Indian...

languages, though such a language be indispensable for the proper discharge of their...

duties, when we find one of the chief of them, Mr. Conier, who has not, or, at all events,

pretends that he has not, sufficient acquaintance even with English to understand and...

answer questions put to him in that language, and, in consequence of which, we had to...

examine him in French.

1270. Considering, however, how long and how often Mr. Beyts must have been...

absent from the office, whether engaged upon visits to estates or otherwise, and con-

sidering that the Protector must always be liable to be occasionally called away,

this complete ignorance of the Indian language in the other officials is, we think, a...

most serious defect, and one which cannot fail greatly to impair the efficiency of the...

Immigration Office.

the language of the immigrants. The Protector, acquainted with two languages; but to know a third. Clerk in the Immigration Office who does not know English can hardly be expected to trouble himself to learn Indian languages. Conspicuous want of knowledge of the Indian languages in the Immigration Office.

"have been there before, or have their relatives there whom they wish to join, or  
 "who are induced to go there by the false promises of others who have  
 "returned to their homes, are either inveigled away by deceitful promises or  
 "taken fraudulently and without their consent to the depot of another colony.  
 "Women are enticed away from their husbands and families. Those Coolies who,  
 "resisting promises and despising threats, escape from the stratagems devised for  
 "the purpose of entrapping them, see their families held in durance, and in open  
 "defiance of the authority of the local laws, the servants of the local industrial  
 "establishments are decoyed away from their masters."

1281. Mr. Beyts further went on to show that the Protector was utterly powerless to prevent these practices, at least in nine-tenths of the cases in which these offences were committed, and showed in his remarks upon them a better acquaintance with the "blind submissiveness and utter ignorance of their rights," as he called it, of "the uncivilised Coolie," than (judging from his manner of dealing with them after their arrival in the colony) we should have thought that he ever possessed.

The Protector utterly powerless to check mal-practices.

1282. With a view to obviate the abuses above mentioned, he proposed that all recruiters should be registered; that they should receive licences from the Protector in India for about (6) months; that no recruiter should recruit for more than one depot at a time; that he should not be allowed to recruit in a district without giving notice to the Magistrate; that he should wear a badge; that all recruits before being sent to the Depot should be taken to the nearest Magistrate to be questioned as to their wishes and to be registered; and that a list of them should be sent by the Magistrate to the Protector. That they should be taken at once, on arrival at the Presidency, to a general depot, and then be again interrogated individually, and not in batches, and that no other Coolie, Sirdar, or person having any interest in the recruitment and emigration of the Coolie for the colony should be present.

The Protector's suggestions to remedy abuses.

1283. What action was taken upon the above suggestions, which Mr. Beyts had previously communicated to the Lieutenant-Governor of Bengal, he had not heard when he wrote the Report now under consideration; but he strongly recommended to the Government that the subject be kept in view.

1284. We found many requisitions had remained unsatisfied, because the special agents to whom they had been entrusted had either died or gone away, or given up recruiting; and the Emigration Agent represented that, as he was not allowed to ship emigrants otherwise than under special contracts, there was a serious hindrance to his working the agency, Mr. Beyts being of opinion that, whilst on the one hand special engagements passed in India are attended with many incontestable advantages, on the other hand the exclusive exportation of emigrants under such engagements was found to work with difficulty. He therefore suggested, as the best course to adopt, that two registers should be opened for demands—one for labourers to be specially engaged in India, and the other for labourers to be engaged in Mauritius, to be allotted after arrival in that Island. He further mentioned that he had found many of these suggestions, which applied more especially to the Calcutta agency, in practical operation at Madras, where the whole process of recruitment was under an effective supervision, and the interests of all parties concerned fully protected.

1285. He, however, recommended one alteration in the arrangements, and that was, that the Government Recruiters should not recruit, as they were in the habit of doing, for the special Agents as well as for Government, but that the special Agents should recruit separately, with a distinct staff of authorised recruiters, and that the Government recruiters should be employed exclusively in recruiting for the Emigration Agent.

Mr. Beyts recommended one alteration in the arrangements.

1286. Mr. Beyts made special enquiries, both at Madras and Calcutta, with regard to what had been represented to the Secretary of State that the Agents of Mauritius had increased the bonus given to emigrants, and thereby compelled the Agents for the West Indies to increase their expenses, and he ascertained that no bonus whatever was paid to emigrants by the Agent for Mauritius, but that premiums were paid by all Emigration Agents to Recruiters of Emigrants, who alone reaped the benefit of the then existing competition in India between the labour-importing colonies. He recommended that as neither the Supreme Government of India nor any of the Governments of the minor Presidencies interfered with matters which exclusively concerned the internal economy of the Emigration Establishments of the colonies, the Indian Agency Establishments should be looked upon and treated, much more than they had hitherto been, and be brought to work much more than they had hitherto done, as integral parts of the machinery of the Colonial Government.

Special enquiries as to bonus.

No bonus paid.

Indian agencies to be brought under influence of Colonial Government.

1287. This Report was presented to the Council by Sir William Stevenson on the 4th October 1861, with a promise that he would, from time to time, refer to it in

Mr. Beyts's Report laid before the Council.

India, on account of

no alternative but to do

to bear to check proceedings

the arrangements for obtaining supplies

cost."

Stevenson informed the Secretary of State that he had

contemplated sending a Special Commissioner to inspect

on the whole system pursued in India with reference to the

at, engagement, and embarkation of Indians emigrating to

different Presidencies, and to report upon the state of the depôts,

most improvements with a view to the general assimilation of their

and duties; including, among others, the point raised by Governor Wode-

atch.

The idea being approved by the Secretary of State, Governor Stevenson

reported that he had completed his arrangements for carrying it out, and

selected the Protector himself (Mr. Beyts) as by far the best person to

carry out fully and satisfactorily the important and responsible duties

which the objects of the Commission would entail upon him.

1275. The chief object of the Mission was to enable the Government of Mauritius,

through the Governor's instrumentality, critically and in detail, to

examine into the system and arrangements in operation in India for the

purposes of emigration to the colony, with a view to the improvement

of these systems and arrangements so far as they might appear to be

defective.

1276. Mr. Beyts was requested to pass under careful examination each step and each

branch of the system and arrangements, from the recruiting to the final despatch of

the emigrants, and the whole machinery employed at each of the agencies and depôts

for the accomplishment of each and all the duties relating to the service.

1277. He had authority provisionally to carry out any improvement that might be

concurrent in by the Agent or Medical Officer should it appear to be immediately

desirable. He was instructed to direct his special attention to the recruiting arrange-

ments then followed out at the Mauritius agencies, and to ascertain the practice pur-

sued at other depôts for recruiting immigrants for other colonies or other countries.

The sanitary arrangements, the expenses, the system of accounts, the establishments,

were all to be enquired into and reported on by him, as well as other subjects connected

with emigration, and which it is not here necessary to mention more in detail.

1278. Mr. Beyts departed at once on his mission, and reached Calcutta on the

16th March 1861. On his return he reported his proceedings in a letter

dated 21st August 1861.

1279. He found (paragraph 25) that recruitments were not sufficiently controlled by

the local Government; that no Regulations had been issued with regard to them; and,

in consequence, the recruiting agents had not only assumed absolute sway over the

labour market, but, availing themselves of their being almost free from restraint and

responsibility, were committing irregularities which urgently required to be checked.

1280. He found that the

"Recruitment of Coolies is becoming quite an improper traffic in the hands

"duffadars, arcotees, and other self-constituted agents, into

"power it has fallen, and that false representations and

"manœuvres are means which are unscrupulously

"their designs." Paragraph 7. "The Coolies who

"these unprincipled intermeddlers are often

"who are desirous of going to a colony of their own

Enclosure No. 5.

Letter to Secre-

tary of the Gov-

ernment of

Bengal, 13th

April 1861,

paragraph 6.

that was required of Mr. Beyts. The recruitment of Coolies is becoming quite an improper traffic in the hands of duffadars, arcotees, and other self-constituted agents, into power it has fallen, and that false representations and manœuvres are means which are unscrupulously their designs." Paragraph 7. "The Coolies who these unprincipled intermeddlers are often who are desirous of going to a colony of their own



announcing the progress of those improvements which it might be necessary to bring to the notice of the Legislature.

The consolidated Indian Act.

1288. We have not been able to find that Sir William Stevenson had occasion to make much reference to this Report; but immediately after his arrival Sir Henry Barkly made an application to the Secretary of State, requesting that the Bill relating to the emigration of native labourers, then before the Council of the Governor-General of India, which was, in the main, a consolidation of the laws relating to emigration, and which, up to that time, had been contained in seventeen Acts, commencing as far back as 1839, and the framing of which was one of the suggestions made by Mr. Beyts, and which also contained some of his suggestions, might not be finally dealt with until the Legislatures of Mauritius and other colonies concerned should have had an opportunity of stating any objections they might wish to make to its provisions.

1289. As, however, the Bill in question, besides bringing into one general Act the provisions of existing Acts relating to emigration to British colonies, together with some of the detailed rules framed to give effect to those Acts, was held to do little more than remove the discrepancies which, up to that time, had existed between the system of emigration to the French colonies and the system under which immigration had been carried on to the British colonies, Sir Charles Wood did not think it necessary to accede to Sir Henry Barkly's request.

1290. Before, however, receiving this answer, Sir Henry Barkly, on the 5th January 1864, transmitted to the Duke of Newcastle a memorial from the Immigration Committee of Council, and from the Chamber of Agriculture, stating their objections to the proposed Bill.

1291. The Articles of the draft which were regarded with the greatest dislike were the 14th and 16th (sections 24 and 30 of the Act as passed, 13 of 1864). By Article 14 the Protector of Emigrants at the port of embarkation was to license so many fit persons as should seem to him necessary to be recruiters of labourers, and no person was to act or be employed as a recruiter, except under a licence from a Protector of Emigrants. On this point Sir H. Barkly urged that it was unjust that the Protector and not the Emigration Agent should be left to determine how many recruiters were to be employed, and thus virtually control the extent of emigration to any particular colony; an objection which the Chairman of the Emigration Board, while admitting it to be "not altogether without reason," nevertheless did not think of much importance, as it was not to be assumed that the Protector, though a servant of the Indian Government, would act with bad faith or with undue bias, or that he would refuse to attend to any representation in the matter which the Emigration Agent might make to him. It was a point regarding which Mr. Beyts had evidently had no apprehension, as he proposed to place the power, as it was placed in the Bill, in the hands of the Protector.

1292. The 16th Article provided that every Indian who had engaged with a recruiter to emigrate should, prior to leaving the district within which the engagement was made, appear before the Magistrate of the district, who should examine him and ascertain that he understood his engagement; and, on being satisfied upon that point, the Magistrate was to register his name and the *Dépôt* to which he was proceeding; and forward a copy of such register, to be produced by the Agent to the Medical Officer of the *Dépôt*, who was to ascertain the fitness of the individual to emigrate.

1293. This provision the Governor of Mauritius contended would put into the power of any District Magistrate to obstruct emigration by arbitrarily refusing to register emigrants, and he instanced, in support of this argument, the case of seventy Coolies in the *Dépôt* at Madras (the majority of whom had come to Madras without the intervention of recruiters), who had been refused permission to embark because they had not gone before the Magistrate or Collector, of the district from which they had come, to obtain passes.

1294. The Chamber of Agriculture, on their part, represented that the perusal of this Bill had excited among all classes the greatest uneasiness and alarm; and, although it trusted that a great part of such alarm would prove to be unfounded, it nevertheless believed that if the proposed Bill were carried out in the same spirit as was manifested by a portion of the Indian press (which was opposed to Coolie emigration), it would be sufficient to bring the greatest evils upon the colony.

1295. With respect to the proposal that the Protector should license the recruiters, the Chamber was of opinion that the granting of such licence would be more fairly placed in the hands of the Agents of the Government of Mauritius; but it saw no objec-

tion to the Protector's countersigning, or, in some cases, refusing to countersign, or even revoking such licences; which would put it into his power to check malpractices, and, at the same time, not expose the planters of Mauritius to the risk of losing the assistance of their old servants, who knew the Island and the condition to which they invited their countrymen. It, therefore,

"was not prepared for these violent innovations on a system which has been in force for so many years, and which has brought so many thousands of Indians to enjoy health, comfort, and prosperity in this Island."

1296. With regard to the registration by the Magistrates, the Chamber could hardly suppose that the word *Magistrate* is to be confined to the English Magistrates or Collectors; for to compel a poor Coolie, desirous of bettering his position by emigrating, to traverse first the whole length or breadth of an extensive district to find such a Magistrate, would seem to amount to an almost undisputed injunction to the intending emigrant to remain and work at home on such terms as he "can get."

1297. Neither could it conceive that such unchecked powers in a matter in which such a spirit of jealousy and self-seeking is so likely to exist, and has indeed been publicly manifested by many, should be committed to subaltern authorities, who might be accessible to the social interests and influences about them, and in favour of keeping the Coolies at home on low wages."

1298. It was to the dangers of negligence, prejudice, and self-interest in remote districts, that the uneasiness of the Chamber was directed, where effective obstructions might be used by the pettiest officials free from all effective check rather

"than to the supervision to be exercised over emigration by competent and educated men at the ports, in presence of, and in concert with, the Colonial Agents, and with the means of immediate reference to the higher and unbiassed authorities."

1299. The proceedings of the Protector at Madras, taken in conjunction with certain Draft Articles, 56, 59, and 60,\* clearly,

"not tempered by the *home*, might *have* Government and English opinion both in India itself as a *serf* or *adscriptus glebae*;" and to make of the "peasants" the *serfs* of the *Government* and English opinion, and the Chamber concluded with beseeching the Governor to use his influence with the Indian and Home Governments to induce them to hold the balance justly and to take into consideration the interest and claims of English subjects out of India, as well as to maintain unimpaired

"the principle that every British subject, unaccused of crime, is free to carry his person and his industry to any point in Her Majesty's dominions where it may best suit his own inclination and interest."

1300. Upon this excited Memorial Mr. Murdoch remarked, that, if there were (as appeared to be assumed) a desire on the part of the Indian authorities to obstruct emigration, every precaution which the law required to prevent fraud might be perverted to that end; but, it appeared to him, that, fairly administered, the provisions of the Bill, while affording a protection against the malpractices of dishonest persons, ought not to impede the operations of honest recruiters; and he did not see how the Home Government could object to the enactments, founded as they were on the suggestion of Mr. Beyts, the agent specially selected by the Government of Mauritius to enquire, in the interest of the colony, into the conduct of emigration in India, and described by him as necessary to put down abuses which he had discovered in the system.

1301. Notwithstanding the representations above mentioned, to which was added a unanimous protest from the Emigration Agents for the different colonies, the Bill passed into law to take effect from the 1st July following; intelligence which was received with dismay by the Planters of Mauritius.

1302. Another appeal was accordingly made by Sir Henry Barkly on behalf of the colonists, to the justice of the Imperial Government, to protect them from dangers with which they apprehended that they were threatened.

\* We cannot ascertain what Sections of the Act, as passed, are here referred to.

Views of the  
Indian Gov-  
ernment.

1303. This despatch, together with a report thereupon from the Board of Emigration, was transmitted to the Secretary of State for India, who declined to interfere; and with reference to the distrust of the uncontrolled power vested in the subordinate officers of the Indian Government, which seemed to be the chief ground of opposition to the Act, he requested Mr. Cardwell to convey to the Government of Mauritius the assurance that the Act in question had been passed with no intention of imposing upon emigrants to the British colonies any conditions beyond those which had been found in practice to be necessary, and which had already in effect received the sanction

Mr. Morival to the Under  
Secretary of State for the  
Colonies, 11th November  
1864.

of the Government, and that no fear need be entertained that the Officers who might be entrusted with authority under the Act, would exercise their powers in a way to cause unnecessary embarrassment or difficulties to the Emigration Agents in the execution of their duties.

Mr. Marsh's  
Mission to  
India, 1865.

1304. In 1865, Mr. Marsh, the Assistant Colonial Secretary, was sent to India to enquire into the causes of the great falling off in emigration from Madras since 1859. He ascertained that during the years 1858 and 1859, when emigration to Mauritius was carried on on the largest scale, famine was great in the southern districts of the Madras Presidency, and Coolies were driven to emigrate by starvation; but he thought that the cause of the falling off of emigration since 1859 was to be attributed in a great measure

to the increasing demand for labour in the consequent high rate of wages, together with the competition of the agricultural population, and the competition of recruiters for other colonies. He also noticed the abolition of the Return Passage\* as having

Return pas-  
sage.

1305. Mr. Marsh noticed the emigrant "suppliers" employed by the Government in the southern districts of Madras. These men were as a rule merchants residing in Madras, and doing both wholesale and retail trade. He noticed some ten recruiting agents in the districts whom he advanced money; these men collected men, took and received a certificate from the Protector, and then sent them to their agents. On the production of this certificate, a commission was paid for passed emigrants supplied; but only upon those men who were actually embarked. Consequently, he lost all advances made by him to those men who deserted.

Opinion of  
Mr. Beyts.

1306. Coolies who had returned from Mauritius in order to recruit men, frequently applied to these Agents if they had no funds themselves, and when the Agent found funds, he passed the men in his own name and claimed the commission.

1307. Mr. Beyts, to whom this letter was referred, was of opinion that the system adopted at Madras was not only unnecessary, but mischievous, and was one of the principal causes of the unsuccessful working of their agency there.

Sub-agency to  
Madras.

1308. On the 13th July 1865, Mr. Marsh reported that there was in the north provinces a Sub-Agent wholly under the control of the Agent in Madras; that he employed recruiters who were paid by a commission of so much per head for each recruit; but, that he had not yet made any payment at the increased rate which had been lately authorised, in consequence of some confusion he had made in the Agent's instructions respecting the payment of commission and payment of bonuses; that the Sub-Agent had tried, without success, to get recruiters to work without advances, but he did not find any willing to work on those terms.

Sub-agency in  
the northern  
provinces.

1309. Mr. Marsh directed him to carry out the Agent's orders, and pay a bonus of 5 rupees to each adult male, and 3 rupees to each male between fifteen and eighteen years of age. He brought to notice the difficulty there was in making an advance or giving a bonus, arising from the risk of losing such advances which, in many cases, would be made to people who would only go to the Depot with a view of obtaining the money and then desert.

Difficulty in  
getting re-  
cruits passed.

1310. Instructions were therefore given that the money should only be paid at the moment of embarkation, by which the risk of loss was avoided, and probably the value of the bonus diminished, as the Coolies might be prevented from spending it in the way they wished.

1311. Mr. Marsh further mentioned that great difficulty had arisen in getting recruits passed by an Assistant Magistrate and obtaining their certificates afterwards. In one case a month was said to have elapsed between the passing of the men and the granting

\* The circumstances which led to the abolition of the Return Passage will be found in Chapter VI. paragraphs 326 to 330.

of the certificate. He also noticed a complaint made by the Emigration Agent of the rejection of emigrants forwarded to him at Madras in consequence of the Medical Officer finding them to have incipient leprosy, rupture, or some other physical defect; and he suggested the men might be examined by a native surgeon or apothecary previous to their leaving the northern ports for Madras.

Difficulty in  
getting  
recruits  
passed.

1312. He mentioned that on some of these men the marks of leprosy were so imperceptible that they could hardly be recognised by other than a medical man; but Dr. Conran informed him that leprosy might be fully developed in a year or two.

1313. Dr. Conran also rejected a young able-bodied man, whose only defect was a varicose vein in the calf of his leg, of about the size of a pea. Mr. Marsh directed that this man should nevertheless be forwarded, and desired Mr. Burton, the Emigration Agent, to use his own discretion about forwarding men so rejected by the doctor; but, in so doing, to send the certificate of rejection with his reasons for overruling it endorsed thereon, as the rejection of a Coolie might in some cases prevent the other members of his family who were healthy from emigrating.

1314. The diseases disqualifying emigrants for embarkation to Mauritius were—

|                                                                    |                                      |
|--------------------------------------------------------------------|--------------------------------------|
| Insanity.                                                          | Consumption.                         |
| Idiocy.                                                            | Epileptic fits.                      |
| All deformities sufficient to render a man unfit for labour.       | Disease of liver.                    |
| Blindness of both eyes.                                            | Disease of spleen.                   |
| Complete cataract in one eye and incipient formation in the other. | Hernia.                              |
| Palsy.                                                             | Elephantiasis.                       |
| Anemia.                                                            | Very large hydrocele.                |
|                                                                    | Varicose vein of legs.               |
|                                                                    | Leprosy even in its incipient stage. |

Paragraphs  
14, 24, 25-8,  
31-2, and 41  
of Letter, 13th  
June 1865.

Disqualifying  
diseases.

1315. On the 14th July 1865, Mr. Marsh forwarded a copy of a notice which he had had prepared in accordance with the suggestion of the Protector of Emigrants, to be distributed by all recruiters regarding the benefits to be derived from emigration to Mauritius and the remuneration to be paid to recruiters, to which we shall have occasion to refer hereafter.

Notice pre-  
pared by Mr.  
Marsh.

1316. After Act 13 of 1864 came into operation, Mr. Marsh wrote from Bombay suggesting that, as each recruiter's licence cost the Mauritius Government a sum of ten rupees, besides six rupees for the recruiter's badge, some restriction ought to be placed upon the issue of them. The return showed that from July 1864 to 14th October 1865, seventy licences had been issued to return Coolies, who had collected and shipped 1224 men. To the Government recruiters in the Northern Circuit forty licences were issued, and they collected and shipped 1261 Coolies. To other recruiters nearly all in the employ of contractors of emigrant suppliers, 116 licences were issued, and 1979 men collected and shipped.

Statistics of  
recruiting.

1317. Mr. Marsh thought that the plan adopted by some planters in Mauritius of furnishing return Coolies, who are sent up to recruit, with funds had not a beneficial effect; that, in several cases which had come under his notice, men produced papers showing that they had been sent up by their masters some years before with a supply of funds, and admitted that they had spent all the money, and had done nothing, and eventually they applied to the office for licences to work with contractors.

The plan of  
sending re-  
turn Coolies  
recruiters to  
India with  
funds not a  
good one.  
Planters'  
recruiters.

1318. In March 1866, Mr. Marsh returned to the colony, and on the 2nd February 1867, in consequence of a letter from Dr. Conran, Emigration Agent, dated 12th January 1867, enclosing a letter from Mr. Rangapah upon the subject of the deputies employed by him (the Sub-Agent for the Northern Districts) in recruiting, Mr. Marsh records a minute that he does not agree with Dr. Conran in what he says regarding contractors, but gives it as his opinion that, if sufficient encouragement were given to return Coolies as recruiters they would soon be able to run alone, and would eventually drive contractors out of the field. The correspondence, together with the minute, amongst other things, that return immigrant recruiters should be encouraged.

Mr. Marsh  
upon Dr.  
Conran's  
letter.

Return im-  
migrants as  
recruiters.

1319. We find no further important changes made with regard to recruiters in India, and recruiting continued to be carried on under Act 13 of 1864 until 10th March 1871, when Act 7 of that year received the assent of the Governor-General. This Act, however, which could hardly have affected any emigrants to Mauritius before the appointment of our Commission, made very few changes in No. 13 of 1864, except that it raised the fee chargeable for recruiters' licences and the registration of immigrants, and empowered the Governor-General in Council still further to increase the fees. It also

No further  
changes rela-  
tive to Re-  
cruiters in  
India.

Indian Act,  
7 of 1871.  
made very  
few changes  
in 13 of 1864.



Fee for re-  
cruiters'   
licences   
raised.   
Refusal of the   
Protector to   
allow a sick   
immigrant to   
embark.   
System of   
recruiting.

provided that when the Protector of Immigrants refused to allow an immigrant, on account of ill-health, to embark in a ship about to sail, the husband, wife, father, mother, or child, about to embark in the same ship, might refuse to do so, without being liable to the penalties provided against a refusal to embark.

1320. The system, therefore, of recruiting is, that an Emigration Agent is appointed, subject to the approval of the Local Government by the Government of the Colony, at the various ports from which emigration is allowed in India. A Protector also of emigrants is appointed by the Local Government in India, and a Medical Inspector by the Local Government likewise. The Protector appoints recruiters, to whom he gives a licence, who recruit emigrants either at the Presidency town or in the districts, having previously obtained the countersignature of the Magistrate of the Presidency town or district in which he recruits upon his licence; and, prior to leaving the district with any immigrants he has obtained, he must appear before the Magistrate, who will examine the intending emigrant, and if he appears to comprehend the nature of the engagement he has entered into and to be willing to fulfil the same, the Magistrate will enter him in a register, and give the emigrant a copy of such registry. For this registry the recruiter pays a fee, a copy of the registration being sent to the Emigration Agent at the Depôt of the colony to which the emigrant intends to proceed. The engagement entered into is to serve for five years, receiving wages and allowances of food, lodging, and medical treatment. The wages may vary from time to time, but a planter making a requisition for

immigrants must specify what wages and allowances he undertakes to give, and these must not be less than 8s. per calendar month for an immigrant above eighteen years of age; and for those to be allotted in the colony, or engaged in India, under requisitions in which no wages or allowances are specified, the rates are fixed by Government, and are liable to be altered from time to time, as the Governor may deem proper, as regards any future contracts.

1321. From the recruits so brought, the Emigration Agent complies with the requisitions sent to him from the colony, the emigrants having been first examined by the Medical Inspector, and passed by the Protector of Immigrants.

1322. Mr. Beyts is of opinion that the system of recruiting in India has been brought into a completely satisfactory condition.

1323. A difficulty had, however, arisen, of which Mr. Beyts had, at the time of his examination, no knowledge. Requisitions had been sent from Mauritius to Calcutta for immigrants at two different rates of wages: one commencing at 11s. per month, the other at 15s., and Mr. Eales reported that he had, in consultation with the Protector, tried, by way of experiment, to see if it were practicable to work simultaneously on two openly varying rates of wages. He was, however, directed by the Government of Bengal not to send forward any labourers on the increased rates of wages. He had requisitions sufficient to fill about two ships on the higher rates, and requisitions for nearly 4000 immigrants at the lower. He, in consequence, suggested that requisitions in future should contain but one uniform rate of wages, as the receiving of requisitions with varying rates led to confusion and delay in their election, and not only invited the interference of the Local Government in an objectionable manner, but was calculated to unsettle the minds of the Coolies, and to create suspicion and discontent, especially among those to whom the lower wages were proposed.

1324. No definite instructions have as yet, we believe, been issued upon this subject, and we cannot see what objection there can be to different rates of wages being offered to different men, or why the wages offered to emigrants proceeding to Mauritius should be at one uniform rate.

1325. If the emigrants were all of one standard—all equally young, healthy, and strong, and fitted for only one species of service—it would be right and proper that they should all be entitled to receive the same rate of wages; but as emigrants ought to be recruited for different species of work—some as field-labourers, some as handicraftsmen, some as servants; and, as the ages of those recruited may vary from 18 to 40 and upwards, it is impossible to discover why the Emigration Agent should be obliged to offer a strong young man of 18 and a middle-aged man of 40 the same rate of wages, with the same annual increase, when, in the one case, we may conclude that the labourer would even improve every year, and, in the other, that his efficiency would deteriorate. We shall have further suggestions to offer upon this subject hereafter.

1326. To return to Mr. Marsh's Report. He is of opinion that there is no chance of any immigrant coming to Mauritius under an inducement of false promises, and he instances the notice which he drafted in July 1865

Completing   
requisitions.

