Wages should be paid monthly.

1685. As the law gives no power to alter the wages agreed upon, and the engagement is that the wages shall be paid monthly, it would appear that nothing could be more simple than the payment of wages; but the law has complicated the matter, and practice has involved it still further.

1686. In the first place, the contract is that the wages shall be paid monthly.* This is a part of the contract that we may say has never been observed; though Dr. Icery, in his pamphlet, says that

Appendix D 25, pp. 18 and 19.

Covenant for monthly payments not observed.

> "the stipulations of the contracts of engagement are much more rigorously observed "by the employers than by the employed;"

having before said

> "whenever he" (the immigrant) "presents himself to work he must be paid "and fed."

Magistrates' suggestions against wages running into arrear.

1687. So long ago as 1853 (see next Chapter, paragraph 1966), we find the Magistrate of Savanne attributing desertions to the irregular payments of wages; and in 1861 we find Mr. de Boucherville urging that it would be advisable that the Protector of Immigrants or Stipendiary Magistrate should be empowered, on their visits to estates, to explain to the labourers that they must never allow their wages to be in arrear *for more than a year*, as, in doing so, they would be exposed to lose what money might be due to them beyond that period; while, in his Report upon Ordinance 16 of 1862, the Procureur-General said that

Minutes of Council, 7th December 1861, page 20.

The Procureur-General's opinion in 1862, as to too common practice of allowing wages to be in arrears.

> "the Ordinance anxiously provided that no employer should be entitled to have "his labourers punished for unlawful absence, if he had not himself "performed his obligations under the contract—a provision just and "equitable in principle, and which will tend to check the present too "common practice of allowing wages of Indian labourers to run into arrear."

Contracts. Appendix I. para. 41.

His opinion in 1859.

1688. Still, in 1859, the Procureur-General did not think that in every case when wages were three months in arrear, the Magistrate was bound to annul the contract; nor even, if the immigrant did sue for his wages, so long as the master paid the money into Court; and the Magistrate had only to pay it to the immigrant, not to award it.

Letter, 8th June 1859, to stipendiary magistrate of Rivière du Rempart.

Wages in arrear.

1689. In the Appendix will be found detailed returns showing the number of months' wages in arrears at the time of the Stipendiary Magistrates' half-yearly visits from 1865 to 1871.

Appendix E, 9.

1690. In the returns of the last visit of 1868 we find

	2	estates	8	months	in arrears
	2	,,	7	,,	,, ,,
	2	,,	6	,,	,, ,,
	7	,,	5	,,	,, ,,
and	15	,,	4	,,	,, ,,

1868.

Confidential circular addressed by the Procureur-General to the Stipendiary Magistrates regarding non-payment of wages. Nov. 1868.

so that we are not surprised at finding that, on the 13th November of the same year (1868), the Acting Procureur-General (himself having an interest in the estate "Ile d'Ambre" in Rivière du Rempart) issued a Confidential Circular to all the Stipendiary Magistrates, telling them that

> "the embarrassed and difficult position in which most of the planters have been "placed by the disastrous effect of the hurricane, by the deficiency the crop, and "by the financial difficulties from which the colony is now suffering, makes it "necessary that you should, the occasion presenting itself, interpose amicably "between masters and labourers to whom wages are due, and exert your influence "over the latter to induce them, whenever you see a prospect of their being ulti-"mately paid, to carry on the cultivation of the estates upon which they are "engaged.
>
> "When bands of labourers make complaint to you that their wages have not "been paid, and when you have reason to believe that it is not possible for the "master to obtain money for the payment of the labourers, I advise you to use your "utmost endeavours within the limits of your duty, and consistently with the real

* This statement requires some qualification. The Order in Council of 7th September 1838 (Chap. II. sec. 10) provides that the engagements should be for weekly, or, at the utmost, monthly, payment of wages; and the contract with immigrants alloted in Mauritius (Government Notice No. 166 of 11th November 1868, Article 13) expressly covenants that the "wages shall be paid monthly." But the contract made with immigrants specially engaged in India (Ordinance No. 16 of 1862, Article 6) contains no covenant as to the time of the payment of wages; it merely covenants that they shall receive the wages opposite their respective names, which wages are fixed at so much per month.

1868. Confidential circular addressed by the Procureur-General to the Stipendiary Magistrates regarding non-payment of wages. Nov. 1868.

" interests of the latter, to reconcile the parties, and to obtain from the labourers " that they should not press their claims rigorously.

" You will not fail, at the same time, to impress upon planters the necessity of " procuring money, so as to be able to give some satisfaction to their labourers, by " paying them now and then instalments of the sums owed to them.

" I beg further to call your attention to the possibility that, upon some estates " the Indians may be left without the daily rations. If any complaint is brought " before you in such a case, I advise you at once to seize the mules, carts, and oxen, " of the estate where the Indian labourers have received no food, and to take " measures to have the Indians fed, until you have sold the effects seized.

" You will not fail if any such case happens, or in any case where bands of " Indians claim to have their engagements broken, to report to me at once, in detail, " upon the subject, and I shall give you such further directions as each particular " case may require."

As if the Procureur-General, and not the Stipendiary Magistrate, was the person to whom the Indians had to look as their Protector.

1691. Improvements began in 1869; but still, in November of that year, two hundred labourers left "L'Espérance" in Pamplemousses having their wages three months and a half in arrears, and refused to accept one month's wages each on account, or to listen to the advice of the police that one or two should remain to lodge their complaint and the rest should return to work. This the Inspector of Police regretted,

The "L'Espérance" case.

" on account of the loss which must arise from the stoppage of work when the " canes are ready for manipulation."

Wages in arrear.

The men, however, got two months' wages paid them a few days after, and remained contentedly at their work.

"Virginia."—1869.

1692. In the April following, between 400 and 500 Indians left the "Virginia" Estate in Grand Port, and proceeded to Mahébourg, as the Magistrate says, without any justifiable cause.

1693. It appeared that, on the 3rd of the month, they had been called together for the purpose of being paid a month's wages, with an apology that the pay-sheet was not yet ready for the other month; but that they would be paid that month's wages on the 8th. The first man called refused to receive one month's wages, as wages were due to them for December, January, February, and March; and after him all the men refused.

1694. Mr. Chevreau attended the Magistrate's Court with the Indians, and explained that the pay-sheet for the second month had been completed, and that he was ready to pay the men two months' wages; but they refused to accept it, and sat down in front of the Court, and put an entire stop to the proceedings: how is not explained.

1695. The Magistrate ordered the men to return to the estate, which they, however, refused to do, or to move from where they were; whereupon he then ordered the police to remove them, but they set the police at defiance. The Magistrate then called upon the military for assistance, and when the Indians heard of that, they returned to the estate, where they received their two months' wages.

Discernment of the Magistrate.

1696. On the Magistrate's visiting "Virginia," he found that there was great ill feeling existing on the estate, which he, of course, attributed to dissatisfaction at a change of managers, and not to the wages having been four months, and still being two months, in arrears; for, as the Indians were not justified in coming to Mahébourg, because their wages were four months in arrears, the Magistrate could never have thought that trifle a sufficient reason for all the workmen on an estate being dissatisfied.

1870.

1697. In June 1870, however, things had so far improved, that four months of arrears was the highest amount due; and there were then only seven estates so long in arrear. But, at the end of the year, there was

One estate	5 months	in arrear.
Five estates were	4 ,,	,, ; and
Twenty-four	3 ,,	,, .

1871.

1698. In 1871, there were only

Nine estates	3 months	in arrear.
Four ,,	4 ,,	,, ; and
One estate	6 ,,	,, .

1699. But these Returns, we must recollect, show only the arrears at the date of the Magistrate's visits to each estate; they do not show the amount of arrears throughout the year.

19690

Effect of the Procureur-General's circular of the 13th November, 1868.