Mr. Beyts's   
opinion upon   
recruiting.

Letter 95, 7th   
June 1872.

Letter 182, 14th   
September 1872.

Mr. Marsh's   
opinion of   
emigrants,   
1865.

Vol. II., Question   
119.   
Appendix P 1.

during his mission to India, which he thinks contains pretty full information regarding what immigrants ought to know before emigrating to Mauritius. This recites what we have mentioned above respecting the wages they will be entitled to, the allowances they will have, dwellings for themselves and families, with medical care when sick; and that they must engage for five years, and further states that they must pay their own passage back; that they should be paid a sum of five rupees on their embarking, or, if they prefer, an advance of two months' wages, to be paid, after their departure, to their families; but it does not mention that these sums will have to be refunded from their wages.

1327. The notice continues, that there are Magistrates in different districts, appointed to hear all complaints of labourers, and to see that justice is done; and a Protector, whose special duty it is to watch over their interests. But no mention is made (for Mr. Marsh himself could not have been aware of the facts) of the Protector having no power to prosecute their claims for them, or to watch over their interests to a greater degree than hearing what they complain of, or appealing from the Magistrates' decision, except in certain cases, so few as to have made the provision a dead letter (*vide* Chapter VII., para. 439); nor that the Magistrates "appointed to hear their complaints" are utterly ignorant of their language, and are not particular to see that the laws enacted for their benefit are observed.

1328. The notice further mentions that there are 230,000 Indians in Mauritius, many of them proprietors of land, and settled there, and many others have returned to India with a large amount of savings. No mention is made, however, that these proprietors of land are mostly market-gardeners, who are under the ban of the police, as either vagrants themselves, or the harbourers of vagrants; nor is any notice taken of the amount of work required from the emigrants on Sundays and holidays, in rain and tempest, nor that, if no work is done on account of the weather, they lose their pay; nor that they are fined for absence, and frequently for not doing sufficient work.

1329. We have seen likewise that Mr. Firth, the Emigration Agent for British Guiana, on the 11th June 1872, published a similar notice to intending emigrants to Demerara, setting forth, in the most glowing terms, the advantages of emigrating to that colony, but making no reference to the drawbacks with which it was fraught.

1330. Notwithstanding this, Mr. Beyts admits that he has known some instances of men received from India who have proved themselves never to have been labourers; and, when visiting estates, we have had constant complaint brought to us of labourers who were useless, and utterly unfit for the work for which they were recruited.

1331. In consequence of these complaints, we visited the Immigration Depôt on the 18th March last, when the immigrants from the ship 'Hindoostan,' 207 in number, were landed, and about to be allotted to their estates. Of these, we found only 153 had been agricultural labourers, and 3 gardeners, who may be considered agricultural labourers. Of the remaining 51

|                       |                                 |
|-----------------------|---------------------------------|
| 4 were herdsmen       | 31 (brought forward)            |
| 2 " shepherds         | 2 were tailors                  |
| 3 " coachmen          | 1 " shoemaker                   |
| 3 " carters           | 2 " potters                     |
| 3 " grooms            | 1 " jeweller                    |
| 8 " domestic servants | 4 " barbers                     |
| 3 " washermen         | 1 " clerk                       |
| 1 " cook              | 6 " police constables and peons |
| 1 " milkman           | 1 " sepoy                       |
| 3 " carpenters        |                                 |
| 31 (carried forward)  | 51 (total).                     |

All these were men recruited as labourers, and as such had been allotted by the Emigration Agent in Calcutta to different estates.

1332. Had the requisitions upon which they were sent required servants of these different capacities, then it would have been perfectly right that they should have been allowed to emigrate; or had their former occupation been entered in the registers, so that if the person to whom they were allotted in India did not require such servants they might, on arrival in Mauritius, have been transferred to some other who did.

1333. Laljee Gozein, one of the batch recruited as an agricultural labourer (who, with seven others, was taken by chance from among the immigrants whom we examined as to their former occupations), informed us that he was recruited with the understanding that he would be employed as a Peon in

Mr. Marsh's   
notice to emi-   
grants in   
1865.

Advances in   
India.

No mention   
made as to the   
importance of   
the land.   
Nor is notice   
taken of the   
amount of   
work to be   
exact from   
the immi-   
grant, &c.

Mr. Firth,   
Agent for   
British   
Guiana.

Notice show-   
ing the advan-   
tages of emi-   
grating to   
Demerara.

Men intro-   
duced for agri-   
cultural pur-   
poses who had   
never been   
labourers.

Complaints on   
this score   
made to the   
Commis-   
sioners when   
visiting   
estates.   
The Commis-   
sioners' visit   
to the Immi-   
gration De-   
pôt, 18th   
March 1873.   
Coolies im-   
ported per   
'Hindoos-   
tan.'   
Description of   
Coolies im-   
ported per   
'Hindoos-   
tan.'

All these men   
were recruited   
and despatched   
as la-   
bourers.

Requirements   
of the requisit-   
ions.

The case of the   
Indian Laljee   
Gozein.

Men unfit for field labour. False and deceitful representations made to him. Dabboon's case.

Mauritius, as he had been in Calcutta, but that he was to say in Calcutta that he was an agricultural labourer, and that when he came to Mauritius he was to tell Mr. Beyts he was a Peon, and he would see about it. Of course no intimation of this kind was sent to Mr. Beyts; but the very sight of the man ought to have prevented the Emigration Agent or the Protector of Emigrants from passing him as an agricultural labourer.

1334. Another of the same batch, Babboca, had been the driver of a bullock-cart in the regimental lines. He had, however, no experience as an agricultural labourer. We need not, therefore, be surprised that complaints are made of the persons sent here as immigrants.

1335. Amongst other cases, we may mention those of so-called Brahmins, who have been enlisted in India, and coming to Mauritius are either unable or unwilling to work, preferring the more Brahminical duty of begging, and seeking to have their engagements cancelled, or to be relieved, by payment from their contract of service, having made by other means a sufficient sum to redeem their time.

1336. There is also the case of Pertaub, referred to by Mr. Beyts in his evidence. He had never done any work, had been in prison twenty-eight times; was by trade a stonemason, yet neither the Protector nor his master appeared to have seen whether in his employment as a stonemason he would have been more industrious than as a field labourer; but his master, having accepted Mr. Beyts's offer of allotting him two re-registered immigrants in the place of Pertaub, the Protector, with the Governor's permission, sent the latter back to India.

1337. Neeremjaun and Mawmood arrived in the 'Allum Ghier' on the 6th June 1872, engaged as agricultural labourers for five years, and were allotted to the railway department. They objected to working, and stated they had been deceived by the recruiters. The former could read and write English, and stated he had been employed as a writer in a merchant's house at Calcutta, while the other said he had been a police Peon. The manager of the railway stated that he did not require men of this class, and the Protector of Immigrants offered to give them Old immigrant tickets if they desired to remain in the colony. They both declined to stay in the colony, and were ordered a free passage to India. The serious notice of the Agent at Calcutta was called to these cases.

1338. On these men being returned to India, the Emigration Agent at Calcutta reported that he had, according to his invariable practice, personally examined each Coolie separately as to the term of his engagement, the rate of wages, and the nature of the work to be performed in the colony, explaining to each individual repeatedly that he had to work as a Coolie labourer and in no other capacity, and that after carefully satisfying himself upon these points, he afterwards countersigned the pass or certificate. He further stated that these men, together with other Coolies, were examined on two or three separate occasions by the Protector of Immigrants, who minutely questioned them as to the explanations made by the Magistrate, enlightening them upon all points relative to their engagements, especially with reference to the description of labour required of them, carefully correcting any false statement or impression they might have received from the recruiters. This is all very probable, but it was not likely to elicit from them their qualifications for agricultural labourers.

1339. The next paragraph of Mr. Eales's letter is not very easily comprehended. He adds—

"In the presence of all these precautions and sufficient safeguards which are invariably adopted in Calcutta, in order to prevent the possibility of intending immigrants remaining in ignorance, or any misapprehension when leaving their country and all matter affecting their future career, it is, I submit, difficult to understand how the unfounded assertions advanced by the two Coolies in question could be sustained, as it was evidently a wicked concoction of their own, from the fact of the remaining twenty-seven Coolies who were registered at the same time, and underwent the same examination, not having raised similar false and vexatious excuses."

Perhaps Mr. Eales would have overcome the difficulty in hand in understanding how the assertion advanced by the two Coolies could be sustained, had he been prepared to mete out equal justice to the Protector. The men, it appears, made an assertion to serve their purpose in Calcutta, when desirous to emigrate to Mauritius. When in Mauritius they found that agricultural labour was really required of them, and that it did not suit. They, therefore, then divulged that they were not labourers and never had laboured, and no attempt has been made to prove that they ever had been agricultural labourers or were ever likely to become so.

1340. Thus, as far as we can understand the above paragraph, it appears that Mr. Eales wishes to show the great care taken in the Emigration Office that the recruits should

The Brahmin's case.

Pertaub's case.

Mr. Beyts's offer to allot two men in his stead.

Neeremjaun and Mawmood. One had been a writer in a merchant's office in Calcutta.

Railway manager's statement. The Protector's offer.

Men refuse to remain in Mauritius.

The Emigration Agent's Report concerning these men.

Mr. Eales's Report.

How Mr. Eales might have explained the men's statement.

The Commissioners' interpretation of the preceding paragraph.

know what they are going to do, and we are ready to admit that both the Emigration Agent and the Protector, in this case, clearly explained what would be required of the emigrants in Mauritius, but we do not comprehend what he means by

"the unfounded assertion advanced by the two Coolies in question could not be sustained."

There is no attempt to show that their assertions, that the one was a Clerk and the other was a Peon, were unfounded, nor does the fact of the

"twenty-seven remaining Coolies registered at the same time, not having raised similar false and vexatious excuses,"

prove anything to the detriment of these two men's assertions. It might rather be taken as a corroboration of them. The men only asserted that they had been, one a Clerk and the other a Peon, whilst it does not appear that the other twenty-seven men were so. The men having acknowledged to the Emigration Agent and Protector of Emigrants at Calcutta that they perfectly understood when leaving Calcutta that, like their fellow-passengers, they would have to work as labourers when they got to Mauritius, proves nothing but that they were sent to Mauritius for that work, not that they were in any way fit to perform it, or had ever done such work.

1341. An emigrant, named Seerally Khan, arrived in Mauritius on the 8th July 1872, engaged to the Railway Department as a labourer for five years. On his arrival he showed the Protector a paper given him at Calcutta, stating that he could read and write Oordoo and Persian. Mr. Beyts did not notice the signature on the paper, but advised Seerally Khan, who said he had been a teacher of Hindoostanee in India, to show the paper to the Chief of his department. This he could not do, as he said Mr. Beyts had forgotten to return the paper to him, and Mr. Beyts could neither find it in his office, nor did he recollect having returned it. The man told him that he had been a teacher of Hindoostanee at Aurah, and, when recruited, was taken to the Magistrate at Moongur, who explained to him that he would have to work at the cultivation of sugar-cane; but the Arcottee told him that he would either be employed as a Clerk at Calcutta or sent to Mauritius to be employed there as a Clerk, and Mr. Eales, the Emigration Agent, gave him the paper above referred to, which was lost.

1342. Seerally Khan stated that he worked after his arrival for about (6) weeks as a railway labourer, but found that he could not continue such work any longer. The manager said that, being but eighteen years of age, and having no experience upon railways, he could not employ him as an Overseer or Sirdar, and Mr. Beyts therefore applied for permission to send him back to India, with instructions calculated to hinder the recruitment of such men in future.

1343. The case of the immigrant "Joseph," who arrived on the 13th June 1870, in the ship 'Palmyra' from Madras, is another of a similar kind. He was engaged to Messrs. Piat and Allendy; was put at first to work in the fields, but afterwards employed as an Overseer in the Sugar House. His master, a few weeks before he petitioned us in September 1872, found fault with him and ordered him back to the fields, on which he ran away, declaring that his health was bad, and that he was quite unable to do field work. He stated he had been a shop clerk at Pondicherry, and, on visiting Madras, he met a recruiter who advised him to emigrate to Mauritius, and induced him to believe that, though engaged as a Coolie for agricultural labour, he might find employment in Mauritius as a Clerk or Overseer. Mr. Beyts had him examined by the Depot Medical Officer, who considered that his state of health rendered him unfit for field work, and on communicating this opinion to Messrs. Piat and Allendy, they consented to release him from his contract, and Mr. Beyts sent him back to India.

1344. The immigrant Mannicum arrived from Madras on the 4th December 1871, engaged to Messrs. Desveaux & Co., of "Queen Victoria" Estate, in Flacq, for five years, under an engagement to which, unusually in most cases, he had affixed his own signature in Tamil. He denied having been taken before either the Emigration Agent or Protector of Emigrants at Madras, and though he was engaged with the others as an ordinary Coolie, he was led, from the representations made to him by the recruiter, to hope, as he could read and write English, and had been educated at a public school, that he would be employed otherwise than as a Coolie, he having been employed in Madras as a newspaper carrier. His masters, Messrs. Desveaux & Co., having unsuccessfully tried to find suitable employment for him, first as a field labourer, and then as a carter, were willing to cancel his contract without requiring refund of the cost of his introduction, or any pecuniary compensation, provided they were not called upon to pay the expenses of his passage back to India. He had twice deserted, and the first time had been returned to his masters without punishment; but on the second occasion he was sentenced to one month's imprisonment.

Men unfit for field labour.

The case of Seerally Khan.

The immigrant Joseph.

The case of Mannicum.

Was charged with desertion and returned to his masters unpunished.



Ten unit for  
 old labour.  
 deposition of  
 the Indian on  
 his return to  
 the States.

1345. He was returned to Madras on the 14th October 1872, and on the 17th January following, the Emigration Agent at Madras forwarded a copy of his declaration, in which he, in answer to leading questions, as might be expected, says he never told anyone in Mauritius that he had been recruited under false pretences by the recruiters. He admits that he was brought before the Emigration Agent, that he was told that he must go to work upon sugar cultivation, and that he told the Governor of Mauritius that he could not do hard work, and that he would like to return to his native country and nothing more, and says that he never told anyone that he was not taken before any person at Madras, or that the nature of the engagement had not been explained to him.

1346. These and similar answers might of course be obtained by putting leading questions to the man upon any subject. They do not, however, refute the answers he gave in Mauritius, that he was a man who had received a good education, could read and write English and Tamil, and had never done any agricultural labour in his life. These are the real points that the Agent should have inquired into before he enlisted the man as an agricultural labourer. It is a matter of very minor importance what the Emigration Agent told the emigrant, so long as he did not ascertain whether the man sent was fit for agricultural labour or not.

1347. On our visit to "Cote d'Or" Estate, in Moka, we were surprised at finding forty-six miserable-looking immigrants sitting in the verandah of the hospital, while others were lying on beds inside. The medical attendant, Dr. Clarenc, happened to be there at the time, and he informed us that the great majority of these miserable objects were New immigrants, who had arrived from India in the 'Sir Robert Seppings,' in October 1871, ten months before our visit. He stated they had persistently refused to work; and he declared there was nothing about them which required medical treatment, but that, on the contrary, light work would be beneficial to them. This, however, they refused to perform; and, when put to such work as sweeping the yard and camp, they had recourse to every kind of malingering, one of which was to have their eyes slightly pricked by a comrade, which excited inflammation, and gave them a pretext for going to hospital; and, amongst others, he showed us a very distressing instance of it, where the man had pricked too deep, and the eyesight was permanently destroyed.

1348. The Messrs. Desveaux likewise complained bitterly and justly of having such men sent from India; men who were evidently the off-scouring of towns, beggars, and idlers by profession; and whose very appearance told us, and ought to have assured any body who had even been but a few years in India, without any further examination of the men, that they never had done a day's work, and never would do one, unless compelled to do it in jail.

1849. We ascertained that 164 men had been received in the "Sir Robert Seppings" from Madras; and, on enquiry on the several estates to which they were allotted, we found that seventy-nine had been sent to "Côte d'Or" Estate; that they had been, from the 4th October 1871, 5555 days sick, 4409 days absent, and 341 days in prison, altogether 10,305 days lost to the estate between the 4th October 1871, the day of their allotment, and the 30th September 1872, the day of our visit.

1350. Thirty-six of these men from the 'Sir Robert Seppings' had been sent to "Bel Air" Estate, in Savanne:

- Two were old men, who worked in the boys' band ;  
One a consumptive man, who since died ;  
One a domestic servant ;  
One a tailor, and  
Four or five continually absent.

Of thirty-seven men sent to "Beau Séjour" Estate, in Rivière du Rempart, Mr. Raffray informed us they were the worst workers he had ever had :

- Four had been domestic servants;  
Three were about sixty years of age;  
One a cook, who had been transferred at his own request to Mr. Joshua, but would not work for him.

Eight of them had already become deserters.

Only two were allotted to "Grande Retraite" Estate, in Flacq ; and of these one was always absent.

Of seven allotted to "Yemen" Estate, in Black River,

- Three were of no use for field work;  
and of the remaining three received in this ship, one was allotted to the Mauritius Dock  
and two to Mon Rêve Estate, and all three enjoyed good characters.

Chapter XV.—Recruiting.

1351. The case of Koosecalsing is much the same as the preceding, except in its result. He was allotted to the "Beauchamp" Estate, in Savanne, and arrived in the Colony about the end of 1871, and stated that he had been a Sepoy in the 45th Native Infantry, in India; but he had no proof of it, except the evident appearance of having been drilled, and, as it seemed to us from certain marks on his back, flogged. He had been in jail fifty-six days, from 29th January 1872, and absolutely refused to work on his release, as he had refused to work before his imprisonment, not having done a single day's work since his arrival in the colony.

1352. When first seen by us in August 1872, he was thin and emaciated. On being examined, the doctor was unable to assign any disease to the man, and the man himself was unable to show any symptoms of illness, from which Doctor Bolton suggested that all he required was "the cat." The man, however, when we saw him again, in March 1873, though he had not done any work, was fat and sleek, yet still complained of being unwell. We had him again examined by the doctor, who found no other sickness the matter with him except an attack of Dengue fever, with which he was seized after being sent to the doctor. He recovered of that, and was returned to the estate; when the Stipendiary Magistrate, finding him again in the Prison Hospital and refusing to work, obtained the sanction of the Prison Committee to his being flogged, should he continue his refusal. The threat of that punishment proved sufficient, for he commenced work immediately, and, we were informed, on his return to the estate, had continued to work well ever since; thereby proving that the suggestion of Dr. Bolton, howbeit severe, was yet right.

1353. Allybuccus left Calcutta on the 4th October 1872, and was allotted to "Terrace" Estate, in Savanne, on the 20th November following; but did not arrive until ten days after the rest of his band, having been detained in the Civil Hospital. He appeared to have been previously in Mauritius, and admitted that, having been imprisoned for three months when there before, at the expiration of his sentence he had been sent back to India, as an invalid, in April 1872. He was again sent back to Calcutta at the owner's request, and the money which the master had paid as the cost of Allybuccus' introduction into the colony was refunded to him.

1354. The Agent at Calcutta was called upon to explain why he re-enlisted Ally-buccus, who had been returned to India as an invalid in April 1872, but up to this date (11th September 1873) no answer has been received from him on the subject.

1355. That the planters have much to complain of in confirmed vagrants deported from Mauritius getting themselves reshipped and returned to the colony, under a different name, is undoubted.

1356. Ghūree Jauffer, a confirmed vagrant, was, in September 1872, deported from the A 21, 26th Janu. colony under the name of Cassee, alias Gausee, as a confirmed vagrant. He ary 1873. however, returned in the October following; and the Assistant-Colonial Secretary, in communicating this fact to the Emigration Agent, Calcutta, expressed a

Men unfit for  
field labour.  
Dr. Finnimore  
is of opinion that  
Dourzen and  
Ramsurup  
ought not to  
have been  
allowed to  
emigrate.  
Mr. Elliott's  
nabity to  
state how  
these lads  
were re-  
cruited.  
Ramsurup's  
case.

None of these  
men's names  
and been  
come on the  
sick list.

Not aware on  
what ground  
Mr. Elliott  
formed his  
opinion as to  
the man's past  
life.

A probability  
that he never  
was an agri-  
cultural  
labourer.

Magistrates in  
India do not  
satisfy them-  
selves as to  
emigrant's  
fitness for  
field work.

immigrants  
by the 'Hindoostan.'

Defective  
medical in-  
spection be-  
fore embarkation.

Defective  
medical in-  
spection be-  
fore embarkation.

Defective  
medical in-  
spection be-  
fore embarkation.

1359. As regarded Sergoo, Dr. Finnimore thought that there might be a doubt as to whether he was an eligible subject for emigration or not; but, as regarded the two others, he was decidedly of opinion that they should not have been allowed to emigrate.

1360. In answer to a reference made by us, Mr. Elliott, the Acting Protector, was unable to inform us whether these men were recruited by recruiters appointed by the Emigration Agent at Calcutta, or by men sent out by Messrs. Rochecouste to recruit for them; but he mentioned that, as regarded Ramsurup's case, especial note was made in the list of ineffectives, that he was

"a young, strong, healthy man, with a defective right hand, which he has proved here, does not impede him in digging well; he has therefore not been rejected as the Agent desires to ship, and no valid medical reason can be advanced against it."

1361. None of these men had come on the sick list during the voyage. Mr. Elliott also inspected them, and thought them to be a very fine set of men; and, in concluding his letter, he states that,

"in presence of the opinion of the Medical Superintendent of the Dépôt in Calcutta, respecting Ramsurup, founded on the man's past life, I cannot but think that the Messrs. Rochecouste have been rather hasty in pronouncing him useless as a labourer. As regards the other two men, I cannot give any opinion."

1362. We are not aware upon what ground Mr. Elliott founded his opinion of the man's past life. The Medical Superintendent at Calcutta says that the defective right hand does not impede his digging well, as proved in the Dépôt; but that does not establish that Ramsurup was in the habit of digging. On the contrary, he is stated to be by caste a Brahmin, from the village of "Gohea" and Zillah, "Lucknow," so that the probability is that he never had been an agricultural labourer: and his own account of himself, given to Dr. Finnimore, that his employment was to make strings of beads for Brahmins, shows a much more probable means of gaining his livelihood than by agricultural labour.

1363. This case convinces us, as do several others that we have noticed before, that the Magistrates in India and the Emigration Agents there, are more anxious to ascertain and satisfy themselves that the men are willing to embark for Mauritius, and know the wages that are held out to them, than to satisfy themselves that the men have followed the pursuit for which they are engaged to emigrate to Mauritius; or, if they had not followed that pursuit hitherto, were prepared, or likely, to do so in the country to which they were willing to go.

1364. We have lately seen some remarks made by Dr. Reid, the Chief Medical Officer of Mauritius, elicited by a Report upon the arrival of the 'Hindoostan,' immigrant-ship, from Calcutta, which arrived at Mauritius in thirty-four days, with 213 men, 88 women, 21 boys, 19 girls, and 23 infants on board. There had been seven deaths during the passage; and, in consequence of the want of information given by the Medical Records, Dr. Reid recommended that the case be referred to the Quarantine Committee.

1365. The Committee ordered the ship to proceed to the Quarantine Station at Cannonier's Point, and there land the native Compounder and the Coolies, the Cook and the Topasses; and that a properly qualified Medical Officer should be sent to attend them.

1366. The Committee also desired that Government should be informed that "it often happens Indians die on board Coolie ships, especially from Calcutta, under the head of 'General debility' entered in the Case-books, and sometimes very few days after their departure from Calcutta; and it is to be supposed that the inspection of the men is not very carefully made before their embarkation."

1367. This was communicated to the authorities at Calcutta; on the 30th March 1873, the Emigration Agent forwarded his and Dr. Payne's explanations upon the subject. Mr. Eales wrote as follows:—

"As it is the special duty of the Medical Officers of the Dépôt to examine all emigrants embarked for Mauritius, as to their general health and condition, and physical fitness for labour in the colony, I have called on Doctors Shircore and Payne for an expression of their opinion on the allegation conveyed in the Committee's Minute; but, in consequence of the absence of the former from Calcutta, I have not yet been able to obtain any communication from him. But the letter, herewith forwarded from Dr. Payne, deals so exhaustively with the subject as to leave me but little to add, beyond the important fact that it is practically impossible for Coolies to be shipped in the condition described by the Committee; as, apart from the repeated medical inspections which they undergo in regular order in the Calcutta Dépôt, by the Native doctor, the Medical Superintendent of the

"Dépôt, the Medical Inspector attached to the Protector's Office, the Protector of Emigrants (who is also a medical man), and finally by the ship's surgeon, each individual Coolie is again carefully inspected by all these officers at the time of embarkation, who rigorously exclude from shipment any persons who show the slightest symptoms of indisposition, or who may be considered unfit to make the voyage."

Occasionally it is necessary in the interests of the colony to send forward two or three Coolies, who are somewhat disqualified from labour by age or other infirmity (but in other respects healthy), with large families, who decline to embark without them, the names of such persons are invariably entered in the 'Ineffective list' which accompanies the people, and explains the reasons for their being permitted to go; but, with these exceptions, all embark in good health from a medical point of view—a fact patent to all who claim to have any practical acquaintance with the subject.

"Of the influences in operation, which tend to impair the health of the Coolies after leaving their native shores, I am not competent to speak, being a purely professional question; but the fact remains, nevertheless, that occasionally the health of the strongest does fail on board ship, which I think is in some measure attributable to the totally altered conditions of life to which they have previously been accustomed, coupled with overfeeding and inactivity."

Dr. Payne's letter to Mr. Eales, referred to as above, is as follows:—

"The intimation of neglect conveyed in the Report of the Quarantine Committee recalls the long series of charges which, in former days, were brought from time to time against the Agency when deaths, not otherwise satisfactorily explained, appeared in the ship's papers at Port Louis. It has seemed, however, more lately, that this defensive policy of ship's officers had been forced into discredit, and disuse of the complete system of certificates adopted; and I venture to think, even now, that the papers which accompanied the emigrants were not seen by the Committee, since, if they were seen and any sort of investigation were held, the true character of the allegations must have been evident at a glance, on the sole testimony of the ship's certificate given before embarkation."

"It is unnecessary to trouble His Excellency's Government at the present stage of affairs with a detailed statement of the precautions adopted to guard against such occurrences as those of which the Committee are apprehensive. The repeated examination of Coolies in the interest of the colony by myself, the rigorous exercise of his functions by the Medical Inspector of the Bengal Government, and the close attention to his preliminary duties which is forced upon the ship's surgeon by the rules and in practice, are as well known to the Government in the colony as they are here. The power of the Protectoral Officers to prevent embarkation of persons unfit to make the voyage is absolute, and is fearlessly exercised by them; and, although Dr. Partridge shows every consideration that can with propriety be shown for the interests of emigration, he never has tolerated, and never would tolerate, any such practice as would justify the supposition of the Committee; nor has he been, nor is he likely to be, asked to relax his beneficial vigilance in this respect by us, who more directly represent the colonial interest."