1700. Return No. 4 shows the number of suits brought between 1864 and 1867, by immigrants employed on estates, for recovery of wages, for non-delivery of rations or for the imperfect delivery of rations, for refusal of medical care, and for non-delivery of tickets on expiration of contracts. We therein see the effects of the Procureur-General's Confidential Circular of the 13th November 1868, given above.

Appendix C. No. 4.

Arrears, 1867 to 1869.

1701. In the previous year, 1867, there had been 7549 complaints made of non-payment of wages, of which 7009 had been decided for the plaintiffs. In the following year (1868 itself) the number of complaints rose to 12,960, all of which, except 258, were decided in favour of the plaintiffs. But, whether it was the effect of the 2nd paragraph of the Procureur-General's Confidential Circular of the 13th November of that year, or not, it is certain that in 1869 the complaints for wages were reduced to nearly one-half, the number being 6736 only; and all of these, except 149, were decided in the plaintiffs' favour.

Decrease in suits for wages.

1702. Since that time suits for wages have continued to decrease.

Suits for non-delivery of rations.

1703. In the 4th paragraph of his Circular, the Procureur-General calls attention to the chance of some labourers being left without their rations, and the Return is even more remarkable upon that point. In 1867 there were 360 suits filed regarding rations, and 232 decided in favour of plaintiffs. In 1868, there were 1914 suits filed for rations, and 1612 decided in plaintiffs' favour; but, in the following year, the Confidential Circular having been in the meantime issued, there were only 260 suits brought, while of these only 19 were decided in the plaintiffs' favour.

Proof of non-delivery of rations.

1704. Proof of the delivery of rations is generally oral evidence only; and when that is the case, the balance of credit generally preponderates in favour of the planter.

Dr. Icery's apology for delayed payments.

1705. Dr. Icery states that the mode adopted for the payment of wages is not the same on all sugar estates: that some planters pay every month; others, every two months; and a few* at longer intervals; and, on the next page, he says the custom generally established in Mauritius has been to retain on each pay-day one month of the wages due. The reason of the custom in question was the hope of diminishing vagrancy; as the deserter generally went off, stealing his tools and perhaps other things, but left behind him the wages due; and he apologises for the practice by saying that

Pamphlet, p. 21, Appendix D, 25.

" this system, sanctioned by long custom, had never been a matter of complaint on " the part of the immigrant."

1706. It is possible that the custom had obtained so long that the immigrants had forgotten that their employers had engaged to pay their wages monthly, or that they may have thought that paying monthly meant paying some wages every month, though not those for the month last past. With reference to this point, however, our inquiries, and the table given in the Appendix above, have satisfied us that there are very few estates which have paid the wages every month. We have found, however, that some, perhaps the majority, have paid their wages for January late in March; and so on throughout the year: while many others pay January and February in April; and we are perfectly satisfied that the planters have been the first to break faith with the immigrant, because, as a general rule, they have never paid the latter their wages monthly according to what is generally understood to be the agreement.

1707. Neither is there any general rule with regard to the way in which the wages are paid.

Manner of paying.

1708. From the Estates' Returns we find that the majority of proprietors state that they pay each man separately. There are some, however, who pay to the Sirdars, either at the request of the Coolie or in the event of his absence. Others pay to the wives or concubines of the labourers. There is, however, no fixed rule as to who shall receive the wages on behalf of a labourer in the event of his being absent on pay-day.

"Tamarin Falls."

1709. At "Tamarin Falls" Estate, in Plaines Wilhems, an estate of which we had heard great commendation of the way in which Mr. and Mrs. Wilson treat their labourers, we found that "Imanbuccus" never hardly came with his comrades during the last two years he was on the estate to the pay-table; that he generally came when no one was present, apparently from fear of his creditors; and that then Mr. Wilson, who always pays the men himself, refers the man to the Accountant for a memorandum of the wages due to him, and on his bringing the memorandum, the money due is paid. But this, we believe, is a solitary case; and that there are few

Appendix B. "Tamarin Falls."

* *All* in the district of Grand Port.

Payment of wages.

other proprietors who are so careful that the wages are always paid to the labourer himself.

Mr. de Belleguet's payments.

1710. With regard to the periods of payment, Mr. de Belleguet tells us that formerly he paid the wages every month; but finding that disorders occurred after every pay-day—that the work was not regularly performed—he had determined upon paying every three months; and had done so regularly for sixteen years, on the 1st Sunday of every third month, until lately, when the Protector of Immigrants had told him that it was the desire of Government that wages should be paid every month, and since then he has paid every month.

Question 6776.

Payments on "La Rosa."

1711. Mr. Moncamp tells us that at "La Rosa," whither he went as Manager in 1866, wages were paid every two months; but since 1869 or 1870, the men have been paid every three months; and, on one occasion, four months' wages were due to them before they were paid.

Question 9431.

Mr. Wiehé's opinion.

1712. Mr. Wiehé thinks it a wise and good plan to keep wages one month in arrear for then there is always some money from which to deduct for the men's absences.

Question 9744.

Opinion of Mr. Naz.

1713. Mr. Naz appears to attribute the delays in the payment of wages to embarrassment arising from a reduced crop caused by hurricane or drought. He does not appear to contemplate an insolvent or ill-managed estate; which ought, after reasonable delays, to be compelled to pay at all risks; as he suggests that credit being indispensable to the generality of planters, payment of wages may be deferred, to allow the planter to meet engagements which he thinks not less urgent.

Vol. II. Question 144.

Opinion of the Commissioners.

1714. We cannot agree in the idea that any engagements can be so urgent as those incurred to a labourer who is bound to work, and is punished if he does not, and who only by payment to him of his wages is removed from a worse state than positive slavery.

Weekly payments.

1715. Mr. Currie and Mr. Mercer think weekly payments a financial impossibility as there would not be sufficient small coin in the island available for that purpose.

Questions 11,185, 15,531.

Currency of Mauritius.

1716. We have been informed that farthings and half-farthings were coined in England expressly for Mauritius; but at the present time we find that all the latter have disappeared, and farthings are but rarely met with. The small change current are florins and rupees, shillings and half-rupees, sixpenny-pieces and quarter-rupees; fourpenny, threepenny, and three-halfpenny pieces; marquees or three-sous pieces, current for three farthings, and which were coined in 1779 for the Islands of France (Mauritius) and Bourbon, and are still in common use, though many of them are worn perfectly smooth. English pence and halfpence are still to be met with.

Instance of labourer suffering from want of small coins.

1717. But on a very well-conducted estate we find that, in 1868, the Administrator, on the 15th September, when paying the men their wages, had to pay one of them fourteen cents for two months; but that, in consequence of having no small change he paid the labourer only sixpence, which he estimated at twelve and a half cents, leaving the other three-halfpence unpaid.

Post mortem returns. Moka, 122.

Not duty of Government to import small coins.

1718. This, however, in our opinion, is a subject that in no way concerns the Government as an agent. It is no more the function of the Government to import specie into Mauritius for public use than it is to import rice. In this, as in all other commercial transactions, the supply will be found fully equal to the demand, without the intervention of the State. The only duty the Government has, in our opinion, is to insist upon the payment of wages at whatever intervals they may think right, leaving it to the proprietors of estates to make their own arrangements for procuring the necessary means for doing so.

Discount from the dollar. Case at "Stanley."

1719. We found a charge at "Stanley" every week of 12½ cents "Pour les changes des monnaies."

Appendix B. Visits to estates, "Stanley."

This was explained to be a charge against the estate for the weekly payments on account of the extra pay given during the *coupe*; in consequence of the Accountant receiving Bank-notes, which he had to change at Rose Hill, the nearest village, where he got only 24 cents for a shilling, instead of 25 cents; one dollar thus being worth 96 cents only, instead of 100.

Alleged preference of Indians for deferred payments.