"I would, with due respect to the Quarantine Committee, suggest that when death is ascribed to 'General debility,' it is not uncommon to suppose that the term is used in default of exact knowledge of the cause. That any labourer could embark here in so advanced a state of general debility, that he should die of that condition alone within a 'very few days,' is a supposition to which, I think, the Committee themselves would scarcely entertain, if it had been presented to them in this form. Yet it must be so supposed if the deaths are to be referred to debility existing prior to embarkation. I shall be only too happy, as I have been before, to adopt any further measures that can be suggested to furnish, with each ship, incontestable proof that nothing practical is omitted here to secure the best labourers and the best health for them at sea; but I venture to infer, from the manner in which the present case has been sent down for your observations, that His Excellency in Council does not desire any change in the medical working of the Agency, in spite of the occasional imputations of the kind under comment."

1368. Upon these letters, which were referred to the Quarantine Committee, Dr. Reid remarks:—

Defective  
Medical in-  
spection before  
embarkation.  
Case of the  
'Hindoostan.'  
Mr. Eales's  
Report.

Dr. Payne's  
Report.

Dr. Reid's  
remarks.



Defective medical inspections before embarkation. Dr. Reid's remarks.

"Although I was absent, on account of illness, from the Meeting of the Quarantine Committee, at which the fact of some Indians having been reported as having died from 'General debility,' and, in certain cases, a few days after embarkation; and an inference was drawn therefrom that the medical inspection of the Coolies prior to embarkation is not so strictly made as it should be; I shall nevertheless submit a few observations on the subject.

"Dr. Payne appears to enter on the defence of the medical inspection in Calcutta with the remembrance of unpleasant references, and, as he states, a spirit of fault-finding in Mauritius with the Emigration Agency, of which I have no knowledge, as it occurred, I apprehend, several years ago. The remembrance of this causes him to enter into the defence rather warmly; and to urge, as it seems to me, rather too conclusively that no mistake nor occasional slackness could occur in regard to that duty.

"He admits that since the system of certificates from the Calcutta Dépôt Medical Officer had been instituted (at my suggestion, made in 1868), such complaints against the medical inspection of emigrants had been rare. Now the mere rendering a certificate would not of itself remove all possible grounds of complaint; and it is fair to infer that the exacting such a document, to be drawn up immediately before the embarkation, necessitated a further inspection of the emigrants, and at which sickly and weakly subjects may have been detected and withdrawn from the emigration list, and thus remove possible complaints.

"It must not be forgotten, too, that at the time the occurrence took place, which attracted the attention of the Quarantine Committee, Dr. Payne was absent from his charge, and had been so for many months previously. And it is not improbable that vigilance may have been relaxed in the matter of final inspection; and that he animadverted rather too strongly against the Quarantine Committee in support of his substitute.

"Besides, it is the medical attendant on board who notes in his registers the weakly and sickly state of certain emigrants on embarkation; and yet Dr. Payne quotes the inspection of them by the medical attendant as an additional reason for the non-occurrence (or extreme rarity he had better have said) of the cases referred to by the Quarantine Committee. I myself have several times seen those entries in the Medical Records, and also details of cases of death not long after embarkation, which, if the reports were correct, left no room for doubt that certain emigrants embarked on the effective list had been the subjects of dysentery (or other chronic disease) for a considerable time prior to embarkation.

"Again, I have seen several men, who had been sent here as effectives, who were the subjects of mental imbecility, not drivelling idiots certainly, but not fit for the kind of work required of them, and certainly not able to look after their own or their employers' interests.

"In some such cases, the engagements have been cancelled, and a considerable number of such ineligible subjects have become, and continue to be, a charge to the colony at the Lunatic Asylum,\* after having occasioned a considerable loss to the employer who had incurred the expense of introduction, as well as those for the first months of hospital dues.

"I have also heard from perfectly trustworthy persons of immigrants introduced as effective who had a limb maimed, contracted, or paralysed, and who were useless burdens to their masters.

"Quite lately I heard of such a case on 'Hermitage' Estate. The man had a defective upper extremity, could not or would not do anything, refused even to be a guardian, and, I understand, the Magistrate of Moka has lately ordered that the engagement should be cancelled. But the employers had paid for the introduction of, and have since paid the man as, an effective labourer.

"And it appears to me but right that the servants of the colony in India should have their attention called, from time to time, to such cases as those so strongly animadverted upon by Dr. Payne; the more especially that, if my memory serves me right, there are details in the Report and evidence of the Demerara Commissioners, which go to show that the selection of emigrants is not always good, that the inspection is not perfect, and that even non-effective or sickly emigrants have been forced upon the Superintendents of Coolie ships."

\* On the 1st March 1873 there were in the Lunatic Asylum 11 male Indians who had lost their reason while under contract; 87 male Indians and 41 female Indians who had lost their reason when not under contract.

1369. Dr. Reid appears to be wrong in having restricted the loss to the planters to the cost of introduction and the first few months of hospital dues; for, on the 31st May 1870, Madame Chauvin and Mr. Serres, proprietors of Albion Estate in Black River, petitioned the Government, stating that an Indian named "Natchuram," engaged on the above estate in their employ, was ordered by the Magistrate, on the Report of the Commissioners in Lunacy, to be sent as a patient to the Lunatic Asylum in January 1870 at his employer's charge. The cost of his maintenance amounted to about £2 a month, and they begged to be relieved from the payment; but, on the 14th June 1870 Madame Chauvin was informed that they must pay for his maintenance so long as he was under engagement to them. Whether the Stipendiary Magistrate would have thought the fact of the man being a Lunatic a sufficient reason for cancelling an engagement or not, we are unable to say.

1370. It is unnecessary to multiply cases of unfitness, but the following, perhaps, is one in which the disease might not have been apparent when the immigrant left India.

1371. Mathery arrived from Madras on the 17th September 1872, engaged to Mr. Pitot, of "St. Aubin" Estate, as a field labourer. On the day of distribution he asked for employment as a domestic servant, in which capacity he had worked since his childhood. He, therefore, was not a man who should have been sent out as an agricultural labourer. Mr. Pitot declined to take him as an agricultural labourer, and the man was detained at the Dépôt until the 3rd October, when Mr. Pitot came and engaged him as a domestic servant, paying £12-5s. 6d. for his introduction and other expenses. After three days the man was unable to work, being laid up with a cough, and Dr. Régnaud certified—

"Est atteint probablement depuis plusieurs mois de tubercules pulmonaires;" that he could not work as a servant, and that his malady was incurable, and would increase until his death. Mathery was accordingly sent back to his friends in India, and another immigrant allotted to Mr. Pitot at his own request.

1372. There is one further case that might be noticed connected with the allotment of immigrants in India. We have seen the disorder that arose when immigrants were allotted in the colony, and the advantages that have been derived from their coming here having been allotted in India. There is, however, neither in India nor in Mauritius any law prohibiting the separation of families; the Regulation (Art. 47) contained in the Proclamation of the 12th of November 1858, which gave the Protector a discretionary power to deviate in such case from the strict order of allotment, having been rescinded by Article 90 of Government Notice, No. 166, of the 11th of November 1863, and, consequently, one member of a family may be allotted to one estate, and another to another, unless the Protector of Immigrants, after their arrival in Mauritius, be made aware of the fact, and, by changing the allotment of the immigrants at his own risk managed to re-unite the family.

1373. A remarkable case of this kind is mentioned in a letter from the Emigration Agent at Madras as having caused him some difficulty. A batch of emigrants arrived at the Dépôt the day a requisition expired, and were allotted to one planter. A month after, another batch, containing relations of those already allotted, arrived, and the Emigration Agent (the former requisition having expired) did not consider himself justified in allotting any of the new batch to the planter whose requisition had expired, nor to disturb the allotment he had already made by substituting some of the new batch for others of the old.

1374. A noteworthy case occurred where a boy, said to be eleven years of age, but apparently only seven or eight, came with his mother to the Dépôt, and both were allotted; but, before they were shipped, an emigrant came to the Dépôt, having been allotted to another planter, and took up with the mother of the lad. The requisitions by both planters to whom these people were allotted had expired, and the Emigration Agent held himself unable to make out any allotment to either of those two planters in favour of the (3) emigrants, and he therefore requested that the allotment should be made in Mauritius.

There appears no objection to this plan being adopted, but we cannot see that the Emigration Agent at Madras was in any way precluded from making the allotment himself.

1375. For this same reason, in order to prevent the separation of members of the same family, or of persons bearing similar relationship, we think that the certificates of concubinage formerly given by the Agent at Madras elsewhere referred to (Chapter XXVI.) are not only unobjectionable, but should be observed, to prevent the possibility of persons living in that relationship—a recognised institution, it appears, in some parts of India—and their families being separated without their own consent.

Defective medical inspection before embarkation.

Expenses to Albion Estate through maintenance of Natchuram, a lunatic.

Men unfit for field labour.

Case of Mathery of St. Aubin.

Allotment of immigrants in India.

Separation of Indian families on distribution.

A striking case in point.

The Emigration Agent suggested that the allotment should be made in Mauritius.

Certificates of concubinage desirable.

## CHAPTER XVI.—CONTRACTS.

1376. Having thus seen how immigrants are recruited in India, whether under engagement to serve on a particular estate in Mauritius, or generally for allotment after their arrival there, we will proceed to consider the terms of the contracts under which they bind themselves.

1377. We have already shown that, under Ordinance 12 of 1855, planters were enabled at their own expense to introduce immigrants from India through the agency of the Protector of Immigrants, and at the present day almost all the immigrants introduced are brought over upon requisitions made by planters to the Protector of Immigrants, and sent by him to the Emigration Agents in India for execution; and, consequently, very few, if any, immigrants are now brought to Mauritius to be allotted by the Protector of Immigrants.

1378. A special contract for Mauritius is sent with those immigrants received upon requisition, of which, since June 1868, the original has been kept in the Immigration Office, and a copy been given to the employer, and another copy been sent to the Stipendiary Magistrate of the district whenever he applies for it. No more exactness, however, is observed with regard to this contract, either in Mauritius or in India, than is to be found in the generality of papers and proceedings connected with immigration in this colony.

1379. There is one now before us of an immigrant engaged to Mr. Hewetson for his estate called "Hewetson" in Flacq. The form is properly filled up; but in the column of remarks, there are entries "transferred to Riche Bois Savanne," "transferred to Moka," "transferred to Albion Dock Company," "transferred to Port Louis;" and at the bottom of the contract is written "transferred to W. Hewetson, Albion Dock Company, Port Louis," with some initials below it; not those of either the Protector of Immigrants or his Chief Clerk. On another, the blanks at the head of the contract are not filled in, as showing whence the immigrants came, or for what estate they are engaged, though the district is entered "Flacq;" and in the column of remarks there are the same entries as on other contracts, and at the bottom

"transferred to Riche Bois Savanne with their consent, except Rambugen, No. 335,169, who has been transferred to the Albion Dock.

" 29/12/71.

(Signed) "H. N. D. BEYTS, Protector,"

no notice being taken of those transferred to other places.

1380. In these contracts the allowances and their quantity are all printed, but no mention is made as to the capacity in which the men are engaged to serve, the length of service, except for five years from the date of registration of the contract by the Protector of Immigrants at Mauritius, nor of what the hours of labour are to be: at what hour to commence, and at what hour to cease: what time is to be allowed for meals, or how the wages are to be paid, whether weekly or monthly: all of which information was required to be put into the contract by the Order in Council of the 7th September 1838.

The form is, in fact, that prescribed in Ordinance 16 of 1862.

1381. Ordinance 31 of 1867, which, though it has prescribed forms of contracts for allotted immigrants, and a general form of contract of service, which is used when contracts are renewed, has prescribed none for engagements made in India; and, consequently, there is no covenant in the special contract made in India that the immigrants shall be paid monthly (though it is covenanted that they shall receive wages at so much per month), nor any provision in the law for such payment. The allowances are fixed, and cannot be altered, for they are printed in the contract; so that, though the planters importing immigrants commit no breach of their covenant by not paying them monthly; they do commit a breach of it when they change "salt fish" for "dholl," and omit giving ghee or oil.

1382. On the other hand, the contract with immigrants allotted in Mauritius, as with immigrants re-engaging is, that wages shall be paid monthly; but the allowances and their quantity are not fixed. We shall, however, have return to this point when considering the re-engagements.

1383. There is a proviso in the contract made in India that immigrants under six years of age shall only have half the allowances mentioned. Chapter III. of the

Council of the 7th September 1838, sanctions children above ten years of age and under sixteen, with the consent of their guardians, being apprenticed to any trade in the practice of which any peculiar art or skill is requisite, but prohibits their being apprenticed as labourers in husbandry or in the manufacture of colonial produce; and Article VIII., of Ordinance 31 of 1867, prohibits written contracts with minors under ten; or above ten and under fifteen, unless with the consent of the parent or guardian, and provides that an engagement by a minor above fifteen years of age might be cancelled, on the application of the parent or guardian, on good cause being shown; but adds a proviso that nothing in that Article shall be construed as invalidating a contract of service made in India; thereby enabling planters, or others, entirely to set aside both his Ordinance and the Order in Council quoted above; unless (though we have not been able to discover it) there be some law in India prohibiting contracts made with children emigrating to Mauritius, who, according to the law of Mauritius, can only be engaged on verbal engagement, and that is good only for four weeks. But immigrant children, on attaining the age of ten years, are liable to work for the introducer of their parent or friend, with whom they came to the colony, until the expiry of the Industrial Residence of that parent or friend, or so long as he shall remain in the introducer's or substituted employer's service.

1384. The contract, as made in India, provides that the immigrants shall have proper lodging and medical care provided for them. And, under this engagement, they are sent to the estate, to work there for five years, from the date on which their contract was registered in the Immigration Dépôt.

1385. There are, however, means of terminating the contract before that time; as, when an immigrant is permanently incapacitated from the performance of his contract, his employer can send him with a medical certificate to the Protector of Immigrants, and his contract is cancelled, the employer paying the expenses of sending him to the Immigration Dépôt; and the immigrant is then sent back to India, or admitted into the Barkly Asylum, or referred to the Poor Law Guardian of his district, according to his wish either to return to India or remain in the country. Or, without any suffering or

incapacity at all, if the master desire to release a New immigrant from his contract, they shall both appear before the Protector of Immigrants, who must explain the effect of the release to the immigrant, and if the immigrant agree, he is released from his contract. The same object might be obtained by applying to the Stipendiary Magistrate, and getting his certificate to take it to the Protector.

1386. A New immigrant may also, having good and sufficient reason of a special exceptional nature, obtain his discharge from his contract by redeeming the time. This, however, can only be done by the prepayment of the indemnity to the Government, for the benefit of the employer; and, we find a man named Poluckdharry, in February 1872, who urged his claim on the ground of being a Brahmin, but, being unable to obtain the redemption money, having been only a few months in the colony, his claim was not admitted.

1387. On the day after Ordinance 31 of 1867 came into operation, we find the Protector of Immigrants allowing Luchman, also said to be a Brahmin, to redeem his time by paying his employer, Mr. Voley Lemerle, the whole cost of his introduction, without going through the forms required by law; and doing just the same in July 1872, for one Chandika-Persad, also said to be a Brahmin, upon his paying the proportion of the cost of his introduction. This man, having redeemed eighteen months of his industrial residence of five years, returned to India in January last, but we do not find he took any money with him; he certainly took none through the Immigration Office. Neither of these transactions went through the intervention of the Stipendiary Magistrate and Procureur-General, nor did they go through any of the proceedings the law requires. In a word, the proper course never has been adopted; for, from Return No. 3, called for from all Stipendiary Magistrates, of the number of New immigrants who had applied to redeem their residence, it appears that no such application has ever been made to any of the Magistrates; so that all who may have redeemed their time have, for that purpose, adopted a course, not unusual in this colony, of obtaining their end by other means than those enjoined by the strict letter of the law.

1388. The plea of being a Brahmin is often put forward as a reason for being allowed to redeem time. A man, calling himself Natchan, petitioned to be sent back to India, as he was a Brahmin and could not work. He came to Mauritius under the name of Chedee Issard, and declared himself a blistie (water-carrier), and the Protector of Immigrants suggested that, if a Brahmin, his contract might be cancelled if he redeemed his time; but we are of opinion that the plea of being a Brahmin should never be admitted as "a good and sufficient reason of a special and exceptional nature" for a man to be

Immigrants under ten years of age.

Provision for lodging and medical care.

Means of terminating the contract. Incapacity.

Mutual consent.

For good and sufficient reasons.

For being a Brahmin. (Luchman's case.)

Chandika-Persad's case.

Redemption.

al cor- s received , immi- ats from dia.

Transfers.

Omission of details which are required by the Order in Council of 1838.

Breaches of contract.

Contracts for allotted immigrants and contracts for immigrants re-engaged.



of terminating the contract. discharged from his contract. As a Brahmin, he had no right to engage as a labourer, and his object in doing so could only have been to get to Mauritius, not to work, but to beg and obtain money from his fellow-countrymen; and it is desirable to prevent such people from coming among real labourers.

et in con- Breach of contract. 1389. Lastly, contracts may be cancelled for defects in the contract itself, for breaches on the part of either party, and for breach of the Sunday Labour Law.

ach of Day Law. 1390. The tables in the Appendix show the number of contracts cancelled, on application of either masters or servants, between 1868 and 1872, both inclusive, with the reasons for which they were cancelled; the number cancelled by the Magistrate, without application from either party, in the same period, with the reasons; and the number of applications refused by the Magistrate or Procureur-General in the same time.

cancelments. 1391. It is especially remarkable that no contracts have been cancelled by the Magistrates of Grand Port or Savanne in that time, and that only 58 applications were made and refused in Grand Port, and 188 in Savanne, all of the applications having been made by the servants; that, in the whole Island, four applications only, made by masters, were refused, and 215 made by servants; while of those granted 89 were made by the masters, and 1264 only by the servants; or, of 93 applications made by the masters, 89 were granted, and, of 3421 applications made by the servants, only 1264 were complied with.

Of those cancelled by the Magistrates of their own accord, amounting to 219, the reasons for cancelling 121 are not recorded; but of the 98 remaining, nearly one-half (48) were cancelled for assaults, ill-treatment, or non-payment of wages.

1392. We have found no instance of a contract made in India having been cancelled on account of any defect in the contract itself; but there are other reasons, besides defects in the contract itself, for which contracts may be cancelled, either at the request of the master or that of the servant.

1393. The Order in Council of the 7th September 1838, Chapter IV., Section 7, provides that, for neglecting to perform his stipulated work, doing it negligently or improperly, by neglect or other improper conduct injuring the property of his master, the contract of service may be dissolved.

1394. So also, under Ordinance 17 of 1841, for contraventions regarding work on Sunday, by either master or servant.

Ordinance 15 of 1852, Article 3. Or, under Ordinance 15 of 1852, if the servant be convicted of misdemeanour or felony, the contract may be annulled on the master's application.

1395. So, at the suit of the servant, that his wages have not been paid, nor the articles stipulated for delivered, or that the articles were not of the prescribed amount or quality (there never is any agreement as to what the quality of the article shall be);

Order in Council, 7th September 1838, Chapter IV., Sect. 8. or that, by neglect or improper conduct of the master, the contract of service has not been faithfully performed; or that he has ill-treated the servant;

the Stipendiary Magistrate may, either in lieu of, or in addition to, other punishments which he may inflict, order the contract of service to be cancelled.

1396. So, under Ordinance 15 of 1852, Article 11, non-payment of wages for three months, after they are due, is declared to be a breach of contract by the master, and the servant is at liberty to claim the dissolution of the contract.

Complaint of "Clemencia" immigrants. Appendix I. 4. 1397. We find, in May 1871, a complaint brought by "Ramdhun" and 331 other against the proprietor of "Clemencia" Estate, in Flacq, for wages four months due, and that the days of unlawful absence should be cut single, not double; and for two months rations of dholl, salt-fish, oil, and salt; and further, that their contract of service be cancelled.

The case does not appear to have been fully tried, for the majority of the complainant withdrew their complaint on condition that one of the proprietors and the accounts should never return to the estate; that their wages should be cut single, and not double, and that the rations they claimed should be issued to them weekly, and not monthly.

The claims of thirty-two were dismissed, as the wages were held not to be four months in arrear, though four of these men were paid three months' wages only the day before still leaving one month's wages in arrear; the plaint having been filed more than a month before.

De Belloguet v. Pyndeegadoo. Appendix I. No. 9. 1398. In the case of De Belloguet *versus* Pyndeegadoo and others, it was decided Mr. Justice Gorrie on the 10th November 1870, that the wages must be remained unpaid for three months, in addition to the month for which they were due; that is to say, that if the master pays the wages due at the end of June before the expiry of September, the servant cannot, as of right, under this Article, claim dissolution of the contract.

1399. We need hardly have done more here than refer to this judgment; for it is admitted by Dr. Icery, and the impression is largely shared in by those who interested themselves in the question of the Labour Law, that allowing arrears of wages to extend over four complete months is too long (it is proposed to shorten it), but that the judgment touches upon the interests of agriculture, which are said to be involved in the practice of allowing wages to remain in arrears; and the consequences described as likely to be the result if a decision of a Stipendiary Magistrate should suddenly place those interests in peril.

1400. We learn from Mr. Wiché that three months' delay is quite sufficient, and that if a planter, at the end of three months, is not able to pay his wages, he is never likely to be able to do so.

1401. But we find that not only Mr. Renouf, but other Stipendiary Magistrates, think it their duty to look not only to the terms of the contract and the rights of the immigrants, but to the interests of the master and the welfare of the colony; and that while Mr. Renouf thinks it the duty of the Magistrate to compel the master to respect

the contract, yet delay may not be productive of harm to the immigrant, whereas the removal of him might be the ruin of the estate; and he therefore deprives the men of the relief allowed them by law, because he does not think the men suffer much from "a few days' delay," and he considers it would be a great injury to the masters to have the contract cancelled.

1402. The Magistrates never appear to consider that breaking the engagement may be a great benefit to the immigrants; that they may lose offers from more solvent and better masters, or offers of higher wages, which they must forego, because, in the Magistrate's opinion, the insolvent master may be ruined, or the interests of the colony injured.

1403. But this cancelling of the contract has, for many years, been a vexed question. So long ago as 1859, the Procureur-General proposed that any servant whose wages were in arrears for one month, after they had become due, should have a right to insist on the Magistrate being bound to grant the cancellation of the contract, unless the wages were paid immediately, on the servant's complaining to the Magistrate.

1404. But the opinion, as showing what the law and the practice were at that time, and how little they have since been improved, requires that the proceedings of Government upon the subject should be given in detail.

1405. The Procureur-General, to whom had been referred Lord Carnarvon's Despatch No. 212, of 12th May 1859, with its enclosures (*vide* paragraph 173 of the *Contingent System*), which contained some severe comments by Lord Stanley upon the practice of allowing wages to be in arrear, wrote as follows:—

"I have the honour to acknowledge the receipt of your letter D, No. 180, of the 11th July last, enclosing copies of the documents noted in the margin, and requesting me to report, for the information of His Excellency the Governor, what measures should, in my opinion, be taken with a view of ensuring greater regularity in the payment of wages to Indian labourers."

"2. In answer, I have the honour to request you will lay the following observations before His Excellency the Governor.

"3. It appears from the evidence adduced before the Committee of Council on Mr. Savy's letter to the Governor-General of India, and indeed is a fact, that Indian labourers generally consent to the delays asked by their masters for payment of their wages.

"4. When such consent is given freely on their part, without any influence being used by the Magistrate to obtain it, I conceive it should receive effect, both because Indians are sufficiently intelligent to know what is for their own interest, and because good feeling between them and their masters is likely to be promoted by mutual concessions rather than by each party insisting on his full legal rights.

"5. At the same time, I think precautions should be taken to secure complete freedom in such consents, and labourers should never feel themselves under any sort of pressure by the Magistrates to consent to delays, even where the Magistrate is convinced that they may be for the labourers' advantage.

"6. To secure this end, I would advise that a circular letter to the Stipendiary Magistrates,\* calling their attention to the propriety of leaving the labourers

\* Note by Governor Stevenson:—"They should also be informed of the desire strongly expressed by the Secretary of State and the India Board that, as a general rule, the wages of labourers should never be left in arrear.—W. S."

Proposal of the Procureur-General in 1859 as to cancellation of contract where wages due and unpaid.

"entirely unbiassed when their masters ask them to consent to delay, and of never granting delay without such consent, on the ground either of the hardship to the master or probability of loss to the servant from pressing on a sale before the crop shall have fully grown, or on any other ground whatever.

"7. I believe that the imminent risk of such loss would almost always force the master to arrange for payment.

"8. In my opinion the chief evil connected with this subject is, that the labourer is obliged to work while his wages are in arrear. In other words, the engagement is enforced against him, and that, too, by fine and imprisonment, while his master has not performed his part of it.

"9. This has arisen from the interpretation given to the Order in Council of the 7th September 1838, by Ordinance 15 of 1852, Article 11, as applied in practice throughout the colony.

"10. The Order in Council provided that, on proof that the master had not paid the servant's wages, the Magistrate might, if he saw fit, order the contract of service to be cancelled; but it did not specify the amount of arrear which would make it imperative upon the Magistrate to do so.

"11. This omission was supplied by Ordinance 15 of 1852, as above mentioned, which provides that—

"(§ 11.) The non-payment of wages for three months beyond the term at which such wages become due, should be held to be a breach of contract by the master; and on a Stipendiary Magistrate awarding payment of such wages, the servant shall be at liberty to claim the dissolution of his contract."

"12. Under this provision the Magistrates retained their discretion to cancel the engagements on account

"of non-payment for any period, however short, while it is made imperative on him to do so after the arrear shall have lasted for three months.

"13. But, in practice, contracts of service are never cancelled unless the non-payment of wages shall have extended for the full period of three months beyond the term at which they became due.

"Consequently the servant is forced to work although he has not received one farthing wages during four months.

"14. This practice is generally defended on the ground that the labourers receive their rations, house accommodation, and medical attendance; and, that, as they accept these, they are not entitled to insist on the contract being broken, on account of arrears of wages for a shorter time than the Ordinance of 1852 prescribes.

"15. I am clearly of opinion, that no servant should be bound to perform his contract, if the master has failed to pay wages after a short delay which, I think, may be fixed at one month, with fair regard to the interests of both parties.

"16. I have, accordingly, the honour to suggest that the present law be amended to the effect that, any servant whose wages shall be in arrear for one month after they shall have become due, shall have a right to insist on, and the Magistrate shall be bound to grant, the cancellation of the contract, unless the wages shall be paid in full im-

*I think this is the proper construction.*

1. Discretionary.

2. Imperative.

W. S.

*The correct practice should be restored.*

W. S.

*It is quite indefensible on this ground, and the men are obliged to remain even against their will, and (having no wages) must be fed.*

*They are under duress.*

W. S.

*I cannot concur in the Procureur-General's opinion on this point, which, though just in theory, would, I fear, be inexpedient in practice.*

*I believe the evil of arrears of wages is rapidly disappearing before the increasing prosperity of the Island, and I think, moreover, that the Indian would have a better chance of eventually getting his wages by*

"mediately on the servant complaining to the Magistrate."

*remaining some time longer with his master.*

5/9.

H. S. (and with), Col. Sec.

*This may be a matter for instruction, I suppose, if not, the law should be altered when the time arrives.*

Proposal of the Procureur-General in 1859 as to cancellation of contract where wages due and unpaid.

On this the Governor minuted.

"The Procureur-General is requested to carry out the spirit of the Secretary of State's instructions according to the written opinion and notes.