1720. One very common reason put forward to us for not paying wages monthly need only be noticed on account of the frequency with which it has been repeated: namely, that the Indians themselves preferred the deferred payments, as it gives them a large sum instead of a small one to receive. (See paragraphs 1886 and following.)

1721. The argument would be worth some consideration, if it were founded on fact; but the fact is that an immigrant, though his wages may not be paid for three months, seldom receives more than one month's wages at a time.

Enforcement of judgment. Order in Council of 1838.

1722. We must here observe that the loss of wages mentioned by Sir Arthur Gordon in his despatch to Lord Kimberley, No. 138, of the 2nd of September 1871, is not likely to recur; but a review of the state of the law would not be complete, if we did not give instances of what has occurred in times past.

"Privilege" for wages limited to one year from the date of the judgment. Ordinance No. 15 of 1852. Article 15.

1723. By the 8th Section of Chapter IV. of the Order in Council of September 7th 1838, the Magistrate may, in the event of the master's non-compliance with the order or judgment in favour of a servant, issue a warrant for the seizure and sale of the goods of the master, or so much thereof as may be requisite to make the compensation awarded; and, failing any sufficient distress, the Magistrate may commit the master to prison for one month, unless compensation be sooner made. Article 15 of Ordinance No. 15 of 1852 lays down the manner in which the sale of chattels so seized shall take place; while Article 17 confers a "privilege" (or right of priority) in the event of a judicial sale of any estates for any arrears of wages that may be due to the labourers, to be paid by the purchaser out of the purchase-money of such estates into the hands of the Stipendiary Magistrate of the District in which the estate is situated; upon no other formality than an order to that effect of one of the Judges of the Supreme Court, to be given upon application, made in the name of the labourers within three months after the sale, and on the production of the judgment of the Stipendiary Magistrate condemning the former proprietor to the payment of such wages.

entioned "privilege" of labourers, for the payment of arrears, is, he period of one year. If, therefore, the "privilege" were not the date of the judgment of the Stipendiary Magistrate, it edy this defect in the law that the 29th Article of Ordi- by which the privilege was continued; no matter how ent the distribution of the sale-price took place; pro- ilege" can show that they have used diligence to that they have been unavoidably prevented from

Case of labourers on "Rivière la Chaux" estate.

to the Draft of Ordinance 31 of 1867, in conse- se of the non-payment of the labourers on the and Port (mentioned by His Exc Sir This estate was sold in 1862 by one Mr. became insolvent; and on the 21st favour of the labourers for wages rand Port, Mr. Messiter. It at a judgment should be taken e it said, would not consent to to pay the labourers. Unfor- en was, therefore, made to a he labourers, but so of the employés were ded to a to nese. This ourt for 1866, ng, meanwhile, the sale-price was s of the Crown the 28th June became due as lost: and complained

Case exceptional.

occurred otracted se-

Enforcement of judgment. Privilege for wages. Case of Scetoha.

the same circumstances as himself. On enquiry, Mr. Beyts reported that these men had been in the service of Langlois Brothers of "Salazie" Estate, in Moka; that their engagements, and those of 101 other labourers, had been cancelled, and themselves discharged *ex officio* on the 12th March, 1869, by the Stipendiary Magistrate of Moka, who gave judgment in their favour for the wages then due to them. The property then possessed by Langlois Brothers (their plantations, carts, and mules, &c.) was seized and sold, and the proceeds applied to the payment of their labourers' wages; but the amount was insufficient to meet the whole debt, and there remained due a balance of $916 15 cents.

1729. On the 4th May 1872, six of these labourers went to Mr. Beyts, stating that they had not yet been paid in full, and asking his assistance; whereupon Mr. Beyts referred them to the Stipendiary Magistrate of Moka, with a note explanatory of their case. Nearly three months later, not hearing the result of his reference, Mr. Beyts, on the 8th August, wrote to enquire of the Magistrate what proceedings had been taken in the matter, and was informed that Langlois Brothers having made a "cessio bonorum," the papers concerning them had been referred to town, and that the claimants had been so informed when they had applied. The Magistrate added that he had subsequently received the papers, and that an instalment of $100 had been paid into Court by Langlois Brothers.

1730. On the 12th November Mr. Beyts was informed by the Magistrate (on his making a fresh enquiry respecting the case) that another instalme
paid by the debtors; and as they appeared to be gradually li
possessed no chattels worth seizing, Mr. Beyts did not see wh
taken for the execution of the judgment: an opinion the so
dispute, but which, nevertheless, we cannot suppose to have
labourers, who had then been waiting three and a half y
their due.

1731. We have, perhaps, taken up time unnecessarily
Pamphlet, p. 21. Appendix D. subject; for Dr. Icery apologises for t
allowed to extend to four months w
be cancelled, and says that he thinks it is desirable
the Indian—and we wish he had added, for the
of the labourers should be paid regularly every

Security for wages. Labourer sure to get his wages however long the delay.

1732. It is, however, but just to poin
the ultimate loss of wages, however lo
occur as it did in the case quoted by
as in 1864.

1733. Under the present Ordinance, dom
and overseers of labourers, are declared
privileges with regard to arrears of wag
Civil Code, which gives them
expenses incurred in the last i
be due for the current
above Article, as rega
preceding the judg
payment of such arre
exceeding a year
the funeral exper
assets of the est
But the asser
page 20),
"ac
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1734.
nance
current
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of th

the servant should always be paid the full amount of his wages; and that, if he were not to be paid, or were to be punished, it should only be by the intervention of the Stipendiary Magistrate.

Deductions from wages.

1736. We come now to consider how the law has complicated the payment of wages by giving the masters power to make deductions from them.

Division of the month into thirty days.

1737. It was one of the provisions of Ordinance No. 1 of 1846—an Ordinance which was disallowed—that every engagement made between master and servant should be held and considered as being for the number of working days included in the period named; and on the second reading of the Bill, though ultimately struck out, it was proposed that a labourer, for one day's absence, should forfeit two days' wages. And about this time Messrs Barlow & Co. wrote to Government, proposing a rate of reduction to be made from the wages of labourers, on account of each day's *unlicensed* absence from work. The Colonial Secretary's answer of the 17th April 1846, containing the Governor's opinion upon the subject, was circulated among the Stipendiary Magistrates for their information.

Origin of the division of the month into thirty days.

1738. It had been proposed by Messrs. Barlow that the month should be calculated by the number of working days only in it; but as the labourer is paid for Sunday as well, the monthly wages ought, in the Governor's opinion, to be divided by the number of days in each month, and not by the working days only; but, inasmuch as this would require a frequent and inconvenient change, from the months varying in length, he thought thirty days might be adopted for that purpose, without any palpable disadvantage to either party; and so every month has since been held to contain but thirty days.

Objection to division of thirty days from immigrants' side.

1739. There is, however, one disadvantage to the immigrant, which might have been evident to those looking at his side of the question; and that is, that there are seven months in the calendar with thirty-one days, and four only with thirty; and, therefore, there were five* days in the year for which a man might work and get nothing; and, if he worked for the whole thirty days of those seven months, and was sick or absent only on the thirty-first, he would still be cut double for his absence, though that day would not be reckoned among those for which he would receive pay.

Cases at "La Gaieté" and Bonne Mère.

1740. The case, of course, is not imaginary; for we find four men at "La Gaieté" and twelve men at "Bonne Mère," who had worked thirty days in months of thirty-one days, and were cut for their absence on the thirty-first day, and this during the year 1871. Appendix E 10.

1741. This is an obvious objection to the thirty days' system, and it is impossible to understand why the system was adopted; for the hundred cents of a dollar are not a multiple of thirty any more than of thirty-one. Nor, again, is it very clear why it was intimated that

Deductions not to exceed month's wages.

> "the deductions for absence could not be allowed to exceed the wages for the month
> "in which such absences have taken place;"

unless it were to keep these forfeitures within the limits prescribed by Section 7 of Chapter IV. of the Order in Council of the 7th September 1838, of a penalty not exceeding one month's wages.