"And a despatch may be prepared informing the Secretary of State of all that has been done, when in a situation to give that information.

"If an amendment of the law be necessary, it may perhaps be conveniently introduced into the consolidation now in preparation by the Substitute Procureur-General.

"Has this consolidation been placed yet in the hands of the Procureur-General? It has not yet come to me. I shall be glad to receive it as soon as it has been settled by the Procureur-General and Substitute Procureur-General.

(Signed) "W. S."

"31/10."

I think the Secretary of State's instructions must be followed out in the spirit. The labourer must be placed on a more secure footing with respect to his wages, or he should have his contract dissolved; the Magistrate may now dissolve it, if he thinks fit, and under the Order in Council when wages are in arrear, and he should always think fit when the wages have been a month in arrear, and are not at once paid on the complaint of the labourer; and if forced to work while wages are in arrear more than a month, there should be no discretion about the matter, but a decree of dissolution and order of payment should at once be pronounced, unless the labourer plainly consent, in the presence of the Magistrate, to another short delay, all previous absences being excused; in case of job-contractors and others giving no lien on crops to their labourers, the dissolution and order should be decreed in all cases.

(S.) W. S.

Governor Stevenson's Minute.

"Referred to the Procureur-General to act under His Excellency's instructions, and to forward a copy of the circular which he issued to the Magistrates, that it may be transmitted to the Secretary of State.

"If the Procureur-General should still consider an amendment of the law necessary he will be so good as to report accordingly.

(Signed) "STAIR DOUGLAS,

"Acting Colonial Secretary."

(No. 374.)

"Provisions on the subject of these papers are introduced into Ordinance No. 16 of 1862, paragraph 19, which is not yet confirmed. They will (if confirmed) be reproduced in the consolidation Ordinance referred to by His Excellency.

"A copy of the circular letter I addressed to the Stipendiary Magistrates, in compliance with His Excellency's directions, is transmitted herewith. I beg to add that, I have repeatedly written to the different Stipendiary Magistrates to the same effect, in cases on which I have been consulted by them, or by persons interested.

"21/8/62."

(Signed) "W. DICKSON,

"Procureur and Advocate-General.

"Circular.

"Sir,

"1. The attention of the Governor having been called to the frequency of large arrears of wages of Indian labourers, I have received the directions of His Excellency the Governor to call your attention to the necessity of taking measures for preventing this abuse.

"2. I have, accordingly, to inform you that both this Government and that of India are anxiously desirous to secure as much as possible the payment of labourers' wages on their falling due; and to put a stop to the too prevalent practice of allowing such wages to remain for long periods in arrear."

"3. I have, therefore, to urge on you the necessity of carrying out, with all convenient promptitude, such measures as the law directs for securing the rights of the labourers, notwithstanding the inconvenience or hardship

Procureur-General's Circular to the Stipendiary Magistrates.



Proposal of the  
Procureur-  
General in  
1859 as to can-  
cellment of  
contracts  
where wages  
due and un-  
paid. Pro-  
cureur-  
General's cir-  
cular to the  
Stipendiary  
Magistrates.

"which these may cause to their employers, or even the prospects of the servants ultimately profiting by delay.

"4. The only circumstance which should deter the Magistrate from carrying out the law in such cases would be the consent of the immigrant to delay, a consent, however, to be given freely after due explanations by the Magistrate.

"5. In such cases, therefore, it will be your duty to secure full and free consent of the immigrants to any postponement or interruption of the measures which the law directs for their benefit, and to have them distinctly to understand that, if they wish to have such legal proceedings carried out at once, they will be taken with all convenient promptitude.

"6. It is also highly important that you should visit the different Indian camps in your district, at intervals of a few months, in order to give the labourers fair opportunities of stating their grievances; and I have, therefore, to call your attention to this part of the duties of the Stipendiary Magistracy, which, there is reason to believe, is in several districts not fulfilled as efficiently as it ought to be.

"I have, &c.,

(Signed) "W. DICKSON,  
"Procureur and Advocate General."

"22/8/62."

"Memo.

"By a note on M. No. 62 of 1862 His Excellency has directed that this matter may now be considered as disposed of. The papers are returned to the General Branch to be filed.

"25/8/62."

(Signed) "S. DOUGLAS."

1406. Thus at the end of three years after the subject was first agitated, the Stipendiary Magistrates were informed that both the Home Government and that of India were anxiously desirous to secure the payment of labourers' wages on their falling due, and to put a stop to the too prevalent practice of allowing wages to remain for long periods in arrears.

1407. However, on the 3rd March 1866, we find the Stipendiary Magistrate of Pamplémousses defending his having refused or delayed to cancel men's engagements whose wages had been five months in arrears, and taking credit for not allowing any forfeiture for illegal absence; and further, urging that had he not delayed, the estates, on which there were more than 1000 men, would have remained without a single hand to work them.

"Report No. 25.

"The petition of Nuthoo, No. 309,695, and Vattalliah No. 113,064, Sirdars of 'Mon Rocher' Estate.

"27th February 1866."

"With reference to the annexed plaint of the two Sirdars, Nuthoo No. 309,695, and Vattalliah No. 113,064, of the 'Mon Rocher' Estate, against me and their employer, I have the honour to report to you for the information of His Excellency the Governor, that the plaint is not only unfounded and malicious against me, but also against their employer, inasmuch as the money for their wages has been paid into the District Cashier's hands since Friday last the 2nd instant.

"2. As to the deduction they complain of, this is what happened. Mr. Louis Felim in bringing his men before me on the 20th February last, gave me a pay-list including the sums due to the men up to the 18th February. I gave judgment for that amount; but on the pay-list and judgment being sent by me to the Government attorney he observed to me that, the property having been sold on the 8th, the wages were due up to that period, and not to the 18th as the pay-list bore, and consequently Louis Felim was only indebted to the 8th. That, besides, the Judges of the Supreme Court in Chambers would only admit the pay-list up to the day of the sale.

"I was then obliged to call back all the men to my office, rescind my first judgment, have another pay-list made out to the 8th February, and explain to the men that from the 8th to the 18th it was the new purchaser who would be indebted to them for the amount, and that they had to bring a new plaint to this effect.

"Of course the pay-list was diminished, but they fully understood that their recourse against the purchaser was not lost, and that a fresh judgment should be forthwith given in their favour.

"3. Besides, the pay-list was made out according to my order without any forfeiture being allowed, so that two days' absences were not cut off for one, thus increasing in totality the amount each man had to receive.

"4. As to the annulment of the contracts to which they had a perfect right, I delayed *en abrupto* to pronounce it, knowing full well that by temporising to the last day, the men would, on being sure of payment, either transfer their contracts to the purchaser or re-engage with him. I did so in the interest of the purchaser and of the men, and not to leave in the hands of the former an estate without a single man upon it.

"I acted wisely, I think, since half of the men have had their contracts transferred to the purchaser, and the other half have had their contracts annulled on Friday last. I am certain that His Excellency the Governor will be of the same opinion as myself, and consider the plaint, especially as to the curtailing of the wages, as a malicious and unfounded one.

"5/3/66."

(Signed) "C. RENOUF,"  
"S. M."

"1/692.

"With reference to your Report, No. 25 of the 5th ultimo on the petition of two Sirdars, 'Nuthoo' and Vattalliah, of 'Mon Rocher' Estate, I am directed by the Governor to inform you that His Excellency is advised that you erred in judgment in not cancelling the engagements in question on account of the wages having been five months in arrear.

"Article 11, of Ordinance No. 15 of 1852, makes it imperative on the Magistrate to cancel the engagement when the arrears exceed three months. It is only so long as they are within that amount that he has a discretionary power in the matter.

"The matter ought to have been explained to the labourers, so as to show them that it might be for their interest not to insist on cancelling their contracts; and you should have broken the engagements or not, according as the men might have wished.

"In other respects your explanation is satisfactory.

"I have, &c.,

(Signed) "F. BEDINGFIELD,  
"C. S."

"7/4/66."

"No. 43.

"With reference to your letter, No. A/692, dated 7th instant, in which you state that His Excellency the Governor was advised that I had erred in judgment in not cancelling the engagements of the Sirdars Nuthoo and Vattalliah of 'Mon Rocher' Estate, I beg most respectfully to state, for the information of His Excellency, that the engagements of the two Sirdars and their hands were cancelled by me on the 2nd ultimo, and their wages paid at once. I only delayed for a few days to do so, because I knew that these Indians were the ringleaders on the estate, and that if I had at once broken their contract I would not have come to the result I did, viz. to have their wages forthwith paid, no deposit having been ordered to be made by the master on the day of the judicial sale of the estate, and voluntarily to bring back nearly half of the men to the estate with new contracts.

"2. I beg most respectfully further to state, for the information of His Excellency the Governor, that if I had not lately delayed for a few days to cancel contracts of service on several estates of this district who owed arrears of wages, and whose labourers were complainants before my Court, these estates, on which there are more than a thousand men, would have remained without a single hand to work them, and the crop at least partly lost to them.

"3. Not only did I think I was right in so doing, but the annexed letter of the Hon. the Procureur-General I apprehend bears out my opinion in the matter. By thus delaying, not refusing, to cancel contracts of service for a few days, not only have the masters time to get the amount necessary to pay forthwith the wages due, and thus voluntarily and freely bring back most of the men to their estates, but, by this system, the men are soon paid, and few persist in asking for the cancellation of their contracts, which, of course, I invariably do on their demand, and on paying their wages, like all other labourers who return to the estate.

"Thus the men cannot much suffer by such a brief delay, and the proprietors have

Cancellation  
where wages  
in arrear.

1866.  
The Magis-  
trate of Pam-  
plémousses  
not cancelling  
contracts.

Plaint of the  
two Sirdars.

Cancellation  
where wages  
in arrear.

Petition of the  
"Mon Rocher"  
men.

Mr. Renouf's  
temporising  
policy.

Mr. Renouf  
thinks he  
acted wisely.

Opinion of the  
Government  
upon Mr. Re-  
nouf's deci-  
sion.

Mr. Renouf's  
reference to  
the opinion of  
Government.

1000 men kept  
on estates  
through Mr.  
Renouf's tem-  
porising.

Cancellation  
where wages  
in arrears.

"time to make arrangements which do not at once deprive these estates of all  
"their labourers.

"I have the honour, &c.,  
(Signed) "C. RENOUF, S. M."

1867.

Justice de-  
ferred to  
policy in  
favour of  
planters.

1408. In June of the following year, 1867, the Procureur-General considered the Magistrate of Rivière du Rempart to be justified in postponing for a fortnight his decision on the complaint of some Indians, as there appeared to be every prospect that by that time funds would be available to pay the arrears of wages: probably a judicious proceeding, though not strictly legal. However, considering the misery and ruin which about this time was prevalent throughout the Island, allowance might (if it ever can) be made for the want of impartiality in those who contemplated the impending ruin of the masters without considering the inconvenience and straits to which a mere labourer might be reduced by their decision.

1409. But it is curious to find that, but three months later, when it was suggested that the planters should keep the money to be paid by immigrants to redeem their time, the Chamber of Agriculture should have objected to the proposed clause, because

"Rien ne peut justifier l'obligation imposée à l'employeur de prendre charge des  
"épargnes à l'employé et d'en être responsable; ce serait encore là un sujet de  
"contestations pénibles; du reste, les Caisses d'épargnes sont instituées pour  
"cet objet;"

drawing evidently a very nice distinction between "gages," which they have no objection to keep for months, and "épargnes," which, in too many cases, employers have done their best to prevent the labourers being possessed of.

Difference be-  
tween nonpay-  
ment of wages  
and the receiv-  
ing of immi-  
grants' sav-  
ings.

Want of hospi-  
tal.

Not proper  
lodging.

Where con-  
tract not bond  
fide.

Cancelled by  
the Governor.

Where Gover-  
nor may can-  
cel contract.

Penalties for  
non-fulfilment  
of contract.

Prolongation.

1410. The contract might also be broken if the master shall for three months, after having been called upon by the Stipendiary Magistrate, fail to have a hospital completed as required by Article 24 of Ordinance 29 of 1865: and, under Ordinance 31 of 1867, a labourer may demand that his contract be cancelled if he be not properly lodged in compliance with an order from the Magistrate.

1411. The Magistrate may also cancel the engagement of an Old immigrant if it appears to him that the employer and immigrant had, when entering into the contract, no *bond fide* intention of carrying it out, and that the relation of master and servant did not, in fact, exist between them.

1412. There is one case in which the Governor may break a contract; and that is when there is sufficient presumption arising from police reports or judicial proceedings that an Indian immigrant is a confirmed vagrant, or member of an association, or combination for criminal purposes, or has been implicated in criminal acts: for he might send such a person back to India; but it does not appear that the employer's consent is required, or that he will receive any indemnity in the case of a New immigrant for the expenses of the man's introduction.

1413. It is not to be expected that several thousand immigrants will work for five years and never absent themselves from their work; or that making default in their contracts they will be able to indemnify their employers, which, considering that the contract of service is only a civil contract, ought to be the penalty for a failure on either side: but when we remember the great disparity between the positions in life of the contracting parties, it becomes necessary that default, on the part of the labourer, should be met by other penalties than pecuniary compensation. The law therefore provides that for failure on his part the labourer shall be liable to imprisonment, or to a forfeiture to be inflicted by his master, or to a fine which cannot exceed one month's wages, or to prolongation of his contract to the extent of the days for which he has been a defaulter. This prolongation, however, he may redeem at the rate of 6s. a month. It is further provided under Ordinance No. 15 of 1852 (Article 10) that the Magistrate may award a fine of £10 in place of compensation for breach of contract, and in default of payment to an imprisonment (under Ordinance No. 31 of 1867, Article 71) not exceeding 60 days. On this provision we shall report further, in Chapter XVIII. on *Illegal Absence, Desertion, and Vagrancy*, paragraphs 1968 and 2046. For the present, we shall consider the question of compensation so far only as regards the prolongation of contracts.

1414. It was first enacted in Ordinance 22 of 1847 that, if a New immigrant were absent for more than six days in a month, it should not count as part of his industrial residence. This was modified by Ordinance 25 of 1848, Article 5, which defined Industrial Residence as a residence of five years in the colony under an engagement to labour for hire, or of a payment, in lieu, of a monthly tax imposed by that Ordinance; and

it further provided that if an immigrant absented himself from work without leave or unavoidable cause, he should be subject to what is now called the "double cut." The same was re-enacted in Ordinance 16 of 1852, by the 24th Article of which employers might, as we have seen (Chapter VI. paragraph 341), under certain conditions, refuse certificates of discharge to New immigrants.

Penalties for  
non-fulfilment  
of contract.  
Double Cut.

1415. This Ordinance was amended by Ordinance 21 of 1854, which, while confirming the double cut, placed, as we have seen (Chapter VI. paragraph 349), important restrictions upon the exacting of it to prevent its being abused.

1416. The latter Ordinance further gave the employers the alternative of requiring the immigrant to make good double the time of his unlawful absence, and empowered the Stipendiary Magistrate, at the request of the employer, to refuse to discharge the immigrant until he had completed double the period of unlawful absence, if the period of such absence had been notified every month to the Magistrate. It further provided how the notification was to be made by every employer of ten or more immigrants.

Prolongation  
for double  
time of ab-  
sence.

1417. This notification, though the Ordinance under which it was required had been repealed, and no re-enactment of the clause ever been made, has since been held by many of the Stipendiary Magistrates to be sufficient evidence for conviction, and to dispense with the necessity for the manager's or planter's attendance as witnesses, and sometimes as complainant even, before the Stipendiary Magistrate.

1418. The right of requiring the periods of absence to be made good by service for double that time passed unnoticed until Ordinance No. 30 of 1858 was passed legalising contracts of service made in India; which, as usual, was supplemented by certain Regulations made by the Governor in Executive Council. In those Regulations a form of contract was made in which the immigrant engaged to serve for a certain time,—

"with double the time of any unlicensed absences."

We have elsewhere (Chapter VII. paragraphs 408-9) noticed the objections taken to this provision by the Emigration Commissioners when these Regulations were sent to England for confirmation.

1419. In the course of the correspondence upon this subject, Governor Stevenson admitted that he objected to the provision, and that he should take occasion to propose an amendment of the law when bringing forward a Consolidated Code of Immigration Ordinances, which was then being prepared by the Substitute Procureur-General.

1420. This promise, however, was not fulfilled until April 1862, when Ordinance 16 of that year was passed. It had been introduced into Council on the 15th November of the previous year without any Minute of the Governor's on the subject; but in the Procureur-General's Report upon it for the Secretary of State, he says:

Ordinance  
of 1862.

"the prolongation of the engagement to double the time of absence had been felt  
Appendix I. No. 10, para. 37. "as a grievance by the immigrants, and great difficulty had often  
"been experienced by the Magistrates in enforcing it, in consequence  
"of the immigrants refusing to work during the double period."

1421. For the and other reasons recommended in the Secretary of State's Despatch above mentioned (as if they were not the strongest reasons that could be advanced), he says:

"the law was amended so as to allow prolongation for only the time of unlicensed  
"absence, not double that time;"

but in the following paragraph (paragraph 39) he had not marked as distinctly as he might have done, that the double cut and prolongation were not cumulative, but alternative punishments.

1422. Having thus seen to what extent contracts may legally be prolonged, and that the desire of the Home and the Indian Governments, and of the Governor of the colony, and the objects of the law, were that wages should never be more than three months in arrears without the distinct consent of the labourers; and that breaches of engagement under those circumstances should not be enforced against the labourers, we may now see how the law and wishes of Government have been carried out.

1423. The monthly notices of illegal absences required by Ordinance 21 of 1854 are no longer required under Ordinance 16 of 1862; but some of the planters continue, as we have mentioned above, to send them to the Magistrates, and the Magistrates to consider them evidence or proof of the man's absence.

Monthly no-  
tices of illegal  
absences.

1424. The whole proceeding is exemplified in the case of "Gokul" on "Joli Bois" Esq. te, in Grand Port, which was tried on the 30th June 1871.

Gokul's case.



1425. The monthly report was sent with the declaration that the penalties authorised by Article 23 of Ordinance 16 of 1852 had not been enforced. From these monthly reports we find Gokul's account made up from July 1864, when he was first absent, to February 1869. He was only absent three days in July 1864. He was absent some days in April, and in each month from September to the end of 1865, and also in every month but September and December 1866. He was absent all January, and part of March and April 1867; and every day from July to the end of December 1868, and during January 1869. All these absences are tabulated, and make a total of 551 days, which might be redeemed for \$27.55. This account is signed by the Clerk of the Court, Mr. Cowley, as "correct."

1426. On the 30th June 1871, Gokul claimed his ticket and certificate of discharge, his engagement having expired; and the following laconic entry is the Stipendiary Magistrate's record of the case, in which he was complainant:—

"Not proved, he being a deserter. Complainant having been a deserter, and having 551 days of unlicensed absence."

"Ordered to make good 551 days."

1427. Of the master's complaint of Gokul's absence there is no record, unless the table of absences certified by the Clerk be taken to be the plaint. On this, under the Clerk's certificate of "correct," the Magistrate has written

"Make good, 30/6/71."

(Signed) "E. S. M., S. M.,"

being the initial letters of Edward Stevens Messiter, Stipendiary Magistrate.

1428. But things had improved in August 1872, for Mr. Messiter's *locum tenens*, Mr. de Boucherville, the District Magistrate, reports that, when the Messrs. Montille sought to have the contracts of 15 men on their estate prolonged, he ruled that—

"The complainants could not claim the prolongation of said defendants' contract for the unlawful absences which had occurred during their engagement which expired on the 27th ultimo, because more than two months had elapsed between the said labourers' return from such absence and the lodging of the complaint against them, the said absence having taken place in September, November, and December 1870, and March, June, and November 1871 and the complaints against the said labourers only lodged on the 30th July last, the provisions of the 2nd Paragraph of Article 19 of Ordinance 16 of 1862 being, in my opinion, imperative on the subject. I dismissed the complaint preferred against the said defendants, and, as they had completed their engagements, I ordered them to be discharged. As regards the allegation respecting the prolongation of labourers' contracts pronounced in former complaints by the Stipendiary Magistrate of the district at the end of the engagement, I beg to state that, from enquiries I have made at the Stipendiary Court, it appears that it has been for several years an established custom that proprietors should send in monthly returns of their labourers' absences, and the prolongation of their contracts on account of all absences throughout the periods of engagement was only claimed and pronounced at the end of their engagements, and not every two months, as the provision of the above-cited Article would require."

"I think that the above-mentioned customs have been followed in some of the other districts of the colony, and I believe it has been done under the provisions of Article 3 of Ordinance 21 of 1854, which required the immigrant at the end of his engagement to make good to his employer double the time of the unlicensed absences he may have had during his engagement, provided that the periods of such absences had been duly notified every month to the Stipendiary Magistrate of the district; that Article has been repealed by Ordinance 16 of 1862, and the immigrant has now only to make good the equivalent of his absences, and no monthly notification of absence is now required; but the 2nd Paragraph of 19th Article of the last above-cited Ordinance has been overlooked for what concerns the delay to be observed in claiming the prolongation of the labourer's contract, and the former system has been continued, although the labourers have only to make good the equivalent of their absences, instead of the double thereof, as formerly."

"I think that the former system was more practicable than that required by Article 19 of Ordinance 16 of 1862, as the absences were required to be notified every two months to the Stipendiary Magistrate, and the labourers had only to appear once before him, viz., at the end of their engagement, whilst the provisions of the last above-mentioned Article required that they should be brought before

"the Magistrate every two months, which offers many inconveniences, and would occasion great loss of time both to employers and labourers, and greatly increase the work of the Magistrates. But my attention having lately been called to the provisions of the said Article, I was of opinion, after having carefully re-considered them, that they were imperative, and I could not, therefore, deal with the case of Messrs. Montille Brothers otherwise than I have done."

Mr. de Boucherville being evidently of opinion that the law should not have a tendency to inconvenience the person by whose want of care and judgment the offence might have been committed, but that every facility should be given to the employer to get his men punished; and probably partaking of the opinion of the Procureur-General that arrangements ought to be made in the law not to inconvenience the owner or administrator of an estate of 500 or 600 labourers by requiring a too frequent attendance before the Magistrate.

1429. Every Magistrate we have examined has admitted that the provisions with regard to prolongation of service have been overlooked by them, and the records of other Magistrates compared with account-books of the estates bear testimony to the same fact. We have, however, found 10 cases in the years 1870 and 1871, wherein Magistrates refused to prolong engagements.

In 1870 5 cases in Savanne were refused. Two on account of their having been "Cut double," 2 because they had resumed work a long time before the application was made, and the fifth because the complainant would not accept the alternative of imprisonment. In Black River 1 case in 1870, the cause of which is not given. In Pamplémousses 2 in 1871; 1 because 2 months had elapsed between the immigrant's return and the complaint being preferred, and 1 because the immigrant had justified his cause of absence; and there were 2 in Rivière du Rempart, the reasons for which are not given; but the custom appears to have been, as Mr. de Boucherville suspected, to ignore the repeal of Ordinance 21 of 1854 and the provisions of Article 19 of Ordinance 16 of 1862, and to adhere for 9 years after their repeal to the requirements of 21 of 1854. Further details on the Magistrates' proceedings will be found in the Chapter on Magistrates.

1430. The law requires that the prolongation of the contract should be endorsed upon the contract itself, and also upon the ticket; but it never appears to have been endorsed upon the contract, for Mr. d'Emmerez de Charmoy, by no means the worst Magistrate, stated, when we examined him, that he had never so applied this provision of the Ordinance, and did not believe it was so observed by any Magistrate.

1431. Supposing now that the man has worked out the five years of his contract, and either worked out or redeemed any prolongation of it which he may have incurred, he becomes entitled to his discharge, and the employer must, within 24 hours after the termination of the contract, send, or produce a certificate of the discharge to the Stipendiary Magistrate of the district, inserting in it what amount of wages, if any, are due to the immigrant, and that he had explained to the immigrant that he must, within 48 hours, apply to the Stipendiary Magistrate for his discharge. But this provision is no more scrupulously observed than other laws connected with the immigrant.

1432. Not to mention a planter's estate, we may instance one held by Government, "Belle Vue," in Rivière du Rempart, where Purchasing, who was engaged on the 11th September 1868, for 13 months, was not discharged till the 20th October 1869, and no notice was taken of the delay by the Stipendiary Magistrate. In April 1868, the Magistrate of Flacq inflicted the full fine upon Mr. Courbadon, of "Esperance" Estate, for detaining the tickets of labourers for 45 days after their time had expired.

1433. But, on the other hand, in June 1872, Veerasamy and Arnachellum petitioned the Commissioners that the owner of "Deux Bras" Estate had refused to give them up their papers. The charge, of course, was denied; and when the men were sent to the Stipendiary Magistrate by the Protector, they recovered their tickets, with the information that they had been waiting for them since the 10th instant.

1434. So the case of Pynceandee and Vadavaloo, who complained of their tickets being kept by their master, Mr. Lamarre. On the case being referred to the Magistrate, it appeared that the master had never retained the tickets; but it was asserted that the Sirdar of their band had done so, because they would not re-engage. There was, of course, no proof of this, and the charge against the Sirdar was dismissed; but, nevertheless, the Protector of Immigrants got over the difficulty not by obtaining the certificates of discharge, but by giving Pynceandee a permit to work. Vadavaloo, being a Creole, did not require one.

Provisions of law regarding prolongation and "double cut," overlooked by all Magistrates.

Repeal of Ord. 21 of 1854 overlooked.

Never endorsed upon contracts.

Discharge.

Certificate of discharge.

Government estate at fault.

Delay in discharging.

Withholding tickets.

Pressure to  
cause to re-en-  
gage.

1435. The system of not discharging immigrants at the expiration of their engagements is of old standing, as appears from Mr. Inspector Shellam's letter, dated 30th September 1868, to the Inspector-General of Police, in which he complains

"that planters and others keep their men from 10 to 15 days and upwards after the completion of their contract, without either re-engaging or discharging them, the employers try to keep them by cajoling them from day to day to wait up to the time that he, knowing the delay allowed by law, either to engage or obtain a police pass, has expired, may, by that means, use a certain amount of pressure to make them remain in his service, either by writing or taking them to the Protector, where he obtains an authority for the police to issue passes to them as day-labourers on the estate, which passes merely serve, in nine cases out of ten, to get them immediately engaged by the Magistrate."

No punish-  
ment for ne-  
glect of dis-  
charge.

1436. This is still, however, of constant recurrence, and there is no punishment for neglecting to discharge an immigrant when the contract has expired; though a man unlawfully detaining an immigrant's ticket is liable to a fine not exceeding £5.

1437. Sometimes, however, a difficulty arises from the employer having lost the ticket, and the Magistrate either punishes him, or sends a note to the Protector of Immigrants that the men may get their tickets *gratis*; or, when it is an ordinary occurrence, he makes the proprietor pay for the tickets, which he does to the Cashier, who hands the \$6 to the immigrant, who receives a pass from the Magistrate to go to the Protector for a new ticket, travelling, of course, at his own expense.

1438. It sometimes happens, when an Indian discharges a fellow-countryman engaged to him whose time has expired, that the Magistrate,

"not being able to read the signature, which is not in European characters, refuses to accept the discharge without some acknowledgment, or an authentication of it, that his interpreter only understood one of the eight or

"ten different dialects there are in India, that any other course of proceeding would equally affect the order and discipline he had established, regarding fictitious contracts and spurious signatures on discharges and other documents."

From this we might be led to suppose that Mr. Renouf's Court was a model of regularity and order.

1439. A return, No. 4, gives the number of suits for non-delivery of tickets or refusal of certificate of discharge between the years 1864 and 1871. It shows a total of 2235 suits filed, and only 836 decided for plaintiff.

1440. Return No. 7 shows the number of cases from 1868 to 1871, in which the certificates of discharge sent to the Magistrate stated the amount of wages unpaid to the labourers discharged, and the delay given by the Magistrates for payment. There is no return for Flacq, it being said to be impossible to distinguish cases coming under this head from other cases of wages; as cases in which wages are stated to be due on the certificate of discharge are sued for as in ordinary cases, a procedure evidently opposed to the provisions of Article 36 of Ordinance 31 of 1867. The Return shows 1926 applications during the four years for a sum amounting to \$14,035, and 449 cases decided out of court, with an average delay of execution from 10 to 68 days. The extraordinary part of this delay is that it appears to be given as a matter of course, the Ceylon Company taking a delay of 30 days to pay their men in the same way as the poorest job contractor.

1441. But this oppression being withstood, and all these difficulties overcome, the immigrant must, within eight days after the expiry of his written contract, decide whether he will re-engage or what occupation he will pursue. (The time may be extended to fourteen days, *vide* Chapter X., on *The Pass System*, paragraphs 604, 634, and 645.)

1442. We have seen that a man has not been discharged until ten days after the expiry of his contract, and we have met with cases of even longer delay. Sometimes this is occasioned by sickness, the man being detained in hospital; but at others, as mentioned by Mr. Shellam, it arises from pressure being put upon men to compel them to re-engage by the retention of their tickets.

1443. The extreme case already mentioned (para. 1432) of this kind, when Mr. Courbadon retained the tickets of three of his establishment for forty-five days, was reported by the Magistrate as a practice resorted to by unscrupulous persons to tire their men into re-engaging. The Assistant Colonial Secretary concurred with the Magistrate in this opinion, and declared it a "very common mode of oppression among a certain class of planters."

Return No. 4,  
from Magis-  
trates.

Return No. 7,  
from Magis-  
trates.

Delay for  
wages granted  
as a matter of  
course.

Return No. 7  
from Magis-  
trates.

Re-engage-  
ments.

Pressure to  
cause to re-en-  
gage.

Mr. Courba-  
don's case.  
Opinions of  
Mr. Fargu-  
hanson and  
Mr. John  
Douglas.

1444. This Mr. Rice, Inspector of Police at Grand Port, corroborates, when in the August following, in reporting upon the working of the New Labour Law, he recommended that the period allowed by law within which immigrants must re-engage or take out a police pass should be extended, as

"the eight days are reduced in practice to one or two, more particularly when the screw is put on to induce him to re-engage."

1445. If the immigrant makes up his mind to re-engage, he is taken with any others of the same mind before the Magistrate, or, more commonly, before some Clerk or Officer of the Court (who may have been, under Article 74 of Ordinance 31 of 1867, or Ordinance 32 of 1867, authorised by the Government to pass contracts and discharges), and then on a paper bearing a stamp of 2s., if they are Old immigrants, a contract in the form of Appendix I, No. 2 is drawn out for any number of immigrants who are prepared to re-engage on the same estate.

1446. The system of engaging, we understand, was for the employer to present himself in the Stipendiary Court with a list headed—

"the undermentioned men engaging with Mr. \_\_\_\_\_ for periods specified, with usual rations."

The men then passed through the Court, touched a pen held by the interpreter, and, in doing so, were told their wages and periods of servitude, the Magistrate putting a cross on the list against each man's name as he passed. The employer then put his signature to a blank form of contract at the Clerk's table, and the Magistrate sent the list either by a Peon or sometimes by the employer to the Clerk, who, at his leisure, occasionally not for a week, filled up the contract, and, after making the Indian's mark himself, gave the contract to the Magistrate, who signed the certificate that it was signed in his presence voluntarily, and that, as far as he was able to judge, it was fully understood by the contracting parties.

1447. A contract made in this manner has been contested, and all the defects in it are exposed, as will be seen further on (para. 1551).

1448. Where the District and Stipendiary Courts are amalgamated, all this is delegated to the Clerk, the Magistrates never superintending the engagement of Indians.

1449. Of these Clerks six were appointed under Ordinance 22 of 1867, an Ordinance passed for a temporary purpose in consequence of Ordinance 31 of 1867 not being intended to take effect until allowed by your Majesty in Council, and, consequently, having effect only for one year.

These powers, therefore, expired with that Ordinance. The other six are appointed under Ordinance 31 of 1867, and their appointments consequently remain good.

1450. Mr. Dupuy has the contract drawn up by the Clerk and brought to him, when, instead of merely touching the pen as the Indian did formerly, he now makes those who can, make a cross before him; and those who cannot, hold the pen while he makes it. This Magistrate now explains the contract to the immigrants in Creole, and the interpreter does so in their own language; but the Magistrate never asks them to explain the contract to him.

1451. Another Magistrate, Mr. Messiter, in the way we have mentioned above, gets a list from the proprietor on a slip of paper, upon which he and the immigrants put their marks or signatures. That he sends to the Clerk who draws out the engagement, and puts his initials to it, and in the cases of a single engagement the Magistrate looks at it, but with a long list he trusts to the Clerk. The Indians then touch the pen individually, and the Magistrate through the interpreter explains the contract to them, though

"when they come in a band they are sure to understand what they are about, as they have learned from one another what they are going to do."

1452. But even when they come alone it is not so certain that Mr. Messiter's plan is a good one, for we found that he had given a slip with only six months' engagement on it to the Clerk, and an engagement for two years was drawn out and endorsed upon the ticket and passed by Mr. Messiter, although he says he generally compares the engagement of single men; and it is as poor an excuse to say that errors of this kind may creep in, and that it is impossible the Stipendiary Magistrate can have his eye on every figure of a ticket, as it is difficult for us to believe that the Stipendiary Magistrate explains a contract to the immigrant when he passes one for two years which should only have been for six months, or that Mr. Messiter passes every contract himself when his signature is not in his own handwriting, but is made by a stamp, a *facsimile* of his signature, used by the Clerk as well as by himself.

Question 14,914.

Opinion of Mr.  
Rice.

Before whom  
re-engage-  
ment made.

Engagements  
(procedure).

A contract  
contested.

Clerks under  
Ordinance 31  
and 32 of 1867.

Engagements.  
Procedure in  
Mr. Messiter's  
Court.



Engagements.  
Procedure in  
Mr. Renouf's  
Court.

1453. Another Magistrate, Mr. Renouf, requires the proprietor, or his attorney, the manager, or overseer to attend, and when a large band comes to engage, the papers are handed over by the planter to the Clerk who is charged with examining such papers. If the Clerk sees that the papers are all correct, and that the men can be engaged, he then, with the assistance of the Peon (who happens to be able to speak both languages) explains to each man the wages and allowances for which he is going to engage. Sometimes it is the planter himself, and sometimes it is the Clerk, who makes out the contract of service. When the contracts have been written out, the Clerk goes over them again to see that the amount of wages marked on the ticket in pencil have been entered in the contract book. When it is correct he puts his initials upon the contract. Then the men appear before the Magistrate either in Chambers or in Court, and he has the contract explained to the men. Each man is called up individually, and after the matter is explained to him, he puts his mark or cross opposite his name on the contract. When all is done the master and the Magistrate sign the contract.

1454. Mr. Renouf says, he is very particular in explaining the contracts to them, and especially as to the rations, about which he is more explicit. He explains the contract in their own language through the interpreter, and believes the men very clearly understand the contracts, and that the agreement about their rations

is that they are not to have dholl and salt fish, but either one or the other. But Mr. Renouf does not think it his duty, when immigrants who have had protracted quarrels with their employer (Mr. Poulin, whose case is given elsewhere) come to re-engage for a long time, to ask whether they have forgiven him, or what inducement had been held out to them to re-engage; though, he says, he took great care over the matter, and would not have passed the engagement if there had been the least pressure, although he had not taken the trouble to make any enquiry.

1455. A petition was brought up to us by Ubheeram and others, labourers on "Espérance," in Rivière du Rempart, a large estate employing about 600 labourers, complaining that they had formerly engaged on the estate, and that there were three months of their contract unexpired when it was proposed to them, in May 1869, to cancel the three months that had yet to run of their engagement, and to re-engage for three years, to which they consented. But when in January 1872 they claimed their discharge, the contract of the 25th May 1869 was produced, and it showed that they were engaged not for thirty-six but for thirty-nine months, and Mr. Farquharson dismissed the claim, though he saw the "shamefully informal contract," as he called it, which had been drawn up for their former engagement with a job contractor on "Espérance," it purporting to be dated 7th September 1869, and that the service was to commence on the 7th September instant, but no length of service was mentioned, nor was it mentioned when the service was to be terminated, and, moreover, there was no date to the contract.

1456. Nevertheless, with all these glaring faults before him in the former contract, the Magistrate was content to be guided by the later contract alone, which was passed by the same Magistrate as passed the former, which he condemned as "shamefully informal," and he accepted the latter contract as what the Protector of Immigrants calls the "Acte authentique," which, as the immigrants could only

"adduce their own parole evidence against it, they could not attack with any chance of success,"

and in this he is supported by the Substitute Procureur-General, who, having this informal contract before him, says:

"there is no reason to believe that the Magistrate before whom the contract of May 1869 was passed failed in the discharge of his duty, and he should have the benefit of the rule *omnia recte peracta esse presumuntur*."

The presumption surely was that the Magistrate or his Clerk might be as careless in the one case as in the other.

1457. But, whatever may be the value of the decision in this case, or of the Substitute Procureur-General's opinion, it will be a matter for consideration how far duties of this kind ought to be entrusted to mere Clerks, one receiving £355, and another £300, and the rest £150; for, from the Estates' Return, we find that there were ninety-eight estates which employed only Old immigrants, so that all the labourers on those estates must come to have their contracts drawn up in the Stipendiary Court; and, when all the Old immigrants on the estates are taken together, they amount to 53,623 men, whose liberties are in the hands of lowly-paid Clerks.

1458. Mr. Beyts would prefer that contracts should be passed by the Protector of Immigrants if it were possible; the difficulty, in his opinion, being that it would oblige every one to come to Port Louis. It might be done by the

Salaries of  
Clerks author-  
ised to pass  
contracts.

Improvements  
suggested.  
Opinion of Mr.  
Beyts.

Questions 1419, 1430. Inspectors; but, at any rate, he thinks the Magistrates, and not their Clerks, should pass the contracts. The duty is, in his opinion, always done by the Clerks.

1459. Mr. Naz is of opinion that authenticating a contract, after explaining it to the labourers, and ascertaining that they understand it and give a free consent, is a quasi-magisterial duty, and he would prefer to leave that duty in the hands of the Stipendiary Magistrate. If there had already been difficulties between the Inspector and a planter, the latter might suspect or believe that the Inspector would not keep the balance equal between him and his men, and might discourage them from engaging. Besides, each Inspector is called upon to visit a great number of estates in different districts, and it might often be difficult to find him when the parties would be inclined to enter into their contract; whilst the Magistrates or their Clerks are at the district Court House, and can be seen nearly every day. As an experiment, in his opinion, a concurrent power might be given in this respect to the Inspectors, and to the Magistrates and their Clerks, and parties might be left free to contract before either of those Officers.

1460. We cannot agree with Mr. Naz in thinking that drawing up engagements and seeing that the parties understand them is in any way a magisterial duty. It appears to us to be merely executive, and that the Magistrate is the last person (and any of his establishment the most objectionable after him) that could be entrusted with the duty. It is before the Magistrate that the contract will come for decision if any question arise upon it; and neither he nor his Clerks ought to have any concern in drawing it up, especially if it is an *acte authentique*, and they are at liberty to presume *omnia recte peracta*. It appears, therefore, very clear to us, that some other department should be found to which this duty might be entrusted.

1461. A stronger instance cannot be found to show how very improper it would be to trust the drawing up of contracts any longer to the Magistrates and their Clerks than is shown in the case of Bapoo and others *versus* Bax and Leriche, job contractors, mentioned by Mr. Jenner in his report upon that case, and treated more at length in

part XXIV. on Job Contractors. In his report Mr. Jenner says: "the Stipendiary Magistrate of Grand Port has again informed me that when the men were engaged, although 'Virginia' Estate was named in their contract, it was explained to them that they were liable to be shifted from one estate to another, on regular guarantee being given, whenever the Magistrate approved thereof; and, that Mr. Messiter believes that, when the men were changed from 'Beau Vallon' (Rochecouste) to 'Beau Vallon' (Dauban) they appeared before him and consented to the removal. On the latter point Mr. Messiter, however, cannot speak with any degree of certainty, as 'it is not a rule of his Court for men to appear and give consent when their master, being a job contractor, removes them from one estate to another;' but they are generally brought to Court on such occasions by the employer himself."

"The men told me positively, when they first complained to me, that they understood their engagement to be for 'Virginia' only, and denied having consented to go to 'Beau Vallon' (Dauban). Four of them whom I have seen this day repeat the above statement; and, further, state that six of them went to the Magistrate to object to going to 'Beau Vallon' (Dauban), and were ordered by the Magistrate 'himself' to go there."

In such a case as this the Magistrate or his Clerk would be the proper witness to prove under what circumstances the engagement was entered into, and the Magistrate also would be the judge to decide the case.

1462. The above subject naturally brings to our notice the question of re-engagements during the existence of a previous engagement to the same person.

Dr. Icery, in support of this power, urges that the verbal promises of Indians being a completely illusory assurance, many planters seek to re-engage their labourers before the expiration of their contracts. This is a facility which, he contends, it would not be equitable to deprive them of; for, in fact, it can be availed of without becoming a source of abuse. The planter who may have met with a refusal would do himself the greatest injury if he tried to revenge himself by inflicting petty annoyances upon the man, for his establishment would soon be deserted; while, on the contrary, it is in his interest to endeavour by good treatment to get men to change their first decision. Moreover, a legislative measure which would prevent the renewal of a contract before its termination would be a violation of the individual liberty of the Indian, who should be

Improvements  
suggested.

Opinion of Mr.  
Naz.

Passing of  
contracts by  
Magistrates  
objectionable.  
Case of Bapoo  
and others v.  
Bax and Le-  
riche.

Re-engage-  
ments before  
expiration of  
former con-  
tract.

Dr. Icery's  
view.

Re-engagement before expiration of former contract.

Mr. Beyts's view.

Mr. de Chazal's view.

Mr. Hardy's view.

Mr. Antelme's view.

Mr. Currie's view.

Difficulty as to whether the men are treating on equal terms.

his own master in such a matter, and be allowed to act in accordance with his own personal desire and advantage.

We shall in the sequel see how far Dr. Icery's theory coincides with the general practice in Mauritius.

1463. Mr. Beyts, on the other hand, objects to it, because he has had complaints of pressure having been brought to bear upon men to make them re-engage, and he would allow an interval of forty-eight hours or more to elapse between the expiration of the old engagement and the contracting of a new one.

1464. Again, Mr. de Chazal considers re-engagement before the expiry of the former contract the only chance planters have of security for their property—

"because the thing they have most in view is to ensure a regular number of labourers.

"On the other hand, the present labour system is a difficult one, inasmuch as the labourer is under no restraint, and, as a rule, has no inclination to

work. It requires a good deal of persuasion and good-will on the part of the planter to induce the men to re-engage.

"An Indian only requires to be free, to run about everywhere. To compel them to work requires great efforts; you can only do it by persuasion, and

that persuasion can only be obtained by confidence in their masters, which can only exist by long intercourse between masters and servants.

"By this means they can make them understand that what is required of them is for their mutual interest, as a master cannot be happy if his servants are unhappy.

"As far as re-engagements are concerned, the principal aim of the Indian is to go away as soon as his contract expires, unless the planter succeeds in persuading

him to remain. It would, therefore, be a great boon if they could be allowed to re-engage the men before their contract expired. At present job contractors

entice away the men. As soon as they know that an engagement is expired, they raise up all the bad Indian inclination for unsettled habits or against quiet and dis-

ciplined industry, and it is hard for the planters to compete against them, as their respective charges or duties are quite unequal."

1465. Mr. Hardy generally re-engages his own men on the expiration of their contract; but it often happens that men ask to have their contracts cancelled, in order that they may re-engage with another band, so as to end their contracts at the same time. This is apparently unobjectionable; but we shall consider the objections that do exist to it hereafter.

1466. Dr. Icery is in favour, as all must be, of re-engagements; but, if an engagement is cancelled with a view to re-engagement, he would have the immigrants placed in the same position as if the contract had expired, and the immigrant should be made aware that he is perfectly free, and at liberty not to enter into another contract with his employer unless he chooses. He would not like preventing a man from engaging until the next day or two days after. He would not object to the discharge being the first act the Magistrate performed in the morning and re-engagement the last in the evening.

1467. Mr. Antelme, who has been fortunate enough always to get men without any difficulty, and never had to send in search of them, always re-engages his men after the expiration of the contract. He is of opinion that, before a man re-engages, his first engagement must be cancelled and annulled, and that he must know that such is the case.

Until the present day the two acts have been simultaneous, and the one conditional upon the other.

If a man's engagement is quashed and annulled, his certificate of discharge ought to be placed in his hands, because the Indian best understands exterior facts; and, then, you may consider him as using his free will, if he re-engages afterwards. But if you take him before a Magistrate and re-engage him before he has been discharged, he will not so well understand his position. Mr. Antelme is also decidedly of opinion that the law is open to modification and improvement in this respect.

1468. Mr. Currie thinks that the master and man should be left to themselves to make their own bargain. If both agree, well and good; if not, they separate.

He says that it is always a serious question when men come to the end of their agreement whether they will re-engage. The men, at that time, as far as his experience goes, are the masters; and, if an Indian makes up his mind to go, nothing will restrain him.

1469. The difficulty in this case is to know that the master and men are treating upon equal terms, for Mr. de Belloguet tells us that—

"when a man who has been well treated resists inducement to re-engage, it is not worth while to allow him to remain at easy work."

and Mr. Moncamp—

"that a month previous to the expiration of his engagement, if the man would not consent to enter into a new engagement, the manager would avail

himself of every little fault committed by the Indian to bring him before the Magistrate."

1470. Mr. Currie would not like it to be supposed that the men at "Beau Séjour" were treated in this way, and we should be the last to insinuate that they were; but the law must be made to meet cases at "Schœnfeld," "Rivière Dragon," and "Belle Vue," and "La Rosa," and estates of that star, though it may not be required for "Beau Séjour."

1471. Mr. Martin always, as far as he is able, engages men three or four months before their former engagement has expired, in order to have them ready for the crop in the sugar-house, and to thwart the job contractors and those men who try to get labour for estates, where they have been promised the headship of the band.

He does not think it interferes with a free-labour market, as all are at liberty to engage or not, though some will not re-engage.

1472. Mr. Wiehé thinks pressure might be put upon one man to make him re-engage; but he does not think it could be put upon a whole band. He thinks the Indian so capricious that, if he were allowed from five to eight days to absent himself from the estate to find a new master, he would leave the estate, not because he is discontented with it, but because others have induced him to leave it.

1473. We have noticed above the mild pressure Mr. de Belloguet is willing to put upon his men to induce re-engagement; and Mr. Moncamp's evidence shows what is done by the Messrs. Montille, with regard to individuals and also a band; and we have cases before us in which the severest pressure was put upon the individuals.

1474. In 1867 Neelatamby was charged by Mr. Jules Montille with uttering threats to set fire to the buildings of "Beau Fond" Estate; he had been nine years a Sirdar on the estate, with a band of labourers, who would not re-engage; and his master, according to the Magistrate's idea, had raised this complaint against him. Neelatamby was sent to the Protector; but what became of him it is impossible to tell, as the Protector presumes he came with his papers *en règle*, and of those cases no notes are ever taken, and it is very clear that he did not re-engage with the Messrs. Montille.

1475. Another serious case in January 1871, wherein a charge of larceny was brought against some men on the "La Rosa" Estate, ostensibly by a third person, but was compromised by the Messrs. Montille, will be found in Mr. Moncamp's evidence, and the case at length in the Appendix.

1476. The case of Leewoot deserves notice, who, on the 8th August 1869, was declared a deserter from "The Vale" Estate in Pamplémousses, after having been cut double for his absence; and was brought up on the charge of desertion on the 8th August 1871, convicted, and committed to prison. He was, however, released on the 9th September following, and the remainder of his sentence forgiven, on his consenting to re-engage.

1477. There is a case in March 1871, wherein fourteen men, who had been employed upon the railway, were kept at their work after their engagement had expired; and at last, on some pretext or another, were taken to the Stipendiary Magistrates' Court. They did not appear before him that day, for some reason that is not shown; but, on their leaving the Court, they were arrested by a mounted sergeant, on the plea that the delay allowed by law for them to re-engage, or obtain passes, had been overstepped by a week. There appears little doubt from the enquiry into the case that the delay had been wilful; and that an employé in the railway had got these men thus arrested because they refused to engage with him.

1478. But it is necessary to cite other cases to show that pressure is exercised even to the present day.

1479. Poonooah, in the service of Mr. Pelte, of "Mare d'Albert" Estate, was sent on the 10th December 1872, with a horse and carriage to take a friend to Mahébourg, when unfortunately, on his return, he came into collision with a carriage, injured the horse, and broke the carriage and harness. On the 13th of the same month he was brought before the Stipendiary Magistrate

"for improper conduct, thereby injuring the property of his master."



1480. The case was remanded to the 29th, when he was sentenced to 14 days' imprisonment, with hard labour, and to pay costs.

1481. Having undergone the imprisonment, he returned to his work; but found that the horse had died on the 3rd of January; and, on the 28th of that month, a civil action was brought against him in the District Court for damages in the sum of £50 sterling. The summons was served on Poonooah on the 4th February. On the 11th, he was brought before the Stipendiary Court for absence on the 6th, when he pleaded that sorrow on receiving the above summons from the District Court had prevented him from working. He was, however, convicted and sentenced to ten days' imprisonment with costs.

1482. In consequence of this imprisonment he was absent from the District Court when the case was called on the 13th February, and, again, on the remand to the 20th February; and, after four other remands, judgment was given against him to pay £15 damages, together with costs of suits; no notice having been taken of his plea that he had previously been punished for the same offence.

1483. Again, on the 17th April, he was brought up for illegal absence on Saturday the 12th, Sunday the 13th, and Monday the 14th. This case was postponed until the 23rd, when a nonsuit was entered at the request of the complainant, Poonooah's time having expired on the 18th.

1484. Mr. Pelte offered to compromise these cases, if Poonooah would consent to re-engage; but the latter persistently refused to do so, and quitted Mr. Pelte's service on the 18th April.

1485. On enquiry from the Procureur-General how the man could be relieved from the judgment to pay £15 damages and costs, we received the following opinion, not affording much comfort even to an educated European, but utterly devoid of it to an illiterate Indian:

"The only mode of review competent under the Ordinance 34 of 1852 is appeal, to be declared within five days. The power of the Supreme Court to interfere by way of *certiorari* is taken away by Article 63 of the Ordinance. The only mode in which the Supreme Court could interfere is by writ of prohibition; but, as the case is of a purely civil nature, the Crown has no right to interfere. Nor could the Protector, under Ordinance 28 of 1863, take action as Protector. The party aggrieved would have to move for the writ of prohibition in his own name, if the plaintiff were to proceed to enforce the judgment obtained by him.

"I do not apprehend such action on his part, however, as, the judgment being a nullity, any steps taken under it would subject him to an action in damages."

1486. Another and a still harder case is that of Appanarain. He was engaged at \$3 50 cents per mensem. Messrs. Rouge & Co., of "Chamouny," in Savanne, and his engagement expired on the 31st October 1869.

On the 3rd November he re-engaged with his band of ten men at \$4 per mensem, receiving in advance \$6 08. He worked the whole of November, was absent four days and sick three days in December; he was absent two days in January 1870; worked all February and March; was sick two days in April; was absent sixteen days in May, the whole of June, and the whole of July; absent ten days and sick one day in August; worked the whole of September and October; was absent seventeen days and sick two days in November; and worked one day, was sick another, and absent the rest of the month of December.

1487. On the 12th July 1870, he was sentenced to replace 56 days. He had then been absent, or in the hands of the police, 64 days; but six of these days were in December and January, and could not be reclaimed on that account; as well as because the wages for December were not paid till March,\* nor those for January until May.

1488. On the 30th May 1871, he claimed five months' wages at \$4 and his discharge, having then been released from gaol a fortnight. The defence was, that his engagement had expired on the 3rd November 1870, when he had 84 days of illegal absence to make good; and that, on the 23rd December, he was caught and taken before the Magistrate, who sent him to gaol for five months, because he refused to make good 84 days' illegal absence.

1489. The illegal absence shown by the books, between 3rd November 1869 and 3rd November 1870, amounted to 93 days: but of these there was not one day for which he could be punished according to law, either by "prolongation" or by "double cut;" for he was apprehended on the 9th December, but had worked the whole of September and October, and up to the 9th November; so more than two months had elapsed

\* Under Article 19 of Ordinance No. 16 of 1869. (See Chapter VII., paragraph 429.)

between his last return from absence, and the lodging of the complaint; and in August he had been "cut double," there is no ground whatever, therefore, on which he could have been punished on the 9th December for absences prior to the 9th November. He had already been illegally subjected to the forfeiture for his absence in May and August, and, though he was not subject to any penalty or forfeiture for his absence in June or July, and, moreover, no complaint was made within two months of his return. He was nevertheless sentenced to make good 70 days' illegal absence. We cannot discover why, in the record there is merely the name of the accused and the order, but no complaint and no evidence recorded.

1490. On the 23rd December (where he was between the 9th and 23rd is not mentioned; though the books show him absent till the 11th, present on the 12th, and absent on the 13th) he is again brought before the Court, and the entry is

"ordered by the Court to make good 110 days, the 9th December.—Refused.—Five months' imprisonment."

Here, it would appear that the offence was having refused to make good 110 days, to which he was condemned on the 9th; but the order was 70, not 110 days.

1491. However, he is discharged towards the end of May, and on the 30th appears in Court, both as plaintiff and defendant. The latter case is the first tried. It is a charge of vagrancy.

"Discharged from prison a fortnight ago, and did not resume work," and for that he is sentenced to six months with hard labour, though the heaviest punishment that could legally be inflicted upon him was twenty-eight days; and after that, the case was tried in which he was plaintiff, claiming two months' wages at \$4 a month and his discharge.

1492. The following is the report of his case:

"May 30th, Appa v. Rouge & Company. Claim, two months' wages at \$4, and discharge.

"Appa, a Hindoo on solemn affirmation.—I claim my discharge from my master, my engagement having expired seven months ago. I got out of gaol a fortnight ago. On getting out of gaol I did not resume my work. I further claim two months' wages.

"Alfred Grivon, sworn:—

"The complainant's engagement expired on the 3rd November 1870, at which date the complainant was absent from the estate, when on the 23rd December last he was caught, and brought before Mr. Delafaye, who condemned him to five months' hard labour, because he refused to make good to the estate 84 days' illegal absence to which he had been condemned. At that time a month's wages was due to him, which was paid him in my presence. Complainant got out of gaol a few days ago, and never came to the estate to make up his time. Dismissed as malicious; 28 days' hard labour. To undergo this imprisonment when the one for vagrancy (see above) is completed."