The acting Procureur-General's opinion regarding the division of the month.

1742. Before we had become aware of this decision of the Government, we had applied to the Acting Procureur-General to be informed how, as the obligation upon the employer was to pay the immigrants' wages monthly, the employer became entitled to subdivide the month into thirty parts, and to retain a number of thirtieths. His answer shows that, if the monthly wage is to be considered so indivisible, that no part of it can be retained: and that the labourer might say to his employer—

> "I have covenanted for so much per month, and will not accept anything but the
> "month's pay:"

it would be difficult to reply to the evident answer of the master—

> "You have agreed to render me service for so many calendar months; but you
> "have not done so, having been absent six days, and therefore you cannot enforce
> "your claim against me to any extent."

Views of Mr. Naz.

1743. The Procureur-General had not the question put to him upon any particular case, but generally; and, if he had contemplated the custom of the colony when giving his opinion, he would have recollected that the immigrant had a very good and ready reply to many of the planters:

> "True, I was absent for six days last month; but you have not paid my wages
> "for the last three months. You promised to pay them monthly: first k
> "part of the agreement, and then punish me for not keeping mine."

* In February the labourer gained two days.

Deductions from wages. Views of Mr. Naz.

1744. This is the answer we should naturally have expected Mr. Naz to have given had he been able to look at the question from the immigrants' side: for, though he tells us that the contract is divided in its execution by virtue of the common law and of combined texts of the Labour Ordinances, he goes on to show that, if a labourer does not work at all, he is not entitled to the stipulated month's wages or to any wages at all; so that, if a labourer works only half a month, he can only be entitled to half a month's wages, and so on, proportionately—

Vol. II. Question 147.

> "If the Indian does not work a full month, the employer has the option to "compel him to complete one full month's labour first, and then to pay him one "month's wages, as the month's labour is the condition precedent."

1745. This, however, is only the planter's side. Mr. Naz apparently does not see that the Indian having worked a month, and not having been paid, has a right to say:

> "Pay me for what I have done last month (or perhaps, the last two or three "months), and then I will work again."

Planters guilty of first breach of the contract in not paying wages regularly.

1746. And here it is to be regretted that Dr. Icery, when, in his Pamphlet, he says,

Appendix D, page 16.

> "The immigrant has not to fear any analogous bad fortune for the "planter cannot escape from his engagement;"

and again:

Page 16.

> "The law is practically impotent to guarantee the planter the strict "execution of the contract between him and his labourers;"

and further,

> "The law has certainly foreseen these different cases of breach of contract on the "part of the immigrant; but, as a matter of fact, it is inoperative, because of their "multiplicity;"

should not have recollected that the first and grossest breach of contract is committed by the planter himself, in not paying the wages as soon as they became due; and until the planter shall have set the example of a strict adherence to his contract, he should not find fault with the immigrants for not being scrupulous in the observance of theirs.

1867.

Edifying view of the planters as to the strict enforcement of the contract.

1747. It is edifying to read the opinion of the Chamber of Agriculture upon this subject, given on the 28th September 1867:—

Appendix F, 9.

> "Il ne peut être contesté par personne qu'un contrat de service passé librement "entre employeurs et employés ne doive être strictement et réciproquement exécuté "par les deux parties. Il ne peut pas être facultatif à l'une d'elles de s'en exonérer; "c'est dans l'application rigoureuse de ce principe que l'employé trouve pleine "sécurité pour la rémunération de ses services et que l'employeur trouve également "la garantie du travail qu'il s'est assuré. Toute tolérance en dehors de ce principe "ne peut que créer une fâcheuse perturbation dans l'économie du travail et par suite "de grands désordres qui affectent toute la communauté."

It is a pity Dr. Icery had not remembered this.

Forfeiture under Ordinance No. 1 of 1846.

1748. Ordinance No. 1 of 1846, as we have mentioned above, was disallowed; and the necessity of subdividing the months into days did not really arise until Ordinance No. 22 of 1847 had been passed; by the 28th Article of which an immigrant absenting himself from work, without leave or some unavoidable cause, was liable to forfeit his claim to wages and rations during such unlicensed absence; and, further, to pay a forfeit to his employer. This, in course of time, was followed by Ordinance No. 16 of 1862, which declared that an immigrant under contract, incapacitated by sickness from labour, was entitled to lodging and food, as well as to medical care, at the expense of his employer: thus indirectly enacting that he is not entitled to his wages during that time.

Wages not payable during sickness.

1749. This rule is now so old and long-established, not only in this but in other colonies, having been approved by the Colonial Land and Emigration Commissioners in 1845; and then, evidently, not without reflection, but on the principle that receiving food and a house, medicines and medical attendance, free, when in hospital and under medical treatment, and therefore not working, the immigrant is not entitled to wages. It is unnecessary to notice the question further now than as the other cause which leads to breaks and complications in the monthly payment of wages; though it is however to be regretted that this important provision is not mentioned in the contracts made in India.

Ready reckoners.

1750. In order to facilitate calculations, Tables have been published. One, called "Règlement des Comptes," shows the daily deductions which might be made on account of sickness or illegal absence, in a month of thirty days, from wages ranging from 50 cents per mensem, and advancing by 50 cents up to $10. The other, called "Tableau "pour le règlement calculé suivant l'Ordonnance No. 25 du 30 Juin 1848," showing the daily rate of payment and deductions for legal and illegal absences, for thirty days, from 25 cents per mensem, in series of 50 and 75 cents..

Tables do not correspond.

1751. These tables do not correspond with one another, nor are they universally adopted on the estates; the deductions from the wages, as we shall show, being often made apparently without rule.

Table used by the Surveyor-General.

1752. The Surveyor-General has also sent us the table used in his Department, which is calculated for months of both thirty and thirty-one days. The wages are also calculated in pounds, shillings, and pence, the currency in which the contract is made in India; and it is very advisable that the system should be made general.

Appendix A. Question 10,465.

Table at Grande Baie.

1753. At "Grande Baie," we found a table of their own, which corresponded with neither of the above, but was apparently calculated at the rate of twenty-six working-days in the month, the advantage, when any, being given to the planter; though the "double cut," which we shall consider hereafter, is on this estate only double the amount cut for one day's absence.

"Double cut" at "Labourdonnais."

1754. So, likewise, we found at Labourdonnais that the double cut for absence on that estate was only the double of one day's pay, the month being reckoned and the wages paid for thirty days. Thus, a man at $3 a month, and absent one day, had only 20 cents deducted from his pay, and not 22 cents or 23 cents, as provided by the ready reckoners.

Appendix B. "Labourdonnais."

"Riche-en-eau."

1755. At Riche-en-eau they cut one cent on each shilling of monthly wages for absence on account of sickness, and two cents from each shilling of monthly wages for illegal absence.

"Bon Courage" and "Sottise."

1756. On "Bon Courage" they cut about three cents, in addition to what the tables allow, for each day's absence, whether in hospital or without leave; while at "Sottise" they had a scale of their own, of which the following is an abstract of the deductions for one day:—

Rate of Wages.		Sickness.		Illegal Absence.	
Dollars.	Cents.	Dollars.	Cents.	Dollars.	Cents.
1	0	0	5	0	10
2	0	0	10	0	12
2	50	0	12	0	18
3	0	0	15	0	22
3	50	0	18	0	25

Further loss to the Indians.

1757. But this is not the only deduction that is made; for, in the confusion of the currency, and between the terms of the contracts, which are generally in shillings, and the accounts which are kept in dollars, the Indians become further losers.

Deductions from wages.

1758. The dollar is reckoned at one hundred cents, or two rupees, or four shillings; and each shilling is held to be twenty-five cents: at least it is current for that, except, as we have seen above (paragraph 1719), among money-changers. The cent is reckoned to be a halfpenny; but there are only twenty-four half-pence in the shilling; so that there is a difference of four cents between the dollar of account and the dollar of payment.

Lawful stoppages from wages.

Ordinance No. 31 of 1867. Regulation 7.

1759. As we have already said, the only stoppages from wages for which there is any colour in law are:—

1st. For advances made in India which may amount to one month's wages, and are to be repaid by a deduction of one-fourth of the rate of wages at which the immigrants have been engaged to serve, until the full amount advanced shall have been recovered.

2ndly. For absences during sickness, as we have shown under Article 13 of Ordinance 16 of 1862: and,

3rdly. For an immigrant unlawfully absenting himself from work, under Section 18 of the same Ordinance (first enacted in Article 28 of Ordinance 22 of 1847), which provides that an immigrant who unlawfully absents himself from work (we shall have to consider hereafter what is held to be unlawful absence) shall, besides losing his claim to wages and allowances during that absence, forfeit to his employer one halfpenny for each shilling of his monthly wages for each day of absence; and this forfeiture may be, and is, applied by the employer without the intervention of the Magistrate; or the employer may complain to the Stipendiary Magistrate and have the man punished by imprisonment for a period not exceeding fourteen days; or, at the employer's option, he may obtain a prolongation of the contract equivalent to the time of absence; the punishment to be alternative, not cumulative.

Punishments for unlawful absence alternative, not cumulative.

Immigrants subjected to all three punishments.

1760. We have shown (vide last Chapter, paragraph 1494, and next Chapter, paragraph 2031), and shall be able to show further, that under this Ordinance—which was to have been the promoter of order and discipline—immigrants have, for one and the same offence, been subjected to all three of these punishments; often to both the forfeiture and the prolongation of contract, and sometimes to imprisonment; but that is seldom asked for. Seeing, however, what an engine of oppression it has become, and that it is impossible that any law could have been enacted with this avowed or even apparent tendency, it will be well to look back to its origin.

The "double cut." First trace, 1839.

1761. The first trace we find of this practice of retaining two days' wages for one day's absence occurred in the month of November 1839, when Captain Thatcher, the Stipendiary Magistrate of Rivière du Rempart, wrote to the Colonial Secretary for instructions respecting a complaint made by an Indian labourer against his master on account of wages, in which the master had brought a charge against the labourer for $3·60 for absence from the 28th October to the 17th November, on the plea that by his contract he was authorised to stop out of his wages double the day's wages for each day's wilful absence; notwithstanding that the labourer had been further punished by the Magistrate as a runaway. The question, in short, was, how far special clauses inserted into contracts passed before the Stipendiary Magistrate between masters and servants could override or modify the general provisions regulating penalties for breaches of contract laid down in the Royal Order in Council, Chapter IV., Section 7, dated 7th September, 1838.

Case submitted by Captain Thatcher.

1762. By order of Sir William Nicolay, the case was referred to Mr. D'Epinay, the Procureur-General, who, on the 19th December, returned the following opinion, which we have translated, the opinion being in French:—

The Procureur-General D'Epinay's opinion.

"The question submitted by the Stipendiary Magistrate, Mr. Thatcher, is a very "nice one.

"Section 7 of Chapter IV. of the Order in Council gives the Stipendiary Magis- "trate the power to adjudge a servant to a pecuniary penalty to the amount only "of his month's wages. On the other hand, it must be remembered that this "applies especially to contracts of service made under the authority of the Order in "Council, which does not contain among the provisions and conditions in it a "stipulation similar to the one mentioned by Mr. Thatcher, but which is found in "almost all contracts of service passed before that Order; and these contracts are "expressly maintained in Section II., Chapter I., of that Order; except that the "Magistrate has the power to amend them, for the reasons given in the 3rd Section "of the same chapter; and, under Section I. of Chapter IV., the Stipendiary "Magistrate has exclusive jurisdiction in all matters relating to contracts of "service.

"It might be urged that Section VII. above quoted did not contemplate so "serious a matter as that a servant should leave his work for any length of time, as "that is quite another thing from *negligently performing* his stipulated work.

"And, lastly, the condition has nothing unlawful in it, for, in many cases, the "injury suffered by the master from the absence of his servant or servants would be "far greater than could be made up to him by double the wages of each day. "Nevertheless, such a provision would not be allowed under the Order in Council.

"For all these reasons I think that, unless the Stipendiary Magistrate should "think it right and proper to amend a contract of service made previously to the "Order in Council containing the above proviso, the master whose servant is absent "from his work without lawful cause, is authorised to withhold from the wages of "that servant the amount agreed upon.

(Signed) "P. D'Epinay,
"Procureur and Administrator General."

The Magistrates warned not to allow stipulations for the "double cut."

1763. Sir William Nicolay, notwithstanding this opinion, felt some hesitation upon the subject; and, on the 17th January, 1840, a Circular was addressed by his order to the Stipendiary Magistrates, enclosing a copy of the above opinion, and warning them against allowing any such stipulations in engagements entered into in their presence.

Ordinance No. 1 of 1846. Failure of attempt to enact the "double cut."

1764. The next attempt towards introducing the forfeiture of two days' wages for one day's absence was, as has been above stated (paragraph 256 *et seq.*), on the second reading of Article 6 of Ordinance No. 1 of 1846, when it was carried that the absentee should lose double the amount of his day's wages; and it has been seen how the proposal was regarded by the Magistrates and by the Governor, and how it was ultimately struck out of the Ordinance.

Forfeiture suggested by Earl Grey.

1765. Earl Grey, in disallowing the Ordinance, had suggested the forfeiture of 2*d.* per day, or of 1*s.* per week, over and above the loss of the day's wages and rations, as an indemnity to the master, the proportionate severity of which would obviously vary according to the rate of monthly wages; for, the indemnity being a fixed sum, it would fall most heavily upon the labourer receiving the lowest wages.

The "double cut."

Ordinance No. 22 of 1847.

1766. In the Draft Ordinance introduced on Ordinance 1 of 1846 being disallowed, it was proposed that

"Any immigrant absenting himself from his work shall forfeit his claim to wages "and rations, and shall further pay to his employer the sum of four pence for each "day of such unlicensed absence;"

Article 28.

but these words were struck out on the second reading, and the Article was altered to

"Any immigrant absenting himself from his work without leave or some "unavoidable cause, shall forfeit his claim to wages and rations during such "unlicensed absence, and shall further pay to his employer for every day of such "absence, the sum of one halfpenny for each shilling of his monthly wages; and if "he be a New male immigrant, every month in which he may be absent for more "than six days consecutively or separately, shall not reckon as a part of his indus- "trial residence."

Amount of the forfeiture and indemnity.

Article 28 of Ordinance No. 22 of 1847.

1767. The measure thus passed, and which, repeatedly re-enacted, still remains the law, went beyond any of the former proposals, as the effect of it is that each day's absence entails the loss of the wages of $2\frac{1}{5}$th days: for as the practice is, under the Circular from Government quoted above, to regard the month as consisting of 30 days, it follows that

$$1 \text{ day's wages} = \tfrac{1}{30},$$

and the indemnity

$\frac{1}{24}$th ($\frac{1}{2}d. = \frac{1}{24}$th of 1*s.*) of the whole month's wages.

Practically, however, $\frac{1}{25}$th is the deduction most usually made; the reason being the difference in value between the cent and the halfpenny, the two being, by universal consent, regarded in Mauritius as equivalent; while the value of the dollar is likewise regarded as 4*s.*, and consists not of one hundred cents, but only of ninety-six halfpence.

Effect of the "double cut," as compared with Lord Grey's suggestion.

1768. How far, then, it is correct to credit Lord Grey, as is universally done in Mauritius, with having originated a law which has, as we have said above, opened the door to more abuse than any other in the Statute Book, will be seen from the following comparison of the results of each, founded upon the calculation of a monthly rate of wages of $3.