1493. The pay-book of the estate shows that the wages for September were not paid until the 20th November, when Appanarain is marked in the books as absent, and those for October were not paid until 24th December, the day following that on which Appanarain had been consigned to prison for five months. So that, in our opinion, even though the affirmation of the plaintiff himself might not have been sufficient to convince the Magistrate of the justice of his claim, the inaccuracies in the statement of Mr. Grivon ought to have sufficed to have removed the case out of the category of a malicious complaint.

1494. Thus this unhappy man, after having worked for the first six months of his engagement in an exemplary manner, which is more than we can say of the way in which his wages were paid, is illegally subjected to the forfeiture of the "double cut," in addition to which he is illegally sentenced to prolongation of service; and lastly, at the expiration of his contract of service, illegally suffers 12 months' imprisonment through the ignorance and carelessness of the Magistrate who, however, regrets it.

1495. We do not care to apply any epithet to the conduct of Mr. Grivon, the manager, or to that of his employers, Messrs. Rouge & Co., on this occasion.

1496. Appanarain is now, we find, under a contract of service for two years from 1st April last, engaged to Mr. Chaline of "Terracine."

1497. At "Bonne Source" in Grand Port, Boodas and four others were, on the 14th March 1870, sent to the police on a charge of refusal to work. Their engagement was about to expire in five days. They were convicted of refusal to work, and sentenced to fourteen days' imprisonment; but four of them were

Questions 13,601, 17,709.

Appendix I, 25.

Re-engagement before expiration of former contract. Appanarain's case.

Frivolous and malicious complaints.

Cruel hardship of the case of Appanarain.

Case of Boobas and others. "Bonne Source" Estate.

discharged at the request of their master, they re-engaging for twelve months on the 23rd of March. The fifth, Armoogum went to gaol, but was released on the 21st at the request of his master, he making a verbal engagement.

1498. At "Anse Jonchee," six men were apprehended and taken before the Magistrate on the 20th May 1870, on a charge of illegal absence, their engagement having terminated on the 5th May. Four of them were convicted on the 20th May and were sentenced to replace 222, 244, 222, and 174 days respectively, and on their refusing to do so they were sentenced to fourteen days' imprisonment for not complying with the Magistrate's order. On release, on the 4th June, they were charged with refusal to work, and sentenced—three to 28, and two to 56 days' imprisonment. On their release on the 7th of July and 5th August, these men re-engaged.

1499. All these are cases which occurred before the Magistrate; but all instances of the kind do not come before them.

On the 10th April, 1872, Mamgoor complained at the police station, Grand River, South East, that his master at "Quatre Sœurs" Estate, though his engagement had expired on the 8th instant, had refused to give him his discharge and two months' and eight days' wages that were due to him. On the 12th he appeared again at the police station stating that his master had given him his discharge, though he had antedated it the 10th, but that he had not yet paid him the two months' and eight days' wages that were due.

1500. With all these instances of the pressure put upon men to re-engage, we do not think that Dr. Leary can claim the re-engagements to the same employer as he does (page 5 of his pamphlet) as confirmatory of the fact that the immigrant labourer in Mauritius is decidedly happier than the generality of labourers of this class in India.

1501. There are reasons which make it for the interests of all planters that men should re-engage on the same estate. One is furnished by the law that, when a New immigrant, under a contract of service for which the duty has been paid, agrees to annul that contract and enter into a new engagement with the same master, no stamp duty is charged upon the portion of time annulled, the duty being charged only upon the additional portion or extended period.

1502. This law was passed, as we find from the Procureur-General's Report, No. 234 of the 27th April 1858, to remove considerable hardship and inconvenience which was experienced by planters, not only in the case above noticed, but also when an estate was sold to a third party with whom the Indians were willing to continue their contract, but who was obliged to pay the stamp duty a second time; although the period comprised in the subsisting contract had not expired, and was considered

"unjustly severe on the planters for the benefit of the Colonial Treasury": as if the former case were not one in which the planter had his remedy in his own hands, and as if it were not for his own benefit whenever he re-engaged a man before his former contract had expired.

1503. The other benefit the planter obtains from men re-engaging on the same estate arises from a custom which is universal in the Island, and that is, that when a man re-engages to the same master no certificate of discharge at the expiration of his contract is given to him, and, consequently, the fee of sixpence, which is charged upon each certificate of discharge, is saved to the planter; and, from the return for

1871, showing that 47,525 men were re-engaged during 1871 without certificates of discharge, we find that, in that year, there was lost to Government £1188 2s. 6d. by this custom alone.

1504. The idea of preventing a man's re-engaging whenever he pleases, or interfering with him at any time, appears repugnant to every principle of a free-labour market; but, when we have, on the one hand, masters compelling re-engagements, and, on the other, job contractors and the emissaries of other masters competing, it is very difficult to decide what is best for men placed in the unnatural state of the immigrants; for though the planters insist on the men re-engaging, they never, according to their own

showing, get any work from them for seven or eight days, as they all profess to give them that number of holidays on re-engagement. Considering that the immigrant ought to have made himself comfortable on the estate, and that to move, if it is only the furniture of a hut, is really as irksome to an Indian (notwithstanding all we have heard of his supposed "erratic tendencies") as it is to anyone else, we feel satisfied that, on a good estate, where the immigrants are properly treated, as at "Stanley," there is found no more difficulty in getting a sufficiency of hands than Mr. Antelme finds; and that it is not for those estates that the Government should legislate, but for such estates as "La Rosa;" as it is on these that pressure is most likely to be exercised.

1505. It is evidently desirable that contracts of engagement should not expire during

the *coupe*, and from that the planters must guard themselves; but, if all engagements were made so as to expire during the *entre coupe*, there is no reason why the eight or ten days' leave, which is given after re-engagement, should not be given at the conclusion of the contract, with the promise that, on return and re-engagement, the rations which are given during the holidays should be furnished. If a man were well treated on the estate, and paid fair wages, he would certainly return to his hut and to whatever property he had, in preference to trying another estate, unless greater advantages were offered. And, if a man is not to be at liberty to avail himself of these advantages, there is an end to all free labour.

1506. The real difficulty is of the planter's own creating. The men are better paid at other work: and Mr. Poulin tells us that, unless we punish the gardeners, we shall not put a stop to absenteeism, and that if the wages were raised, the men would nevertheless absent themselves, as the gardeners would increase their wages.

1507. So, likewise, Mr. Wiché admits that he had known many cases in which men absent from their work had employed themselves in the neighbourhood on lighter work, and got money enough to keep them, which he attributed to their desire for change, to be freed from the discipline of a sugar estate, and to have a little time of their own. They got from 25 cents (a shilling) a day, which (considering that men on the high wages of \$4 a month would get but 13 cents a day and their rations, which would not exceed 10 cents) might be considered quite as good as their wages on the estates, even if no value were attached to liberty.

1508. Mr. Connal, the Surveyor-General, also shows us that now competition is so great, the Government cannot get men to work on the roads for the ordinary wages of \$3 50 cents; they are obliged to give 16s. a month, or \$4.

1509. Consequently, if the planters make long engagements at \$3, though we must regret it, they must not be surprised at the Indians breaking their faith, and going where they can get higher wages.

1510. Mr. Naz accounts for men re-engaging on an estate where the master is notoriously bad, by their getting compensation in some shape or another, either increased wages or food, or relaxed discipline: while Mr. Pitot tells us men used to come and beg to be let off replacing their days of absence on condition of re-engaging; and he adds that it is so easy to earn their livelihood in Mauritius, that the ill-disposed men do not feel the necessity of working for a livelihood.

1511. The contract for re-engagement, as we have already mentioned, is to be drawn up in the Form of Appendix I, No. 2; but this is not always done without delay, or even more serious inconvenience, to the immigrant, whether the employer or employed: as a case was brought to our notice, where an Indian, a gardener at "Cent Gaulettes," brought an immigrant named Vulahoo to be engaged to him under contract, and was told by the Clerk at Mahébourg that he must return the next day, a distance of six or seven miles.

The man very naturally, rather than take another journey of twenty or twenty-one miles, offered the Clerk money done up in a paper, which proved to be sixpence and a five-penny-piece. He was immediately given into custody for attempting to bribe the Clerk.

1512. This happened on the 9th January; and, on the 13th, the Inspector, Mr. Rice, whose name has often been brought forward, but whom we have been unable to examine, from his having left the colony, reported the case, and requested the Procureur-General's instructions upon the subject. The Procureur-General, or Crown Solicitor, appears to have referred the matter to the Magistrate, Mr. Messiter, who, on the 16th January, said that his Clerk had reported the matter to him at the time, and that he had desired him to send the case to the police, thinking that the Inspector would send the case to the District Magistrate for summary disposal; but the man, having been then

"some few days a prisoner" (from the 9th to the 16th), he thought that might teach him better for the future.

1513. The Procureur-General's decision was not sent till the 8th February, and was—"that he did not think the case worth going into, the bribe being so trivial and the *modus operandi* absurd;"

and, on the 9th February, the case was struck out, the gardener having been apparently a whole month in custody.

1514. This case happened in 1867; but Mr. Rice continued Inspector of Police till September 1869, when he was promoted to an appointment in Hong-Kong, from which, judging from what we have seen here, we are not surprised at hearing that he has since been removed.

Re-engagements before expiration of former contract.

Contracts should be made to and during the "Entre-Coupe." Fair dealing required.

Low pay on estates.

Competition of market-gardeners.

Mr. Wiché's opinion.

Mr. Connal's opinion.

Inducements to absent.

Re-engagements on bad estates. Opinion of Mr. Naz. Mr. Pitot's opinion.

Form of contract in re-engagement not always adhered to. Case of a gardener at "Cent Gaulettes."

Inconvenience to immigrants.

Decision of the Procureur-General.

Opinion regarding Mr. Rice.

Re-engagement before expiration of former contract. Case at "Anse Jonchee."

Mamgoor's case.

Stamp duty not required on re-engagements.

Fee for certificates of discharge.

Difficulties of the question.

Where good treatment, no difficulty in getting men to re-engage.



Contracts, how signed.

1515. When all difficulties have been got over, and the Clerk has drawn up the contract, it has to be signed by the immigrants and their employers. The former generally sign by a cross; but sometimes the only mark is a tick; whether intended for a cross or not does not appear, though it generally is at the inner edge of the column for signature or mark. Sometimes the cross is put in that column, sometimes in the column with the immigrant's number, and sometimes it is not to be found at all.

Variations in contract.

1516. In some contracts oil is struck out from the rations, in others salt fish; in others the agreement is for dholl or salt fish, but only 1 lb of either.

1517. In some contracts we have found 10 measures of rice a week; in some

"12½ and one shilling for bouillon;"

in some "double rations during the crop, after the crop double rations of rice only."

All these entries are in the column for signature or mark, as are also the following:—

Condition as to procuring men.

"Rumlogun will receive £1 4s. on condition that he will procure 12 men to his employer, and in case he should not his wages will be reduced to £5."

"Seebaluck and Colendavaloo are engaged on the same condition as Ramlogun, to furnish two men in a month."

Condition as to change of Bandes.

"All these men are engaged for the 'Grande Bande.' If they do not do the work of the 'Grande Bande' their pay will be only \$3 5 cents, not \$4."

Condition as to number of men and absences.

1518. We have found some instances, of which six examples are given in the Appendix, of Contracts entered into, in the District of Moka, between "1869 and 1870," in which agreement is made that the Sirdar, besides his wages—

|    |    |    |
|----|----|----|
| £1 | 0  | 0  |
| 1  | 2  | 0  |
| 1  | 2  | 0  |
| 1  | 10 | 0  |
| 2  | 6  | 0  |
| 2  | 6  | 0— |

shall receive, in four instances, 2s. extra per month for each or more men he will procure to his employers; and that 2s. shall be deducted from the Sirdar's wages for each three days' absence taking place during the month among the labourers composing the band.

In another case a similar deduction is to be made in case of any man being absent six days during the month.

In two instances there is no agreement for an increase of wages or men, but a deduction of 2s. for each man absentsing himself; in one case for ten days, and in the other for fifteen days running.

1519. All these covenants are entered in the column for signature or mark.

1520. Where lads are engaged the entry is made in the same column.

"By consent of his friend Roopnarain."

or,

"mother agrees to boy's engagement."

1521. Sometimes where the engagement is entered as for labourer, the specific services for which they are engaged are to be found detailed in that same column as

"Coachman and Groom."

So, if the body of men engage for different periods, the time for which each man engages is entered in this column.

Nature of work.

1522. The engagements are made with the men as:

"Labourers and general workmen."

"Workmen."

"General workmen."

"Good workmen."

"Gardener, and vegetable hawker."

Several men engaged in one contract.

1523. The contract is always in the plural, whether it be a contract for one man or a hundred; and much inconvenience arises both from labourers being engaged for different periods being included in the same contract, as well as from several labourers being included in one contract; as if it is necessary to cancel the service of one man out of the band, the custom is—for there is no law on the subject—to strike his name out and put a cross against it. The advantage of this plan is manifest: because one 2s. stamp is sufficient for the whole number engaged; whereas, if the stamp only served for the men engaged for the same period, three 2s. stamps would be required if some of the men were engaged for 12, others for 24, and others for 36 months.

1524. As if to show that no more care had been bestowed on this work than on any

other, when looking over some contracts, we found in the same contract two men—Mootooswami and Pitchen—each of them with the number 333,233 against his name; which shows that things are much in the same state as they were in 1857, when, in Mr. Garreau's case, one copy of the contract was signed by his Agent, and not by the immigrants, whilst the other was signed by the immigrants, not by the Agent.

1525. There is no provision in the law that contracts of service should only be made before the Magistrate of the district in which the work is to be performed. The

difficulty caused by this had been perceived in 1866, when the Procureur-General issued a circular upon the subject; and we find a similar complaint made by Mr. d'Emmerez de Charmoy in September 1870: so that the circular must have been forgotten.

1526. We have seen a contract made last year for service on "Bois Chéri" in Savanne, before the Stipendiary Magistrate of Grand Port. This, surely, ought not to have been allowed; or, if permitted, the employer ought to have taken an attested copy of the contract, and filed it in the Stipendiary Court of the district to which it referred, or lost all the rights it gave him against his labourer.

1527. The Procureur-General in his Circular only contemplated those cases in which labourers were about to be removed, or had been removed, by their employer to another district; and in those cases he was of opinion that the Stipendiary Magistrate of the district in which the contract was made should send a copy of the contract to the Stipendiary Magistrate of the district to which the labourers were removed, in order that the latter might be made aware of the terms of their engagement.

1528. Mr. d'Emmerez in his letter above referred to, of the 5th September 1870, notices the inconvenience in general terms; but he might, as an instance, have urged that Ordinance 2 of 1870 for repairing the church and presbytery of the Roman Catholic parish of "St. Sauveur," in the district of Black River, provides for a fee of 6d. upon the engagement (Section 2, paragraph 4) of any labourer duly engaged to any Roman Catholic inhabitant of Black River before the Stipendiary Magistrate of the said district, being levied in part payment of the advance for the repairs of the church paid from the treasury of the colony; and that if engagements for service with the Black River district were allowed to be entered into before a Magistrate of another district, it would be doubtful whether, in strict conformity with the law, the above fee could be levied. At any rate, the Magistrate of Black River could not levy the fee unless he were made aware of the engagement.

1529. Again, by Ordinance 20 of 1872, a further advance is made for the completion of the Church of St. Sauveur; and it is provided that, after the same advance by Ordinance 2 of 1870 shall have been repaid, the further sum of £500 now advanced shall be recovered by means of the same fee upon the Certificate of Engagement of any labourer engaged to any Roman Catholic in the said district and an additional fee of 6d. upon each Certificate of Engagement of any labourer engaged by a job contractor, not being a Roman Catholic, having, as his guarantee under Article 2 of Ordinance 7 of 1865 a Roman Catholic in the said district, the said fee to be paid by the said Roman Catholic.

1530. By Ordinance 15 of 1872, Clause 3, an additional fee of the same amount upon each Certificate of Engagement of any immigrant engaged to a Roman Catholic in the District of Savanne, is leviable, in payment of an advance made for the repairs of the church and presbytery of the parish of St. James in Souillac.

1531. The above fees are to be levied and recovered in the same manner and by the same persons as the ordinary taxes, duties, and fees, to which they apply respectively, are levied and recovered: but, except in the case of the fees for "St. Sauveur" in Black River, under Ordinance 2 of 1870, there is no provision made as to the authority before whom the engagement shall be entered into; and, therefore, though there is less doubt whether the fee might be recovered upon an engagement entered into, in what is in Mauritius called a "foreign district," still, if the District Magistrates of Black River and Savanne are not made acquainted with the contracts entered into in other districts, to have effect in their districts, the revenues of the parish churches are likely to suffer.

1532. Article XX. of Ordinance 31 of 1867 gives the Magistrates power to refuse to pass a contract, or to postpone passing it, until the intended employer has proved the bona fides of the proposed contract, or that he is able to pay the labourers wages as they become due: provided the Magistrate have good grounds for believing the contract to be fictitious: and Regulation 35 enables the Magistrate, without grounds for suspicion, if the status of the party be not well known to him, still to make a similar enquiry.

1533. Of this enquiry no record is kept either at Port Louis or in Pamplonsses, as appears from the returns from the Magistrate.

Variations in contracts.

Contracts made in one district for service in another.

Looseness in attesting signatures to contracts.

Procureur-General's Circular in 1866.

Inconvenience of the system.

Ordinance 20 of 1872.

Ordinance 15 of 1872.

Contracts made in one district for service in another.

How fees upon contracts for churches are leviable.

Refusal to pass contracts.

From the other districts it appears that, in the three years from 1869 to 1871 inclusive, fifty-one cases arose for enquiry: seven in Savanne, all of which were granted; and forty in Moka, of which thirty-seven were granted, and three refused; while, of these, two occurred in 1869, and one in 1871. In the two former the enquiry was made by the police, when it was found that the applicants had only half an acre of ground each; and, as it was held they could not support another servant on the produce of so small a portion of land, the applications were refused. The third was refused; the woman being the concubine of the man she asked to engage, and possessing a cow and three goats, but no land, and the animals giving no revenue.

1534. Though we have found no case in which a contract made in India has been cancelled on account of a defect in the contract itself the same does not hold good with respect to contracts made in Mauritius.

1535. In the report of the "Mont Choisy" case, at page 8, will be found a curious instance of a contract by which thirty-six immigrants were bound to Mr. Poulin, not subscribed, as required by the Order in Council of the 7th September 1838, by the Stipendiary Magistrate.

1536. The case was pending before three Magistrates sitting in Petty Sessions, and the majority of them held that the informality must be regarded as cured by the work done and wages received by the immigrants; and the motion to have the contract annulled was refused by the Court.

1537. The parties had no appeal by law from this decision, but the case was brought before the Supreme Court on a writ of *certiorari*, and the Judges quashed the judgment of the Petty Sessions.

1538. Upon this the Acting Procureur-General remarks:

"The grave consequences that might arise from such omissions both to the servant and to the master are very apparent, and as the state of the law did not afford sufficient opportunity to either of the contracting parties to detect such informalities on the part of the Magistrate at the passing of the contract, and in time to have them rectified, it was judged proper to introduce"

into the Legislative Council on the 6th February 1872, an Ordinance

"to amend the law relating to the signing of Contracts of Service, and the delivery of copies thereof."

This was done without any minute upon the subject by the Governor or report from any Committee of the Council. It was not, after it was introduced, referred to any Committee for report; but on the motion of the Procureur-General, on the 5th March, it was read a second time in Committee, when, on his motion, some verbal amendments were made, such as "provided" for "enacted" in the preamble, and in the second article, that the copy given to the parties should be on unstamped paper, and that the copy must be signed by the other officers besides the Magistrates, who are authorised to make engagements, a similar alteration being made in the third article, and on the Procureur-General's motion the Bill was then read a third time and passed as Ordinance No. 7 of 1872.

1539. Chapter II. sect. 3 of the Order in Council of the 7th September 1838 declares that

"no written contract of service shall be in force within any of the said colonies unless" (among other things) "the Stipendiary Magistrate shall subscribe the written contract in attestation of the fact that it was entered into by the parties voluntarily and with a clear understanding of the meaning and effect."

The first clause in the preamble of the Ordinance begs the question whether the parties understood the meaning of the contract, and attributes the omission of the signature to a mere piece of neglect, for it declares that—

"certain written contracts of service, although voluntarily entered into between master and servants, have been set aside on the ground that they have not been signed by the Stipendiary Magistrate in whose presence they had been entered into;"

while the second clause contains the extraordinary recital, which in itself involves as severe a censure upon the past conduct of Magistrates as any we care to pass; that

"it is expedient that a remedy should for the future be provided against the consequences of the Magistrate's negligence."

1540. It was consequently enacted that it should be the duty of the Stipendiary Magistrate, or any clerk or officer attached to the Stipendiary Court, and authorised by the Government, to subscribe the written contract, which leaves matters much as they

were, except that it does not require the Magistrate or Officer attending the contract to ascertain and certify that it was entered into voluntarily by both parties.

However, it is the second article that gives the relief, and, we believe, in a manner unprecedented in legislation.

1541. The contract is to remain in the Magistrate's custody, but if either party claims a copy of it, he may have it on unstamped paper and signed by the Magistrate, and if that copy be duly signed by the Magistrate or Clerk or Officer authorised by Government, the contract shall be in force and binding, though the Stipendiary Magistrate had omitted to sign the contract remaining in his custody.

1542. And the climax is reached in the third article, which declares that the "Magistrate's or other Officer's signature on the copy delivered to the contracting parties claiming the same and attestation that the same is a true copy of the contract remaining in his custody, shall be proof sufficient before all the courts of this colony that the contract was entered into by the parties contracting voluntarily and with a clear understanding of its meaning and effect."

1543. This Ordinance, we learn from the Governor's letter, No. 150, dated 2nd May 1872, transmitting it for sanction, had the unanimous approval of the Council of Government, though Sir Arthur Gordon himself considers it "a somewhat clumsy device to remedy the effects of prospective and past irregularities."

In our opinion it neither remedies similar defects which might be found in contracts already passed nor provides against similar defects in future. It only, as it professes to do, provides against the consequences of Magistrates' negligence in future, and does that by allowing them to be more negligent in future than they were before.

1544. It is evidently the first step towards abolishing the necessity of explaining the contract to the immigrants, for whether the contract be signed or not in attestation of its having been explained, so long as the copy the Magistrate gives to the parties is signed, it is proof that the parties entered into the original contract voluntarily, and with a clear understanding of its meaning and effect, though the Magistrate had omitted to sign the attestation to that effect, and if he omitted to do that, it is just as likely that he omitted to explain the contract to the parties. Moreover, we still fail to see how it averts the consequences which might arise from the omission which called for the Ordinance, for every contract passed before the 5th March 1872, in which the same negligence betrayed as in those which called for this Ordinance is as liable to be set aside as if this Ordinance had never been passed, and the effect of the Ordinance itself appears to be, as noticed above, only to do away with the necessity of explaining the contract to the contracting parties and to give license to the Magistrates and Clerks to be more negligent than they even were before.

1545. Further, too, when we look at the Returns of languages spoken or understood by Officers of the Stipendiary Courts, we see that when the Stipendiary Magistrate does subscribe the written contract in attestation of the fact that it was entered into by the parties voluntarily and with a clear understanding of its meaning and effect, he must, in most cases, have attested a fact of which he and most of the Officers and servants of his Court were profoundly ignorant, and one entirely beyond his own comprehension and of his power of communicating to another.

1546. The Ordinance, however, is of use to a certain extent, for though it does not directly, it does indirectly, place contracts of service made in the Stipendiary Court under the custody of the Stipendiary Magistrate. Hitherto it had been impossible to tell who was the custodian of Contracts of Service.

1547. There is a case mentioned by Mr. Farquharson, Stipendiary Magistrate of Rivière du Rempart, to show his impartiality, and that he has done for Indians what he has been accused of doing with partiality for the others, in which he broke the engagement of "Rooshai" and thirty-nine men engaged to Messrs. Wiche & Co., of "Labourdonnais" Estate, on the 9th March 1871, and which they ought to have cancelled on the 25th May 1871. He did so on the ground that the contract had been made through error, and against their wish and consent; that they were engaged in March 1870 to Parat & Co., job contractors, to work in Savanne, who, previously to the expiration of their contract, proposed to the labourers to leave the district of Savanne and go to work on "Labourdonnais" in Rivière du Rempart, on the same conditions as with the job contractors. The men consented, and appeared before the Magistrate of Savanne, in order to enter into a new contract for Rivière du Rempart; and then went with Mr. A. d'Hotman, of the firm of Parat & Co., to "Labourdonnais," and worked there as job contractors' men, but subse-



quently discovered that they were engaged to Wiché, and consequently sought to have their engagements cancelled.

1548. Mr. Farquharson tried the case, and on the 4th July, in consequence of the defendants not being able to produce a power of attorney from Mrs. Aubin, his sister-in-law, a joint proprietor of the estate, the Magistrate decided that the contract was null and void, because it was entered into by Wiché, and not by Wiché & Co., and therefore dismissed the claim.

1549. The ignorance of Indian languages above attributed to the Magistrates and their establishments is so serious that it requires proof, which will be found in Chapter XXX., on *Magistrates and their Courts*.

1550. We might refer to the case of Calaven, in which there appears no doubt but that the men were deceived by a job contractor, to whom they were engaged in Moka, and were then taken by him before the Magistrate under the pretext of taking them to consent to a transfer to Grand Port, but in reality to break their engagement with him as job contractor, and enter into another engagement on the 23rd January 1872 with him as attorney for Mr. Dauban. This did not appear until, on the 19th April 1872, Calaven, finding he and his band had been deceived, presented a petition to the Governor, on enquiry into which, the circumstances of the deceit put upon them became very apparent. Nevertheless, on the 9th of May 1872, Mr. Dauban summoned Calaven before the Stipendiary Magistrate on a charge of desertion, and had him condemned to imprisonment for twenty-eight days with hard labour. Although the deceit had been proved, and this unlawful punishment suffered, still

Calaven had no means of redress, but served out his illegal contract with Mr. Dauban to the 23rd January 1873, when he was discharged; and then, to the disgrace of the Creole job contractor, Calaven entered into a new engagement with his own countryman, the job contractor Ittoo. Such a transaction could not have taken place had the Magistrate or Clerk been acquainted with the Indian language.

1551. But to return to the cancelling of contracts. In the case of *Doolub versus Seedaree* and others, heard before Mr. Justice Gorrie in 1872, on appeal from a decision of the Stipendiary Magistrate of Grand Port, the applicant was a job contractor, and the contract he entered into was not the one prescribed for job contractors, but the ordinary contract for an estate.

1552. It was not stated that the labourers were engaged to a job contractor. The time for which they were engaged was beyond the period for which the job contractor had a licence and could engage men. The general security required under the above regulation had not been furnished. The contract was not signed by the Magistrate, but had his name or the *fac-simile* of his signature impressed upon it. The agreement for rations had been altered from dholi so much, salt fish so much, to dholi or salt fish.

1553. On one contract there was neither signature nor stamp. The marks of labourers were all in one handwriting, and the contracts bore upon the face of them nullities sufficient to prevent their being maintained; and the Judge affirmed the decision, discharging the men from their engagements.

1554. In another case, however, the decision was different. Mr. de Belloguet, on the 19th February 1867, gave the manager of his estate "Bel Ombre," Mr. Charron, "a mandate" to enter into engagements with immigrants on his behalf in the district of Savanne. On the 5th March 1870, Charron gave a power to Mr. Léon Guery to sign all contracts of service for "Bel Ombre;" and, on different dates in 1870, Guery entered into contracts with the complainants, who, in 1872, complained to the Magistrate that two shillings each had been illegally deducted from their wages for the last four months, and they therefore claimed restitution of the money, and that their contracts should be cancelled, as Guery had no authority to engage them.

1555. The ground of this objection was that Regulation 90, published under authority of Section LXXV., Ordinance 31 of 1867, declares that

"no person shall be allowed to sign a contract of service or a security bond in the name or on behalf of any employer, unless he produce a power of attorney in due form, signed by such employer;" and Mr. Guery's power not being signed by Mr. de Belloguet, but by Mr. Charron, gave him no legal authority to sign a contract of service on behalf of Mr. De Belloguet.

1556. The Court, however, consisting of his Honour the Chief Judge and Mr. Justice Bestel, disposed of the appeal in these words:

"The main question before us is the alleged nullity of the contract on the ground that Guery had no legal authority to sign it. It is not disputed that Charron was quite competent to enter into the contract with labourers on behalf of the proprietor, but it is contended that by the existing law of the colony Charron had no

Impositions  
placed upon  
immigrants to  
cause re-en-  
gagement.  
Calaven's case.

Question 1445.  
Appendix I, 6.

Want of know-  
ledge of Indian  
languages.

Cancellation of  
contracts.  
Doolub v.  
Seedaree.

Appendix I, 7.  
Ordinance 31 of  
1867. Regula-  
tion 53.

Irregularities  
in contracts.

Contracts  
entered into by  
third parties  
as agents of  
another.

Bachoo and  
others v. de  
Belloguet.

Appeal  
grounded on  
Article 90 of  
Regulations.

Judgment on  
appeal.

"authority to dispute his power, and, as it were, to hand over his authority to another party, *delegatus non potest delegare*. Now, were this a matter to be decided by the ordinary law of the colony, it could scarcely be disputed that, looking at what was really done, and at what has followed between the parties, any attempt to set aside the contract of labour would be futile. Not only execution has followed on the agreement for many months, work has been done and wages paid, and rations supplied all along, but in the plaint submitted by the labourers they founded on the contract as a legal document, and asked payment of certain sums of wages which they alleged had been wrongfully withheld from them; they subsequently withdrew this part of their case. But it is contended that our whole system of labour law is peculiar and statutory, and quite out of and beyond the ordinary laws of this colony; that the State is really a sort of third party interested and intervening in all these cases and having interests which must be protected by Courts of Law: and that, if any formality required by this exceptional system has not been observed, the consequence is the annulment of the contract. It is said that we have positive, peculiar, and imperative law on the subject, and that the case of Ramghan and others *versus* Poulin, 6th November 1871, 'Piston's Reports,' 1871, p. 148, is in point, where the Court set aside and annulled a contract with the Indian labourers, where every formality had been observed, and where execution had followed and *rei interventus* had taken place, on the single ground that the Stipendiary Magistrate had omitted to subscribe the contract. In the present case the law invoked on the question is Article 87 of the Government Notice, No. 166 of 11th November 1868, which runs thus:

"No person shall be allowed to sign a contract of service or a security bond in the name and behalf of any employer, unless he produce a power of attorney in due form, signed by such employer."

"With respect to the words thus relied upon, we must observe that, speaking strictly, they are no part of our law, as they do not occur in any Ordinance, but are rather a directory order of the Executive Council as to the way in which contracts by deputy are to be entered into. It is clear to our minds that no such regulation can alter the fundamental laws of the Code as to Mandate C, C, 1994, &c., or create a nullity where none is expressly declared by law. That is a penalty for which positive legislative sanction, as in the case of *Poulin*, is required. In that case the contract, wanting the Magistrate's signature, is declared by the Order in Council of 7th September 1838, itself not to be in force.

"The Judges accordingly held in that instance that the contract must be set aside, as it was defective in its most essential statutory requisite. The case now before us is altogether different. Indeed, it may be fairly argued that the directory regulation itself has been complied with, for a power of attorney, in due form signed by the employer, was produced, in fact, deposited with the Magistrate; the power was not, indeed, in Guery's favour, but the regulation does not require this, at least in explicit terms, and Guery produced a written order from the mandatory to attend the Magistrate in his name, and reciting the authority which the mandatory held from the owner of the estate.

"We cannot set aside the contract in such circumstances. At the same time we must remark that, in the matter of engagement of labourers, the less the proprietors of estates leave to subordinates, so much the better. The personal contract of the owner or chief manager on such occasions with the labourers, will have a healthy tendency to lessen risks of misrepresentation or misconception of the real terms of the engagements, and to diminish the chance of future disputes. The judgment of the Court below is quashed without costs."

1557. The judgment might be very sound, but if all the *dicta* in it are to be accepted, the declaration that Article 87 of the Government Notice, No. 166 of the 11th November 1868 (since made Article 90 by further Regulations published on the 8th September 1869), is no part of the law, as it does not occur in any Ordinance, will require an Act of indemnity to be passed; for there are among these Regulations Articles inflicting fines and imprisonment upon offenders, which, if these Regulations are no part of the law, must be illegal; and, as these Regulations have not been among those laws of the colony which have remained dead letters, there must be many persons requiring an Act of Indemnity for their conduct.

1558. The advice at the end of the judgment that the proprietors of estates should leave as little as possible in the matter of engagements is very sound; but as long as the duty of making contracts is left to the Clerks, or even to Magistrates who cannot communicate with the immigrants in their own language, so long will the Courts be filled with

Contracts  
entered into  
by third parties  
as agents  
for another.  
Bachoo and  
others *versus*  
De Belloguet.  
Judgment on  
appeal.

Necessity for  
Magistrates  
being able to  
speak Indian  
languages.

Judgment in  
Bachoo and  
others v. de  
Belloguet.

disputes arising from misunderstandings between the planters, the immigrants, and the Magistrates.

1559. Having thus shown under what engagements immigrants are brought from India—how those engagements can be cancelled and prolonged, and how immigrants can rearrange themselves in this country—it remains for us to see how the several parties fulfil their respective parts; and, first, how the immigrants perform their part.

Work and  
wages.

Plan of En-  
quiry.

1560. The contract, we have seen, merely mentions that they are engaged in the capacity of labourers, but it does not specify whether work is to be performed by the piece or by the time, nor at what hours. The consequence is, that all immigrants are put to work on estates as labourers, without any previous knowledge of what work they will have to do, nor for how many days in the week, nor for how many hours in the day. Let us, then, see the amount of work they do, and then how the planters perform their part, the wages they pay, the rations they supply, the lodgings they provide, and the medical care they take of the immigrants.

## CHAPTER XVII.—Work and Wages.

Work.

1561. On the abolition of slavery, Sir William Nicolay informed the Secretary of State that task-work, the most satisfactory arrangement both for the master and the labourer, was becoming very general in the colony. He at the same time, however, forwarded a copy of a Proclamation he had issued on the 7th September, fixing the distribution of the hours of legal labour of apprentices within the colony at forty-five hours a-week.

1562. The hours of labour were to be from 6 to 8 A.M., from 9 till noon, and from 2 till 4.30 P.M.; the time necessary for travelling from their dwellings to their place of work at the rate of three miles an hour, and thence to their dwellings, being comprised in the intervals of time fixed for their labour. From 1st April to 1st October work was to commence and finish half an hour later than in the other six months of the year, and Sundays were excepted during the whole year.

1563. The custom of the colony, however, has not yet made task-work universal, though it is very general; and Dr. Icery tells us that he does not see why it should not be obligatory in the field. In his pamphlet (page 19) he writes that a task is given which a willing man can generally accomplish in six hours, which induces a certain number of men to work with energy. On the other hand, he says, the work of the sugar-house could never be made task-work, notwithstanding that in Demerara, though called day-work, it really is task-work. But all concur in the difficulty there would be in defining tasks in Mauritius, where the soil and nature of the ground vary, not only in different parts of the country, but on the same estate; and Dr. Icery assures us that the settlement of the task will always have to be left to the planters and the men themselves.

1564. Mr. Martin, too, thinks it would be in the interest both of the master and the men that the system of task-work should be tried; as, when engaged on task-work, the employer is not continually obliged to visit the labourers to push them on, and the labourer can leave off as soon as his task is finished.

1565. We see no reason why task-work should not be obligatory, as the law already provides the means of redress in cases where the labourer thinks he is called upon to perform a heavier task than can be reasonably expected from him; unless it be from the example before us in the case of Heerabule and others *versus* Blandain de Chalain, in which forty-three men complained to the Stipendiary Magistrate of Flacq of having been put to task-work beyond their strength; and it was not until they had carried their case to the Supreme Court that they were able to obtain justice, in consequence of the Stipendiary Magistrate's inefficiency and disregard of the law, except that part of it (misapplied in this case) which enabled him to sentence the losing parties to pay a fine of £1 each, or to twenty days' imprisonment with hard labour, for preferring a malicious complaint against their master. Two or three cases of this kind would render the means of redress provided by the law either void in itself or fraught with so much danger and expense that none would dare to avail themselves of it.

1566. As task-work is, however, not yet the established system of the colony, we will first consider work as it is.

1567. Article 22 of Ordinance 31 of 1867 provides that no labourer engaged for field

labour shall be bound to work more than nine hours a-day, and that the labourer is entitled to one full hour for breakfast before 10 A.M.

1568. In Dr. Icery's pamphlet (page 19) it is stated that, in practice, field work commences between 6 and 7 A.M. and terminates at from 4 to 5 P.M.—a little sooner in summer and a little later in winter, according to the length of the days; but we find contracts in Flacq, dated August 1868, in which the agreement is to begin work at 5 A.M. and finish at 6 P.M., with an hour for breakfast at 10 o'clock; and a case was brought to our notice in which two Indians, Nukaloo and Vengramloo, com-

plained to the Protector, on the 19th February 1872, that their masters, Messrs. Baudot and Co., of "Poudre d'Or" Estate, in Rivière du Rempart, sent them to work before daylight and kept them at work till 7 P.M. Mr. Jules Clair, the head overseer, a witness for the defence, deposed that the roll was called at 5.15 A.M. and the men were sent to the field at 5.30, and began work about five minutes or a quarter of an hour after; that they got from three-quarters of an hour to fifty minutes for breakfast, and were released at 5.30 P.M.

1569. The Stipendiary Magistrate fined Messrs. Baudot and Co. in the sum of £5, and, when called upon by the Procureur-Général to explain why he had punished the master by fine, instead of by awarding compensation to the parties injured by the extra hours exacted from them, said that he considered the complainants

"had shamefully exaggerated the nature of their complaints for overwork and

"insufficient time to eat meals, not only in their plaint but in their evidence. There

"was no doubt the law had been violated; nevertheless he thought it his duty, in

"vindicating it, to avoid inflicting a penalty which would have benefited the com-

"plainants."

We should, after this, have expected most rigid justice in all cases from Mr. Farquharson.

1570. Nearly allied to complaints of overwork are complaints of being set to perform work beyond their powers. Of this we found a remarkable case which occurred at "Réunion" in the district of Plaines Wilhems.

1571. Succaram had declared the held out to him that appeared the not hav-

1572. Of this Mr. Mazéry informed him that he had seen the Protector, who had desired him to have the man examined by another doctor, and to send the two certificates to the Protector; while, on the 25th September, the Protector of Immigrants sent the Magistrate two certificates, bearing date the 22nd; the one declaring "Succaram" to be labouring under

languor of joints, and unfit for

"work requiring great physical exertion;"

and the other, that he was weakly and emaciated, and

"unfit for hard work and the active use of his right arm."

1574. Succaram was, we understand, after this and a further delay of two months—all of which we must consider wasted—given light work until his contract expired and he was discharged on the 4th March 1872.

1575. On the other hand, we have complaints from the planters of men refusing to

work. For this offence there is no punishment under the Ordinance; but the Stipendiary

Daywork.

Nine hours for  
field work.

Complaint of  
the "Poudre  
d'Or" men.

Overwork.

Two certifi-  
cates sent to  
Magistrate by  
Protector.

Light work  
given to Suc-  
aram.

Refusal to  
work.



Refusal to work.

No punishment for.

Illegal sentences of Magistrates.

Forcing immigrants out of their huts to work.

Sunday work. Ordinance No. 17 of 1841.

Circular to explain the law to immigrants.

Magistrates consider it comes under that provision in the Order in Council of the 7th September 1838, which provides imprisonment as a punishment for any person not performing his stipulated work; and though the extreme punishment is fourteen days' imprisonment, we find a Magistrate giving six months for refusal to work, as he admits, with sorrow, that he had stretched the provisions of the Order in Council a little too far.

1576. Another Magistrate punishes for refusal to work, but cannot show in any of his proceedings proof of the refusal; and in another case he, like his brother Magistrate, had stretched the Order in Council and given a man sixty days' imprisonment as an alternative of a fine of £10. The fine, be it remembered, under the Order in Council, might not exceed one month's wages; though, under the 10th Article of Ordinance No. 15 of 1852, it might extend to £10; imprisonment, nevertheless, remaining as prescribed by the Order in Council, namely, for a period not exceeding fourteen days.

1577. The following case, tried in Savanne on the 11th December 1871, is suggestive of the way in which immigrants are treated when they do refuse to work. The estate on which it occurred is, in part, the property of the Honourable Virgile Naz:—

" 11th December 1871.

" Rungasamy: *Bénarès* (Constantin).

" Refusal to work and illegal absence.

" Plea, 'Denies refusal to work.'

" Mr. D. Constantin.—Defendant refused to work; was taken out of his hut. He threatened to cut with a knife.

" Natchee, affirmed as Hindoo.—I am a camp guardian. The defendant has been working regularly. I went to his house. Defendant refused to go to his work very persistently. I then took him out of his hut and took him to the overseer. He made every resistance.

" Discharged."

1578. By Ordinance 17 of 1841, ordinary work shall not be exacted from labourers employed on rural estates on Sunday; and on that day they shall only be subjected to any forced necessity, having for object the care and feeding of animals, the stoves, and folds, stables, and buildings, and other works in the reservation. shall not be of more

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any breach of the peace, it was a personal

wrong only that he suffered, and he has his remedy; and he argued that, as it was the policy of Government to abstain from instituting proceedings in the cases of non-payment of wages, so Government ought to abstain from instituting proceedings in the case of work on Sundays, and leave it to the labourer to do as he chose, work or complain.

1583. Notwithstanding this, General Johnstone, in the course of his endeavours to check the abuse of Sunday-work, which we have noticed elsewhere (*vide* Chapter XII, paragraph 899 and following), issued a Circular enclosing extracts from Ordinance 17 of 1841, translated into Nagri (probably Hindustani) and Tamil, which he ordered should be posted in a conspicuous part of the Court, so that all immigrants coming to engage should have the provisions of the law explained to them.

1584. This does not appear to have had much effect at the time; and if ever it had any, it has since worn off: for, though even with the law as it is, there are some who, like Mr. Manes, of "Constance" in Flacq, and some six or eight others, who have no

*corvée* or other work done on Sundays, still it is very certain that work of all kinds is done on Sundays now as it was in 1863, when General Johnstone complained of it: for we have ourselves seen mills at work, as we have generally been told,

"only passing the sugar remaining in the batteries;"

canes being carried from the field to be ready for Monday, which, as the manager at "Trianon" desired Mr. Jenner to note, when carters have brought canes from the fields on Sundays, has been their voluntary act, in order to prevent their having to rise at an early hour on Monday. The Manager ought to have prevented both the one and the other. We have also witnessed on Sundays cleaning and cutting canes, carrying wood for fuel, quarrying stones, and repairing roads.

1585. No one, except Mr. Macpherson of "Cluny," in Grand Port, has given us his week's account, showing openly the work done on Sunday; and that there was no difference in the number of men employed between Sundays and week-days, though no sugar is made on that day. Mr. Macpherson is one of the first and most respected planters in Mauritius.

1586. In the "Brouillon" (rough journal) at "Virginia" we found entries showing that, from the end of May to the end of September, *corvée* was not the only work done on Sunday; but of these no notice is taken before the Stipendiary Magistrate, most probably because the work is not proved to be "exacted;" or, as we were informed at "Villeneuve," in Grand Port, where men had complained to the Inspector of having been sent to work on Sunday, that, on the contrary, the men insisted upon working on Sunday, because they got the cane-tops for their animals. The consequence, however, is that, as we have seen, Ordinance 17 of 1841 was declared powerless in 1863; so, from 1864 to the end of 1871, there had been 29 complaints, and only four convictions, of exacting work on Sunday.

1587. The convictions were:—

Appendix C. One, before the Stipendiary Magistrate of Plaines Wilhems, in 1865;

Return No. 1. Two, before the Stipendiary Magistrate of Pamplémousses; and

One, before the Stipendiary Magistrate of Moka; all three in 1867.

Vol. II. 1588. The opinion, generally, however, seems to be in favour of an abridgement of Sunday work.

1589. Mr. Mercer says the Ceylon Company have long since done away with it on their small estates, and reduced it on the large ones; and they intend to abolish it as soon as he can see his way to do so. (An enactment to that effect would certainly assist him.)

1590. Mr. Naz has no objection to half the men on the estate only making *corvée*; which would give each man at least two whole Sundays to himself in the month, whereby he might be absent from Saturday afternoon to Monday morning. But in crop-time, however, work is often prolonged in the sugar-house on Saturday night (if they do not work on Sunday morning), as the cane-juice left unboiled would ferment before Monday; and the vacuum pans and cisterns must be emptied, in order to be washed and cleaned; and as they cannot be cleaned on Saturday night, they must be cleaned on Sunday, or it would be late in the day before they could begin work on Monday,—a strong argument, when coupled with what we have mentioned above as the excuse of the Manager at Trianon for carting on Sunday, in favour of what is done in many other places, and in few places more strictly than in the shops, in the counting-houses of the merchants, and in the offices of the Government itself, making Saturday a half-holiday.

1591. There is one species of work performed on some estates on a Sunday, probably not very distasteful to the immigrant, except as breaking in upon his holiday and preventing his going to any great distance from the estate; that is, the issuing pay and rations on that day. These issues are made on Saturday afternoon; but, we believe, on the majority of estates they are made on a Sunday, thereby greatly curtailing any holiday the immigrant might have, supposing the *corvée* to be over, as it ought to be, at 8 o'clock.

1592. But though we find that the Ordinance providing that men shall not be compelled to work on Sunday is so far a dead letter that the rule is for men to work on Sunday, we have heard, and we find, that planters complain of many men coming to hospital complaining of being tired, and that the doctor lets these rest a day. Dr. Harel thinks this is mostly confined to New immigrants, not accustomed to work; and Dr. Reilly does not think seven days' unbroken work in the

Sunday work nowadays as in General Johnstone's time.

Mr. Macpherson of "Cluny."

Virginia.

Villeneuve in Grand Port.

Convictions for exacting work on Sundays.

General opinion in favour of abridgement of Sunday work. Mr. Mercer's statement.

Evidence of Mr. Naz.

Saturday should be a half-holiday on estates.

Pay and rations issued on Sundays.

Men "tired," going into hospital.

week ever interferes with their health: though the Manager often, if a man has had a good deal of hard work, desires the doctor to put such an one down as "tired," and thus indirectly give him the rest he ought to have every Sunday.

1593. Some arrangement or understanding of this kind appears evidently necessary when work is exacted every day in the week, and is *allowable* all day, if not *exacted* for more than two hours on Sunday also. Although there are some five or six public holidays allowed in the Government Offices and Law Courts, the Ordinances enact no holidays for labourers; and the Notification of the 19th December 1843 declares that

"The only holiday that can be legally claimed by the labourers is New Year's-day itself; and His Excellency sees no good reason for extending them, as formerly prevailed, too much: and he therefore desires them to resume their work on the following day, Tuesday."

"It was not, however, intended that the Indian labourers should be deprived of any further holidays to which they might be entitled under their several contracts."

1594. But if immigrant labourers were at that time entitled to any holidays under their contract, they are not entitled to any now: for the very excellent suggestion, among many others, made in the West India Labourers' Bill, which was enclosed in Lord Glenelg's despatch No. 111 of the 19th of January 1839, already referred to (Chapter IV., paragraph 194), that the contract should contain

"the days exclusive of all Sundays, Christmas-day, and Good Friday, and those on which natives respectively shall be"

permitted to keep the holidays of their religions, has never been passed and hardly has ever been noticed: and consequently New Year's-day is the only holiday to which Indian labourers are legally entitled.

1595. So while the Apprentices, on the abolition of slavery, could only be compelled to work for six days and for 45 hours in the week, the immigrant free labourers can be compelled to work for 54 hours for six days; and for two hours on Sundays, or for 56 hours in the week; and here we are inclined to think that this amount of work being required from the men may account, in some measure, for the absenteeism of which the masters complain.

1596. We are, however, informed that New Year's-day is by no means the only holiday given; but that more holidays are given on almost all estates.

1597. The labourers employed by Government, under the Surveyor-General, have, besides the 1st of January, holidays on the 25th December, Good Friday, and the 15th\* of June.

1598. From the Returns we have received from the estates we find that

On one estate they give 5 days for the New Year;

On two others " 4 " "

On many others " 2 or 3 " "

And on twenty-one estates they give but 1 only for the New Year.

Five estates report that they give 3 days' holidays at the Moharrum, the others giving 1 or 2 at that time.

Thirty-four estates report that they give a day or two holidays at the Races; and there are

Three estates that give the Mahomedans a holiday at the end of the Fast of the Ramazan; while

Two or three others report that they give from 2 to 4 days' holidays to a labourer in the event of a marriage or birth in his family.

But these are all optional; and the planters might all follow the rule they have at "Solferino," to give 4 days' holidays on the labourers' first engagement, and 6 days on their re-engagement, and no others.

1599. But these reports cannot be relied upon; for it is very certain that the immigrants do not get these holidays, as can be proved by the annexed Table taken from the Pay-books of "La Gaieté."

1600. And here it may be well to observe that we sent for the books of "La Gaieté," and made a thorough examination of them; and whenever throughout this Report we quote, as we generally shall do, "La Gaieté" as a standard, it is because Dr. Icery, the owner of it, had, as President of the Chamber of Agriculture, written in defence of the planters against Mr. de Plevitz's pamphlet. And we have every reason to believe that "La Gaieté" was one of the best-managed estates in the colony; and, therefore, if any-

\* Probably 20th.

thing was found objectionable there, we should be fully justified in assuming that it might be common to all estates.

1601. In answer to our question enquiring what holidays were allowed on the different estates, the Return from "La Gaieté" mentioned two or three days for the New Year and two days for the Mohurrum, and whenever the immigrants want to go out during the year. We were not then able to determine whether the 10th of Mohurrum in 1871 fell upon the 1st or 2nd of April (it did fall upon the 1st), so we took the work and absences for the 31st March and 1st and 2nd April, and they showed the following:—

|          | At Work. | Absent, and Double-cut. | Sick. | Single-cut: not at full Work. | Permission. |
|----------|----------|-------------------------|-------|-------------------------------|-------------|
| March 31 | 465      | 77                      | 39    | 23                            | —           |
| April 1  | 433      | 9                       | 77    | 6                             | —           |
| April 2  | 408      | 56                      | 62    | 16                            | —           |

incontrovertible proof that on those days there was more work than holiday.

1602. It is, however, right to observe that a similar examination of other books, such as those at "Bar-le-duc" and "Bonne Mère," showed that the immigrants had holidays, and received their pay for the first three days of January: and, at the former, for two, and the latter for one day, at the Mohurrum. But these are in every way exceptions; and we have no hesitation in saying that, as a general rule, the holidays are not observed; and, if granted, the men lose at least their wages for the day, and frequently their rations also.

1603. The Returns of holidays from "La Gaieté" and elsewhere showed that men got eight days' leave after re-engagement: and it is remarkable that, in recounting the holidays given, the planters have generally claimed the holidays given upon re-engagement as holidays given by them, which they certainly are not, if they mean thereby at their expense. Rations are sometimes given for those days; but wages hardly ever. As regards re-engagements, we shall have more to say hereafter; and to show that the days which intervene between the completion of the Old engagement and re-commencing work under the New cannot be credited to the planters as holidays given by them.

1604. As regards the Mohurrum holidays, we have seen that at "La Gaieté" they are not given to the extent asserted; and with respect to the other holidays on other estates, we are equally well satisfied that they are not always given, as we have been told they were; for on one estate we were told that the men had three days at the New Year; but, on enquiry, we found that, to get the two extra days, they had worked for the whole of two Sundays: and, on looking over the books at "Riche-en-eau," we found that all hands had been working on Christmas-day 1870, which was also a Sunday. In explanation of this, Mr. Rochecoste informed us that the immigrants wanted leave on the 2nd as well as on the 1st of January, which he did not wish to give them; but consented to their having the holiday on their agreeing to work on Sunday. This explanation, however, did not satisfy us, for the men denied the fact, and the books showed that the 1st of January, being Sunday, they had been marked "Absent," and their wages had been cut on the 2nd, as on any other day.

1605. The result, therefore, is that the law of work in Mauritius only restricts labourers engaged for field labour to work for nine hours a day, except on Sundays, when they cannot be compelled to work more than two hours, but often do work more; and that, except on New Year's-day, they are not entitled to any holiday; but that, if they do get holidays, they lose their day's wages at least: sometimes more, and, frequently, their rations also.

1606. We have already said that the custom of the colony has not yet made task-work universal, although it already exists on a large scale in the fields. Nevertheless, the labourers are divided into two bands called the "Grande Bande," and the "Petite Bande," as if for the heavier or lighter tasks.

1607. The "Grande Bande" are able-bodied men, mostly getting \$4 to \$4.50 a month each.

1608. The "Petite Bande" are engaged at lower rates, and employed upon lighter work.

1609. In order to understand what the work is, both task-work and day-work, it will be advisable to give a short account of cane cultivation in Mauritius.

1610. The Island, as described by Surgeon-Major Small, in the Report of the Army Medical Department for 1866 (paragraph 442),

"is of volcanic origin, made up of lofty rugged mountains, with deep fertile valleys and long slopes of varying outline, running from the centre towards the



Terre ro-  
cheuse and  
terre franche.  
Squares.

Dessavan-  
nage.

Rélevage.

Trouage.

La Table.

Completion of  
the rélevage.

Re-planting.

Manuring.

Bouchonnage.

Répiquage.

Manuring.

Nettoyage  
and Binage.

Weeding.

Number of  
weedings.

Butée.

Other field  
work.

"sea. Its central part, a high table-land, while a small portion of flat, and, in many places, sandy soil is found along its shore, extending into its greatest area towards the northern part of the Island.

"The general nature of the soil is alluvial, formed by the detritus of volcanic rocks. It is usually of no great depth, but of great fertility."

1611. Thus the planters divide the land of the Island into "terre rocheuse" and "terre franche:" not that the latter is free from stones and boulders, except in comparison with the former; and, except in some parts of Savanne and Grand Port, both kinds of land are to be found on the same estate, and frequently in the same field, "carreau," or "square," as it is usually called, though the field is more often oblong than square.