1769. At this rate the daily loss to the absentees would have amounted, under Earl Grey's suggestion, to 14 cents (10 cents, or $\frac{1}{30}$th of $3, for the day's wages, plus 4 cents for indemnity): and, consequently, the labourer would not have forfeited the whole of his wages until he had been absent for more than twenty-one days in the month, exclusive of Sundays.

1770. Under the law as passed, the daily loss amounts to 22 cents (= 10 cents for that days wages + 12 cents, or 1 cent upon each shilling of $3 = 12 cents): consequently, under the latter system, any absence over fourteen days in the month absorbed the whole of the month's wages.

1771. The difference, therefore, between the two system amounts, at the rate assumed, to 8 cents per day in favour of the master (22 cents − 14 cents = 8 cents).

First question raised respecting the right to "double cut."

1772. No long time elapsed before the question was raised as to how far masters were entitled to avail themselves of the provisions of the Article without the intervention of the Magistrate; as, on the 21st January 1848, we find Captain Davidson, the Magistrate of Grand Port, writing to the Colonial Secretary, stating that some of the planters of that district conceived they had the right to apply the penalties contained in the Article, without making any reference to him, and requesting the opinion of the law officers of the Government; as it appeared to him that, were such license given, the servant would be exposed to imposition.

1773. Sir William Gomm fully agreed with Captain Davidson, declaring it to be a "fast and loose" Article, against which he had from the beginning protested; and, though knowing that the labourer could complain if he liked, he held this to be very insufficient security against abuse, and referred the Magistrate's letter to the Procureur-General for report,

The Procureur-General's opinion. His mistakes as to the suggestion of Earl Grey.

1774. Mr. D'Epinay prefaced his opinion by stating:

"The 28th Article of Ordinance No. 22 of 1847 is almost literally the 7th of "the heads of an Ordinance on the same subject transmitted by the Secretary of "State" (*vide* Chapter VI., paragraph 276):

an observation which, in our opinion, shows how very little thought had been bestowed upon the real character of the Article.

Immigrants The "double subjected to cut.' all three punishment

1775. The Article, according to the Procureur-General, runs—

"forfeit his claim to wages and rations, and, further, the sum of 1*s.* per week, or of "2*d.* per day to his master, during the time of his absence."

The Section of the Ordinance, however, ordains—

"forfeit his claim to wages and rations; and shall further pay to his employer for "every day of such absence the sum of a halfpenny for each shilling of his monthly "wages."

The "doul cut." First trace, 1839.

1776. The Procureur-General then goes on:

"Nothing in this Ordinance, or in the Order in Council relating to masters an "servants, authorises the interference of the Magistrate in these transactions, othe "wise than upon the complaint of one of the parties."

Case submitted by Captain Thatcher.

He mentions that the question referred to by Captain Davidson had raised some opposition in Council, on the ground of the great inconvenience attending the necessity for the planter continually to appear before the Magistrate for declaring and proving the daily allowances of any of his labourers; and his opinion was, that the remedy for the labourer, whose wages had been partially retained, was by application to the Magistrate. Should the abuses apprehended by Captain Davidson actually occur, the remedy, he thought, could only be found in a legislative enactment; and as this would be likely to meet with some opposition, it would require to be grounded upon some material facts, or at least upon Reports from the several Stipendiary Magistrates.

Opinions of the Magistrates upon Article 28 of Ordinance No. 22 of 1847.

1777. Sir William Gomm, therefore, called for Reports from all the Magistrates; and it is interesting to notice the various opinions entertained by them in the first days of this practice being legalised.

The Procureur-General D'Epinay's opinion.

1778. Of the Magistrates, three—Captain Heyliger, Mr. Elliott, and Captain Thatcher—had not received any complaints against the working of the clause; but the last added that,

Captain Thatcher.

"As no line can be drawn with regard to those who administer to estates, I have "always been of opinion great care should be taken in with what power they are "invested."

1779. Captain Martindale had long considered the Article objectionable: though not so much as some other Articles which he specified.

Mr. Passmore.

1780. Mr. Passmore reported that the complaints had been few, and that in all cases the master was within the limits prescribed; but he nevertheless thought it would be well that the Article were revised, so that the Magistrate, and not the master, should decide the extent of the fine or imprisonment to be inflicted upon the servant; while

Mr. Maguire.

Mr. Maguire, the Magistrate of Port Louis, though he had never made use of the Article in question, in any of his decisions, wrote as follows:—

"If this Article is interpreted by the masters as one they can act upon without "the sanction of a Stipendiary Magistrate, then I do not hesitate in saying they "should not be allowed to do so.

"The name of Magistrate is certainly not mentioned in the clause; but if masters "are allowed to deal with their labourers as they please, on the plea of 'absence,' a "crying injustice would, in my opinion, be inflicted on the Indians."

No amendment in subsequent legislation.

1781. Advantage, however, was not taken of the repeal of Ordinance 22 of 1847 by Ordinance 25 of 1848, to correct the omission or mistake found out by the Magistrates: for Article 28 of the former was re-enacted almost *verbatim* in Article 22 of the latter Ordinance. Nor, when Ordinance 25 of 1848 was amended, as the preamble calls it, but it might more properly have been called repealed, by Ordinance 16 of 1852, was any improvement made, further than to re-enact Article 22 *verbatim* in Article 23 of the new Ordinance, and to add Article 24, giving the employer the option of foregoing the penalty enacted in Article 23, and of refusing at the expiration of the engagement to give a labourer his certificate of discharge until he had made good the time of his absence, or undergone a month's imprisonment; and this continued in force until the passing of Ordinance 16 of 1862.

The Magistrates were not to allow stipulations for the "double cut."

1859.

Ordinance No. 1 of 1859. Failure of attempt to enact the "double cut."

Captain Ogilvy's remarks regarding illegal absence.

1782. On the 17th February 1859, Captain Ogilvy, the Stipendiary Magistrate of Flacq, made a general report upon the principal matters connected with the Stipendiary Court in that district; and he noticed illegal absence as one of the greatest difficulties against which a planter had to contend. He attributed it to idleness in some of the immigrants, and in others to their tending the live stock of their comrades, by whom they were paid in kind, and from whom they frequently earned more than they would have received from their lawful master.

Appendix E 24.

The weather, too, in his opinion, was another cause; while, on the other hand, the Sirdars did not exert themselves to stop it, for fear lest they should lose men from their bands when they wanted to re-engage; and, as the planters preferred availing themselves

Forfeiture suggested Earl Gre

of the power of fining instead of making them replace the time, and the Sirdars also preferred that plan to the one by which their band might be reduced from 25 to 8 or 10, when they sought to re-engage; he proposed that the Article should be repealed, and the Indian be obliged to replace double the time of his absence, and to suffer no other punishment.

The "double cut."

1783. His Report was circulated among the other Stipendiary Magistrates, who, in the course of 1860 and 1861, gave their opinions upon it; all, except Mr. Watson, being in favour of the punishment being the loss of the day's wages, and prolongation of service by two days for one day of absence.

Mr. Watson's opinion.

1784. Mr. Watson thought that, if left optional with the master, he would not forego the immediate advantage of the fine for the remoter chance of being able some time thereafter to get two days' work for one; and, in the mean time, the labourer might die or abscond; while, on the other hand, he thought the enactment bore unfairly upon the labourer, as the master alone notified the absence, and the servant had no means of contesting the report until, at the expiration of his engagement, he was told he had so many days to make good. Moreover, how could the servant at that time prove that the master had already indemnified himself by the fine? It frequently happened that men declared the master had indemnified himself or exaggerated the length of absence, and the labourer, unable to prove his assertion, positively refused to replace his time, and either went to gaol or absconded altogether.

He thought the enactment a great boon to the master: but that the servant ought to be put upon the same footing, though he did not suggest how that should be done.

Ordinance No. 16 of 1862. Articles 18 and 19.