1612. The planters generally try to give about 400 French feet to the side, and the first operation is to "dessavanner" (unsavanne) the ground; that is, to clear a space of about six feet wide, and the length of the "carreau," of all the weeds and stumps that cover the ground, and then to draw a line down the middle, on which it is intended to plant the canes. When that is done, the next step is to *rélever*, which consists in throwing all weeds and stumps, as well as all stones and boulders which they find on the line that is to be planted, on to the open space between that and the next line; that space being generally five or six, but most commonly six, feet wide. This forms the *rélevage* between the rows of canes; and, in some of the *terrain rocheux*, these *rélevages* form walls of two or four feet high. Indeed, in Grande Baie, they may be found as much as six feet high. Thus there are alternate spaces of cane-rows and *rélevage*. There are, however, exceptions to this; for we have in some places seen two rows of canes between the two *rélevages*. The distance, then, from centre to centre of the *rélevage* is about nine feet, and from centre to centre of the cane-holes five feet.

1613. After the *rélevage*, which has only been completed so far as to clear the space of ground beside it sufficiently, they begin the "Trouage," or "Holing." Holes are of various sizes; generally eighteen inches long, twelve inches deep, and eight wide; and the distance between two holes, going down the line called "La Table," varies from eighteen inches to two feet.

1614. When the holing is finished, the stones which the holers could not get up with their *picoches* (hoes) are removed with crow-bars, and thrown upon the *rélevage*, and the *rélevage* is then complete; and so it remains until it becomes necessary to replant the canes, which is done sometimes after the second cutting, generally after the third, and, now rarely, after the fourth; although there are traditions that, when the soil was virgin, there were occasionally upwards of thirty cuttings off the same roots.

1615. When the canes have to be re-planted, the *rélevage* is thrown from where it now stands on to the intermediate line where the canes had been planted, and the ground formerly covered by the *rélevage* is cleared and prepared for holing.

1616. After holing, if they manure before planting, they put eight or ten pounds of old stable manure into the hole, trample it down, and cover it with a light coat of soil; and they then plant the cuttings (consisting of "heads" with five or six new leaves), of which two, three, or sometimes four, are put into the hole according to the situation or season.

1617. In dry situations they shade the cuttings with a *bouchonne* of cane or other leaves.

1618. When the canes have sprouted, they begin the *répiquage*: that is, removing the dead plants, and those which have put out only weak and sickly shoots, and replacing them with better.

1619. If they have not manured before planting, they now manure in a trench six or eight inches deep, which they dig round the stems of the young plants.

1620. To this, in due time, succeeds the "Nettoyage," or weeding along the lines, and the "Binage," or scarifying the soil to make it more pervious to the air and water.

1621. Weeding is done either with the *pioche* (hoe) or with the *gratte*, a scraper made of a piece of old hoop-iron, bent outwards and pointed.

1622. The number of weedings depends upon the soil, the season of the year, and the kind of weeds which grow on the estate.

1623. Add to this "Moulding" (in French called *butée*), when the soil which has been dug out is raised to a certain extent, and the rest is thrown over the roots of the cane.

1624. Besides these, there are other operations: such as watering, rat-catching,

killing borers and other insects; collecting the dry trash for fuel, as well as cane-cutting, which end the labours in the field.\*

1625. Having thus ascertained the different operations to be performed, we shall be better able to appreciate the amount of the different tasks.

1626. Dr. Icerv informs us that the present practice is for the Manager to call the India and tell him he will have to do a certain task; and if the man says it is too heavy, he appeals to the master.

1627. It is only by allotting the task to the capacity of the weakest, and not of the strongest, that Dr. Icerv has been able to get his men to work regularly and willingly.

1628. The law provides that if any question shall arise as to the reasonableness of the task given, the Stipendiary Magistrate shall decide it; and that he may take the advice of one or two competent appraisers.

1629. The number of cases of complaints against the reasonableness of the tasks which have come before the Stipendiary Magistrates between 1868 and 1871, both inclusive, has been 220. Of these not one case has occurred in Grand Port; and of the 220, 78 have been decided in complainant's favour, 73 against him, and 69 have been compromised. We trust, therefore, that the case of Heerabule and others *versus* Blandin de Chalain, which we have noticed above (paragraph 1565), is an exceptional case.

1630. The daily task of "Dessavanage" is from 80 to 120 "gaulettes"† long, by 10 to 15 feet wide—generally six feet—wide. We shall generally, in future, reduce the measurements to feet.

1631. Of *rélevage*, the task varies from 600 to 1200 feet, of six feet in width.

1632. The daily task of holing (*trouage*) differs even more, as all holes are not made of the same size. Mr. Poulin last year had holes made two and a half (2½) feet long, two feet deep, and eight inches broad, and considered himself paid for the day's work if the men gave thirty holes. Some gave as many as forty. The utmost he got was forty-seven; but some did only six or seven. In previous years the holes on this estate were of the more usual size—a foot long, by eight inches deep and six inches wide; of which, when Mr. Poulin took the estate in 1860, he used to get but seventy holes a day, while the task last year varied from a hundred to a hundred and fifty. In a square on the sea-shore they gave two hundred and fifty holes, and the men finished their work by eleven o'clock.

1633. While Mr. Antelme on one estate, "Stanley," gives only eighty holes, eighteen inches long by a foot deep and eight inches wide, as his daily task, on the other, Ebène, he gives from 150 to 200 holes of the same size.

1634. So, on "Bon Air," the holes are two feet long by eight inches wide and deep, and from 80 to 150 is the task, while at *Espérance* 80 to 140 is the extreme task with holes of the same size.

1635. At "Hewetson" in Flacq, the task varies from 100 or 160 on bad ground to 180 on good ground; while at Bar-le-Duc, an estate very free from stones, 225 to 300 is the daily task, usually 270, finished by 2 p.m.

1636. At "Antoinette" the task is given at 400 feet, while the holes are a foot long; which would give 400 holes as the task; and at "Mon Espoir," with holes two feet long by eight inches deep and wide, 150 holes, or 300 feet, are given as the task.

1637. So that, although it may be said that the daily task consists of from 80 to 150 holes in bad soil, and of from 150 to 200, or even 300, in good, before any task can be fixed, it will be necessary to determine also what the size of the holes is to be. There need be no great difficulty in doing this; for, though it may be easier to dig one hole two feet long than two holes one foot long each, the difference in the labour would be well known both to the workmen and the manager.

1638. We are informed that at Bar-le-duc eleven men are required to hole an acre of ground. The task there is usually 270 holes; so that the acre would contain 2970.

1639. The number of holes in the acre must differ, not only according to the size of the holes, but also to the distance they are apart: and we find the numbers vary on different estates from 2000 and 2500 to 3000, and even to 4500. But the number of

\* For the greater part of this information we are indebted to a 'Mémoire' by the Honourable Cécilourt Antelme, 'Sur la Culture de la Canne à Sucre à l'Île Maurice,' Bordeaux, 1865, as well as for the tasks on his estate, "Stanley and Ebène," which will be given below. We are also indebted to Mr. William Telfair, a sharer in *Bon Air* and *Espérance*, for the tasks on those estates. We have selected these four estates; either being of what is called two estates belonging to the same proprietor; one of each being what is called "Franche," and the other of each being what is called "Rocheuse" land.

† The *gaulette*, which is used for all measurements of length in the field, is a rod 10 feet long.

holes in the acre has no effect upon the labourer's task, though it might affect the amount of sugar produced. It, however, serves us to show the enormous profits made by job contractors.

1640. From the Estates' Returns we find that the lowest rate paid to job contractors for holing is \$7 an acre; while the highest amounts to the enormous sum of \$35 an acre.

1641. Assuming that eleven men, as above stated, are required to hole an acre of ground in a day, and that they receive the high wages of \$4 a month, their labour would cost

|                                                                                                     |   |    |
|-----------------------------------------------------------------------------------------------------|---|----|
| Add to that 10 cents each per diem for their rations, the rate at which they are charged at "Cluny" | 1 | 10 |
| Lodging, at the rate estimated by Mr. Pitot, 6 cents a day                                          | 0 | 66 |
| Medicine and treatment, on the same authority                                                       | 0 | 17 |

Making altogether \$3 69

for holing an acre of ground, and rather more than one-half of the lowest charge made by a job contractor.

1642. "Planting," we are informed, is very seldom done by task, though we have found at "Hewetson," "Espérance," and "Bon Air," that planting is also task-work. At the first estate 300 holes is the task, while 250 is the task at "Bon Air," and from 170 to 200 only at "Espérance," owing to the difference of the soil.

1643. Mr. Wiehé, however, thinks that a man might easily plant from 300 to 400 holes a day, with the heads carried to the edge of the square, and a little boy to drop three or four into the hole at once.

1644. It is a longer task when the man works alone, and throws the canes into the holes, and then comes back and plants them; and there is a difference in the task whether planting is done with a hoe or a crow-bar.

1645. "Nettoyage" (weeding) is not generally task-work. It depends much upon the state of the soil, and how often the weeding is repeated. Mr. Wiehé thinks that from 400 to 600 feet would be a fair task, though he has known the task to be 1000 feet, and even 1200.

1646. Thrashing is generally objected to in the colony, as incapacitating the canes from fully developing several of their joints, and is not done on the majority of the estates. It is not done at all on some, and on others is merely done, from the fancy of the manager, upon two or three rows on the outside: for when the straw is taken out, it makes weeding more difficult; as, when the canes are cut, a careful use of the knife strips off the straw easily, and, if taken to the mill together, some straw falls off by the way, so that two canes look as if they had been thrashed.

1647. At "Espérance" the task of weeding varies from 3500 to only 600 feet; at "Bon Air," from 700 to 1200 feet; at "Hewetson," from 600 to 1200; and on "Stanley" and "Ebène" it is generally 800 feet, but varies from 500 to 1200.

1648. Manuring is not generally done by task-work; but at "Bon Air" the task is from 300 to 350 holes; while at "Espérance" it is only from 225 to 275.

1649. The task in cane-cutting varies very much. Some canes yield 5000 lbs. of sugar to an acre, some only 1500 lbs.: so that the task depends entirely upon the quantity of canes to be cut.

1650. At present, Dr. Icery informs us, the mean production of Mauritius may be valued at 2750 to 3000 lbs. of sugar to an acre, which, with an average saccharine richness of 109 lbs. of sugar to 1000 lbs. of canes, gives in round numbers 27,500 lbs. of canes to the acre.

1651. At "Bon Air" and "Espérance" the tasks are the same—from 600 to 900 feet. At "Stanley and Ebène" it varies from 1000 to 1300 feet; but then the task differs if the men who cut the canes take them out of the square themselves, or only leave them where they have cut them.

1652. The task of cane-cutting is not always measured by the "gaulettes." At "Valetta" the task is measured by the cart. A large cart, or two small cart-loads, are there the day's task in cane-cutting.

1653. The last task in the field is carting. Both the men and animals are concerned: and we find that from four to six trips a day is the task at "Stanley and Ebène;" and from five to ten trips the task at "Bon Air" and "Espérance." To cultivate a field at so great a distance from the mill that mules cannot make more than three trips a day with a cartload of canes, is not considered remunerative.

1654. We come now to the work at the Mill, or Sugar-House. This, as we have already mentioned, is not task-work; though there is one operation in the mill, the last, which is done by the task, namely, filling and marking\* the sugar-bags. Whenever that is done, thirty bags a day appear to be the task for a man. In Demerara it was found that work in the mill could be done by task, the clarifiers of cane-juice, or "boxes," as they are there called, "bags," as they are called in Mauritius, being the measure of the task: but it is possible, for the very objections urged in the Commissioners' Report against the plan at Demerara, that Dr. Icery might hold it impracticable for Mauritius.

1655. Mill-work, however, is the most popular; for we hear of men who are constant absentees during the *entre coupe*, but as soon as the *coupe* commences present themselves at the mill; and are never absent so long as the *coupe* lasts. These are mostly married men, and the reason we have heard assigned for their preferring mill-work to any other is, because their wives are not obliged to leave the house and come after them with their food, in consequence of their being able to make arrangements among themselves for going to their houses during the intervals of work, and taking their meals, and likewise a short rest, at home.

1656. The work performed in the mill is, first, cane-carrying, which is, with the exception of one estate, done entirely by men, and consists in carrying the canes from the place where they are thrown out of the cart, in the mill-yard, to the feeder of the mill. It is the hardest work, but still the most popular; for there are breaks in the work during which the labourers can rest.

1657. As being the hardest work, we obtained from thirty estates the following information, with a view to satisfying ourselves, as nearly as we could, of the amount there was of labour in cane-carrying:—

1st. The quantity of sugar made on the estate in the last year.

2ndly. The number of days the *coupe* lasted.

3rdly. The number of men each day employed in carrying canes to the mill.

1658. Having also ascertained from Dr. Icery, to whom we are indebted for much scientific information regarding sugar and the manufacture of it, that the yields of sugar might very approximately be represented by a seventh of the weight of the canes manipulated, we assumed for the purpose of our calculation that figure; and finding that 35 lbs. was the average load of canes a man carried to the mill, the distance at which they were thrown from the mill being estimated at 150 feet, including a lift of five feet, Mr. Robert Mitchell, the Assistant-Protector of Immigrants, drew up for us the Table given in the Appendix. This shows that, on an average, each man carried nearly 186 loads a day during the crop, or about 16 loads an hour, supposing the working hours were twelve; and that during the "*coupe*" a man carrying canes travelled from 298 to 1611 miles. And, lastly, that he carried from 110 to 591 tons English of canes during that time.

1659. Of the rest, the stokers are supposed to have very hard work to perform; but Mr. Antelme informs us that, on his estate, the labourers ask to be re-employed as stokers every year.

1660. There is no hard work at the mill. The men there are employed in feeding the mill; taking the megass from the rollers; attending the juice from the mill to the battery; looking after, and oiling the mill; carrying the megass to the drying-yard; drying the megass, and putting it into the sheds; collecting trash for fuel; carrying megass or trash to the mouth of the furnace; as foremen stokers; at the battery; assistants at the vacuum pan and "*triple effet*;" and at the turbines (centrifugal machines).

All these operations speak for themselves, and require no further explanation.

1661. The difficulties the men have to contend with in the mill are the long hours, and, probably, the punctuality which is required; for Mr. Antelme informs us that, when they have been well-trained to the work, during crop-time, they come all together exactly at the proper moment; whereas, when they work in the field, they sometimes come in bands, ten or fifteen minutes, or even half an hour, after each other.

1662. Besides the men who work in the fields and the sugar-house, there are yet

\* Ordinance No. 1 of 1837 and No. 44 of 1831 require that every bag of sugar, before it leaves the establishment in which it is manufactured, shall "bear in conspicuous characters the name of the establishment and of the proprietor of the sugar." This is generally branded on the bag.



Character of mill-work.

others who seldom or never work by task: such as grooms, carters, assistants to the blacksmith and to the carpenter, gardeners, masons, stone-cutters and breakers, and wood-cutters, who must all be *grande bande* men; but for mill work, the active and intelligent, whether in *grande bande* or *petite bande*, are required; while thatchers, rat-catchers, and guardians are seldom fit for anything else.

Roads.

1663. Repairing the roads is done by task-work; 20 baskets of broken metal being the task. The Cantonniers have a less heavy task in breaking stones on the roads, to fill into ruts or crevices.

Hours of work.

1664. We have found much difficulty in fixing the hour at which work commences generally; the time of commencing work at the mill is more easily ascertained. The cane-carriers usually begin work between 4 and 5 o'clock in the morning, and the stokers and engineers must have been at work before them. The cane-carriers stop work as soon as the *bee*, or cistern, is full; and they then have half an hour's, or three-quarters of an hour's, rest, and arrange amongst themselves for breakfast-time. With these intervals of rest during the day, the mill stops at about 5 or 6 P.M.

Time of beginning work.

1665. For ordinary work, Mr. Hardy informs us that daylight, when the men can see to work, is the hour at which they commence. Mr. Wiché informs us that, for many years past, and especially of late years, the roll-call has been made when it has been light enough to see a man's face; but there is no fixed plan of collecting or taking the number of the men. Dr. Icery, in his pamphlet, as we have mentioned before, says work begins between 6 and 7 o'clock; a little sooner in summer, and a little later in winter.

1666. There is a bell on almost every estate, Mr. Wiché informs us, that rings sometimes one, sometimes two hours, before the men come out. It rings on some estates even before 4 A.M. The men come to roll-call without reference to the bell, which rings at the same hour as it has done from time immemorial.

Muster.

1667. On some estates they muster at daybreak; on others, before and after breakfast, at 9 A.M. and 11 A.M.; on others, at different hours during the day; on others, at 7 A.M. and 3 P.M.; on others in the morning in the field, and in the evening in the yard; and on others, again, at 5 A.M. and 5 P.M.

Length of time at work.

1668. The generality, however, muster at daybreak; and if they begin work at half-past 6, and the labourer has finished his work by 1 o'clock (it can only be task-work that he can finish in that time), the master has had a good day's work out of him; for he has done 6½ hours' work, while 7½ hours (Sundays excepted) was all the Apprentices were required to perform, as we have already noticed, in 1838; and thus, when we are told the men are generally back in the camp by 11, 12, 1, or 2 o'clock, we must recollect that these are men employed upon task-work, and who have finished all that was required of them; and that they may have come to work at 6 o'clock, and worked steadily for 8 hours; although, at the same time, we must not forget what Dr. Icery and

Strong men.

Mr. Antelme have told us: that it is difficult to get a man to work willingly upon a task which he has not voluntarily accepted; and it is, therefore, very possible that the man who has finished his work at 11 o'clock is a first-rate workman, and has done, in five hours, a task which another could not master in eight. Nevertheless, we must not imagine that what Dr. Icery means, when he says—that it is only by allotting the task to the capacity of the weakest, and not of the strongest—that he has been able to get his men to work regularly and willingly; that the task he fixes is what the weakest can manage as a fair day's work, though it might be child's play to the powerful men of the band.

Dr. Icery's way of allotting tasks.

1669. It is good policy in the planters, if a man has a repugnance to any sort of work, to find him something else to do; while they must guard themselves against the not uncommon practice among the labourers, when set upon new work, of concealing their powers, for fear, when the work shall be gauged, they might be found able to do more than they like. In this way men generally work listlessly when set to a task of new work or upon new ground; and we are afraid, for much the same reason, that the plan adopted by Mr. Cayeux, the proprietor and manager of "Constance," in Pam-

Appendix O.  
Captain Bluet's Reports.  
"Constance."

1670. However, this work, which begins at 5 or 6 A.M., ought, as far as the field-labourers are concerned, to end at 3 or 4 P.M. respectively. Dr. Icery, in his pamphlet, says that, beginning at 6 or 7 o'clock, it terminates at 4 or 5, which is the exact ten hours, including breakfast-time.

Protector's Report of Visits to Estates, 1872, pp. 87, 98, and 106.  
Question 6592.

1671. Nevertheless there are estates where they begin work at 6 o'clock and finish at 4.30 or 5 P.M.; and we know that, during crop-time, in the mill on Mr. Antelme's estate, the men carrying canes begin work at 4 or 5 A.M., and stop between 5 and 6 P.M.; but then the firemen must have been at work long before the cane-carriers are required.

Long hours at the mill.

1672. This leads us to notice the want of the Mill-book, which we have sought for in vain on all estates, except at "Hewetson;" and there we found that the mill commenced work at 2 or 3 A.M., and closed at 6 P.M.; that the hours

Hours at "Hewetson."

At the Mill, varied from 10 to 13.

" " Batteries, " 12 to 14.

" " Turbines, " 6 to 15.

" " Triple effect, " 14 to 19.

" " Vacuum pan, " 12 to 17.

The "gratification" for this extra work was shown also to be 1½ lbs. extra of rice, which, with rice at 3 cents a lb., would amount to 31½ cents for the week of 6 days, or 126 cents a month of four weeks.

1673. In the above we have referred only to immigrants under contract, and, consequently, to the men only. Yet, although the women never enter into contracts, they do work on some estates at weeding, cleaning, splitting wood, and cutting withes.

Work of women.

1674. The wages they receive are generally 6d. a day and 1½ lbs. of rice. Sometimes they take \$1.75 or \$2 per mensem, and their rations; but that is very rare, as the women mostly insist upon daily, or at latest weekly, payments; and Mr. Beyts when, in 1869, accounting for the number of women employed on estates in 1868 having fallen from 1014 to 618, attributed it, not to greater reluctance shown by them to work, but to the planters being less able to employ them, as—

Wages given to women. They insist upon short payments.

"the daily or weekly payments, which women generally require, raise a hindrance to their being employed in times when the planters do not readily find pecuniary assistance."

1675. We have now seen the amount of work the immigrants do. The next thing to consider is, how the planters perform their part: the wages and rations they pay, the lodgings they furnish, and the medical care they provide.

Plan of further inquiry.

1676. First, as regards wages: We have already remarked that the labourers on an estate are divided into the *Grande* and *Petite Bande*. This, on some estates, not only denotes their capacity for work, but also their wages; for, though Dr. Icery has shown us that reducing from the *Grande* to the *Petite Bande* does not necessarily involve reduction of wages, we have had ample proof that there are estates on which the reduction from one band to the other means a reduction of wages, as well as an assignment to lighter work.

Change of band means change of wages.

Reduction of wages by change of band.

1677. Thus, at "Riche-en-eau," we found Kistamah, a carter, employed at \$4.50 per diem, reduced to \$2.50, and made a guardian, said to be done at his own request, because he had been long in hospital, and was reduced in strength. There certainly was no proof that he had been in hospital at all; and we were consequently not inclined to place much credit in the assertion that it had been done with the man's consent. It certainly was not done before the Magistrate; and Mr. Watson informs us that it never is, and that if a man, engaged on higher wages, should of his own motion wish to go to another band, he would be changed from the *Grande* to the *Petite Bande*, and his wages diminished: it is always done by mutual consent. So, also, at "Antoinette," Panchoo was reduced from \$2.25 to \$1.50, as he required light work. He certainly had been absent for 37 days, and been sick for 11, when on higher pay; but he had been neither sick nor absent for a single day during the three months he had been working on reduced pay.

Case of Kistamah of "Riche-en-eau."

Panchoo of "Antoinette."

Again, at "Beauchamp," in Flacq, Tubuluck found the work of the *grande bande* too heavy, and was reduced from \$3.50 to \$2.50.

Tubuluck of "Beauchamp."

So, on "Mon Trésor," in Grand Port, we found "Seechuru," with wages in the pay-book of \$3.50 per mensem, who was marked *M* throughout the month and received \$1.75 only at the end of the month. It proved, on inquiry, that this man in September had his leg crushed by a cart, and now, being only fit for light work, he was employed in stitching sugar-bags, and receiving half his wages only. There were several others on this estate, whose wages had been reduced by one-half, in consequence of their being employed in the *Petite Bande* instead of in the *Grande Bande*.

Seechuru of "Mon Trésor."

1678. Mr. deBelloguet informs us that formerly, when Mr. Lablache was Stipendiary

Procedure  
when wages  
reduced.

Magistrate of Rivière du Rempart, an Indian wished to receive lower wages, that he might be put to lighter work, it was not necessary to go before the Magistrate. The man stated solemnly, in presence of his Sirdar and of the Chief Employé,\* that he wished to have reduced wages that he might have lighter work, and that was sufficient for the purpose; but the present Magistrate requires the parties to come before him, if the wages are to be reduced. Of this, however, we have failed to find any instances; while Mr. Wiehé tells us that when he reduced wages, he used to do so in the presence of witnesses, and at the man's accord; and the Surveyor-General informs us that, though he knows that among the labourers employed by Government, a Sirdar may be reduced to a road labourer; he only knows it is done, but he does not know whether the man is taken before a Magistrate for the purpose or not.

Irregular  
practice.

1679. All these reductions are clearly a breach of covenant. It never forms any part of the contract that the man shall do any particular work; and, consequently, if he cannot from ill-health, or any other sufficient reason, do the work to which he is set, his master is bound to find lighter work for him. If, however, the master wants to reduce his wages, he should release the labourer from his contract; he cannot, under the contract as it stands, pay him lower wages than he has agreed to give.

Planter saves  
money at  
expense of  
public re-  
venue.

1680. Nor is the labourer the only sufferer by the present mode of altering the contract; the Government are losers also; and there is no power given to the Order in Council, tract; the Government are losers also; and there is no power given to the 7th September 1838. Chap. II. planter or the Magistrate to alter the terms of the contract during the period of engagement, except when the servant expressly consents that wages stipulated for in money shall be paid in kind, or stipulated for in kind shall be paid in money. The object might be attained, as mentioned above, by the planter releasing the immigrant from his engagement and the immigrant re-engaging; but it cannot be done by the master and servant of their own will and pleasure; yet, by doing this, the planter 'saves' 1s. 6d., and defrauds the Revenue of that amount; which is due, under Regulation 78 under Ordinance 31 of 1869. Appendix F. 31. 1867, upon release and re-engagement.

Annual in-  
crease of one  
shilling upon  
monthly  
wages.

Case of Kar-  
rimbuccus and  
Munsoop.

1681. The contracts of engagement with New immigrants generally stipulate for an increase of one shilling per mensem in each year of the contract. This, however, we do not find universally observed; for, on his visit to the Estate "Schönfeld," to enquire into the case of Karrimbuccus and Munsoop, Mr. Mitchell found that the contract with these men—part of a lot of seventy Indians who had come from Réunion, and indentured on "Schönfeld" in September 1867, with a covenant of an increase of wages of 25 cents monthly every year—had not been observed in October 1868, their wages not having been increased till April 1869. Moreover, though in October 1870 the wages should have been increased to \$2.50, and in October 1871 to \$2.75, they remained in March 1872 at \$2.25.

Desertions  
where wages  
not increased.

1682. Besides these two men, eleven others had not received the increased amount regularly, and therefore we were not surprised to find that of this gang of seventy, two had deserted in 1868, and forty-five in 1869.

Reductions  
with consent.

1683. So also on the same estate, in the contracts of service for five years with four immigrants, we find a note:

"consents to have his wages reduced to 4 rupees, and to receive no increment. "10th April 1872."

The manager explained that these people were unable to do work to the value of the increased allowance, and that he consequently took them before the Stipendiary Magistrate at "Poudre d'Or," who made the note upon the copy of the contract, and endorsed upon the immigrants' tickets, in pencil, that they were to be reduced to four rupees, and were to work in the yard. There were no dates given for this, but Mr. Mitchell's visits to estates. No. 9, page 35. they were all written and initialed "C. F.," the initials of the Stipendiary Magistrate.

No annual  
increase in  
wages  
although  
covenanted.  
Hewetson.

1684. So on the Estate of "Hewetson" in Flacq, Mr. Seed discovered seventy New immigrants in the fifth year of their engagement, who had come from Réunion and engaged on the estate, as the Accountant informed him, without yearly increment. On asking to see the original contract he was informed that it was kept in town and, applying at the Police Magistrate's Office in Port Louis, he saw the original contract, which set forth a yearly increase of \$25 upon their monthly wages during their term of engagement. These men had occasionally received some increase to their pay, which the Accountant explained had been done by order of his Superior. However, the increase had not been general, nor to the full extent it ought to have been.

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\* Chief Employé, the title given to the manager on estates on which there is a resident proprietor.