1785. However, in 1862, Ordinance 16 was passed, and Article 18 provided what was wanting in the former law: that though the employer might apply the forfeiture in the first instance, he was yet liable to be called upon to justify it on complaint before the Stipendiary Magistrate; while Article 19 provided other safeguards to prevent the master who had not performed his part of the engagement from punishing the immigrant for his neglect.

Ambiguity of Ordinance No. 16 of 1862.

1786. This Ordinance, as we have said before, was not allowed to pass without hesitation on the part of the Secretary of State, the Duke of Newcastle expressing some doubt as to the propriety of allowing the master in any case to constitute himself the judge between himself and his servant, and to mulct the latter's wages for his own benefit (*vide* Chapter VII., paragraph 432).

1787. This law further opened a wide door to ambiguity by declaring the punishment to be for a person who shall

"unlawfully absent himself from work,"

instead of, as it had better have been,

"absenting himself from his work without leave or some unavoidable cause:"

and, instead of making the forfeiture the only punishment for illegal absence, as it had originally been, it gave the employer the option of taking the forfeiture or prolonging the contract, or of having the man imprisoned.

Complications in the payment of wages.

1788. Thus did the law complicate the simple payment of the month's wages by giving the employers power to make deductions from them for sickness and illegal absence, as well as for advances made in India; and thus no man, except one who is never sick and never absent with or without leave, can tell what his month's wages will be.

Employers deduct wages without intervention of Magistrates.

1789. The employers, however, are not satisfied with this. It is, probably, because—as Dr. Icery says, and he is confirmed by Mr. Wiché—the planter or his representative cannot every day abandon his occupations and displace witnesses, whose day's work would be likewise lost, in order to claim a few days' imprisonment against an absentee or an idler; that it is found impossible to be constantly invoking the application of the laws; the planters, therefore, prefer taking the law into their own hands; and we find deductions made from the men's wages without the intervention of the Magistrate, although we are constantly assured that such is done at the immigrant's request, in preference to being sent to the Magistrate.

Appendix D. pp. 17 and 19. Questions 9589, 9590.

1790. It is, however, right to remark that labourers in the employment of the Government are treated in the same way, fines being deducted from their pay in the same manner as on estates.

Questions 10,471, 10,716, 10,717.

The double cut where more than two months' wages unpaid.

1791. We find an attempt made to justify the "double cut" where more than two months' wages were unpaid, by supposing a similar repugnance on the part of the immigrant to appear before the Magistrate to that urged on the part of the employer to take him there, the immigrant,

Question 9554.

The "double cut."

"perfectly aware of the law, but never having called it into effect, will accept the "'double cut' with gladness."

rather than be taken before the Stipendiary Magistrate: as if there ought to have been, under the circumstances supposed, any use in taking the immigrant before the Stipendiary Magistrate.

Illegal deductions.

1792. Not only are these deductions made to compromise offences such as thefts of mangoes, of thatch, or of vegetables; abuse, and refusal to work; allowing cattle and goats to trespass; ill-using animals; assaults, which, under the head of "*amendes*," ought to be settled by the District Magistrate alone; but also to pay for pots and kettles given to the immigrants on their first arrival; to pay shop debts, whether the employer has an interest in the shop or not; and to repay "bons," which had been given upon shops, either the property of the planter, his servant or sirdar, or some person otherwise unconnected with the estate.

Bons.

1793. This custom of *bons* was probably rendered absolutely necessary on estates where wages have been, as they used to be, unpaid for several months; but it ought to disappear as soon as wages are paid at the end of every month.

Illegal deductions from wages.

1794. Deductions are also made to repay for rice and sweepings of rice sold, or for cattle and pigs sold; apparently in contravention of Article 13 of Ordinance 15 of 1852; to recover the value of tools lost or broken; for unfinished tasks, for broken harness, for leaving carts and mules unattended; for allowing people to ride in estates' cart; to pay their subscription to the Ghoon; for gambling; for cutting grass in forbidden places, cutting green brèdes on canal-banks (only when damaging the roots); and for losing, or rather not selling, bread

"Cutting" for unsold bread.

1795. The last deduction, for unsold bread, was a very old complaint in Rivière du Rempart, where the master used, in 1866, to complain that the man did not return the amount of the sale of bread confided to him to be sold; and the servant, on the other hand, complained that the master refused to take back what was unsold; but deducted the price from his wages. We have heard similar complaints at "Gros Cailloux."

"Cutting" for unfinished tasks.

1796. Regarding deductions for unfinished tasks, we have been generally informed that men are required to complete their tasks next day; and that, failing to do so, they are marked sick, or have some other marks put against their names, signifying "malade "travail," and are cut as if sick. The grounds on which this fiction, as the Surveyor-General calls it, is defended, are, that if the man has been put to taskwork and cannot finish his task, he is supposed to be sick in proportion to the work left unfinished; thus a day's work upon the roads being to break 25 baskets of stones, or 150 baskets in the week, if a man breaks only 100 baskets in the week, he is supposed to have been sick for two days, and is fined accordingly.

Question 10,453.

1797. Punishing men for neglect of duty and other similar offences, by making a deduction from their wages, appears to have been of very old standing, and to have received all the sanction Government could give it, by having been adopted by the Government servants against the labourers in their employ. On the establishment of the present Road-branch of the Surveyor-General's Department, small fines were inflicted on the Sirdars and labourers for disobedience of orders, lighting fires in their huts, selling or disposing of their certificate of engagement, dirty camps, introducing strange women into their huts, and such like offences. A detailed return of all these fines was submitted quarterly for the approval of the Governor; and, on his approval, the amount was paid into the Colonial Treasury.

Attention of the Government called to these practices.

1798. In 1858, however, the Auditor-General, Mr. Kerr, doubted the legality of these fines, and the question was submitted for the opinion of the Procureur-General, who stated that—

Report, No. 436,

11 Aug. 1858.

Opinion of the Procureur-General.

"I think it would be a great pity to raise such a question as the Auditor-General "suggests. Every employer of labourers in the colony cuts his servants' wages for "misconduct; and such disciplinary measures, if fairly taken, are no disadvantage "to the employed. These can always apply to the Stipendiary Magistrate for "redress if they deem themselves grieved; but I think the Inspector of Roads should "not be compelled to take any case of slight delinquency before the Stipendiary "Magistrate; the trouble and loss of time to him would be great, and the benefit "to the labourer more than doubtful."

Reward Fund instituted from the fines.

This opinion was approved by the Governor on the 13th of the same month, and in February 1860 a Reward Fund was established, and the fines inflicted on the members

Questionable application of the Reward Fund.

of the Road Branch as a disciplinary measure were paid into the Colonial Savings' Bank, with a view to providing gratuities for widows of deceased labourers, and rewarding labourers for long or meritorious services.

1799. The rewards, it appears, are given not only for good work, to assist an orphan, for Sunday work, for being wounded on the works, to enable those disabled in the works to proceed to India, for extra work, and for loss of clothing by fire; but we also find that £15 18*s.* 7*d.* were given to Mr. Godley, of whose name we do not always find very favourable mention (vide Chapter XXIII., paragraph 2326), in refund of certain charges made against him for deficient stores; to a sirdar in remission of a fine inflicted on him for burning rubbish within the prohibited limits of the camp, he being ignorant of the law. £30 was also given to Mr. Pangloss, indemnity for destruction of the camp by fire. Mrs. Thompson received £10, and Mrs. Woodley received £12, in recognition of the services of their husbands. Mr. Brown received £1 for ten days' rent short, drawn in June 1872, which, we think, ought rather to be adjusted in the Treasury, than paid for out of the fines of the establishment; and we certainly object to the large sums paid in recognition of services to Europeans' widows, and remission of refunds to Europeans, who contribute in no degree to the fund itself, and who gain by the punishments they may have inflicted on the labourers.

Sixteen shillings were also paid to Mr. Whittle, as costs in case No. 6 of 1862, in the District Court of Flacq. We have been unable to ascertain how Mr. Whittle was concerned in that case, as it was a charge of assault against a man and woman, Paul Noyeaux v. E. Brett and D. Hubert.

1800. The attention of the Government was again, in 1867, drawn to these illegal deductions from wages on account of unfinished tasks, if we may call that illegal which had already been approved by the Procureur-General and sanctioned and adopted by Government itself. A balance now remains in the Savings' Bank to the credit of this fund of £465 2*s.*, of which £197 18*s.* 1½*d.* is for interest.

Government enquiry in 1867 as to "cutting" for unfinished tasks.

1801. Deducting wages for unfinished tasks is an illegality of very old standing; for, in 1867, a Circular was sent to the Magistrates, in consequence of Government having discovered that a custom had arisen of the masters cutting a man one day's ration and his pay in proportion, when the allotted task had not been completed for two or three days. The result was that the custom was found to be pretty general, and was defended then, as it is now, by the planters, on the ground that they

"thought it would not only be a continued trouble to the Magistrate if they "brought their men before him each time to be punished on that account, but that, "at the same time, they would daily be obliged to appear in Court "against some of their men for such petty complaints, thus travelling "long distances, and leaving, to their detriment, the work of the "estate."

Magistrate of Pamplemousses to Colonial Secretary, 31st December, 1857.

Examples from "La Gaieté" and "Bar-le-Duc."

1802. In the Appendix will be found, among other information, a column showing the number of days marked "O," being those on which the pay was cut for unfinished tasks. It shows for two Estates, "La Gaieté" and "Bar-le-Duc," that, on the former for 5247 days, and on the latter 622 days were cut for unfinished tasks.

Appendix E, 4.

Where one-third of task not done.

1803. On some estates the whole day's wages are cut if a man has not finished one-third of his task.

"Advances."

1804. Deductions are made for "advances" said to have been paid to men coming to engage. Gopal and nineteen others, in January 1872, sued Mr. Rochecouste, of Riche-en-Eau, to recover six months' wages. The defence was that the wages were not due, the band having asked Mr. D. Rochecouste to advance them $120, to pay a debt they had incurred in a shop at Union Vale. The band contended that the advance had been made as a *bonus*. The Stipendiary Magistrate held it proved that the nineteen labourers had taken this advance as a loan, and not as a *bonus*, and threw out their claim, fining them 10*s.* each for an unfounded complaint. He, however, awarded the sirdar his wages, $33·60, as he had not received any of the money, and Mr. Rochecouste's allegation that the sirdar, Gopal, had guaranteed the advance could not be admitted.

Appendix E, 12.

Case of Gopal and his band.

Buldan's case.

1805. A similar case, but one not on an estate, in which one Buldan, a domestic servant, sued for fourteen months' wages at $3·50 per mensem, and was met with an account for cumlies, capotes, clothes, and cloth, and a declaration that the wages were to be $1·50, not 3·50, shows how absolutely necessary it is to see the law enforced that there shall be no shop accounts between master and servant, and to insist that the wages shall be paid, as stipulated, in cash or in food, not in goods.

Illegal deductions.

Views for petty larcenies and assaults.

Mr. Jenner's Reports, Appendix O, 55, and U, 30.

Case of Jugnu.

1806. At "Bassin," in Plaines Wilhems, we find it admitted that fines are inflicted for petty larcenies, neglect of work, and assaults; and we are told that in every case the men are offered the alternative of going before the Magistrate: but in a case which we have had recently before us, we have seen how that option is offered. The man, if he was not, as he averred, shut up under lock and key, was, at any rate, as his master admitted, placed under arrest, and kept in the sugar-house until he consented to have two months' wages cut from his pay.

Coopooswami's case.

Appendix E, 13.

1807. At "Ferney" we find that a man, "Coopooswami," who had been to the Magistrate to complain of an assault committed upon him by some 15 men, as it, contrary to his master's wishes, had had warrants, instead of summonses, issued against them. On his return to the estate in the evening, Mr. Louisier, the proprietor, sitting under his verandah, saw him and called him to him, and, on his persisting in not withdrawing the warrants, told him that his wages would be retained, and that he would get no pay until the case was finished, because, if he did not succeed, he would have to pay the amount of the fine, which would be "cut" from the pay of those he accused.

Chinapar and others *v.* Mallet and Co.;

Appendix E, 14.

1808. In the case of Chinapar, Saviemootoo, and others, against Mallet and Co., of "Fontenelle," we find the Magistrate obliged to direct that the wages of the complainants were not to be cut for the days on which they had brought their plaint and for the day of trial.

1809. We may here notice that fines and punishments are not inflicted by the planter upon their servants alone, for we find that at "Bassia," on the 26th July, 1871—

"Un Indien étranger voleur de bois, per amende .	$3.00
"6th Octr., un Indien de bosquet	1.75
"17th Decr., un Indien étranger, do., do. . . .	4.50
"17th March, 1872, do., do. . . .	2.00

and we have found similar entries elsewhere. These last compromises may not be objectionable, but they show how ready the planters are to take the law into their own hands.

Refund of illegal deductions on "Bassin."

1810. As regards the illegal deductions made at "Bassin" Estate, we find from a subsequent Report from Mr. Jenner, that on that estate the cutting of wages for short task has been discontinued, as also has cutting rations for anything beyond actual days of absence; that the illegal "double cut" from the 1st January, 1871, to the 31st January 1873, has been refunded to all the immigrants left on the estate, leaving but $4.7[illegible] in the manager's hands belonging to those who had left the estate; that the system of fining for petty larcenies has been discontinued; but that it has been found impossible to refund the sums taken, as no lists were kept of them, and the Manager and Accountant cannot remember the name of a single individual who was subjected to such fine. The double cut for December, amounting to $107.87, was refunded at the issue of pay for April on the 24th May, 1873, but a balance of $12.37 remained in the manager's hand on account of men who had left the estate.

Memoranda of deductions in pay-books.

1811. These deductions, though they interfere with the proper payment of wages might be less objectionable if proper accounts of them were kept in the manner we found at "Cluny," where all the deductions are shown in a book. But, instead of that they are generally kept upon what is called the Pay-sheet, which is sometimes preserved, but is generally said to be torn up as soon as the payment has been made; or sometimes they are kept in pencil upon the margin of the Pay-book, and are rubbed out as soon as any enquiry is made upon the subject.

Entries in Mr. Hart's pay-books.

Appendix B. "Plaisance."

1812. This was the case at "Plaisance," a property in part belonging to an officebearer of the Chamber of Agriculture, on whose estate we might have expected to find everything unexceptionably well conducted, but where unfortunately, we found as many irregularities as on others. It is but justice to Mr. Hart to say that, upon its being pointed out to him (see visit, App. B) that the pencil notes which we had remarked on our first visit, had been rubbed out and rendered almost illegible, when the books were brought before us two days after, he expressed great surprise and regret at what had been done, and gave orders in our presence that such notes in future should be made in red ink. We regret to say that on our subsequent visit to "Plaisance" we found that this order had remained a dead letter.

Attempts to qualify the intention of the entries.

1813. That there really were entries of fines in the books, we saw on several estates, and that the fines *were* exacted on almost every estate was too clearly proved for us to doubt, though they were on some estates persistently denied; and some of the managers

Illegal deductions.

and accountants tried to persuade us that entries in pencil, such as "pour vol de cannes, "$1·00," were merely *memoranda*, to speak to the man and threaten him; for, if the notes had been made with that object alone, where was the necessity for adding any specific sum of money to the entry of the offence?

The Pay-books as evidence.

1814. The objection to this mode of fining is not only that the manager and accountant thereby usurp the province of the Stipendiary Magistrate, but that the Pay-book or Wages-book, which, if kept in English or French, is (under Regulation 88, of the 11th November, 1868, under Ordinance 31 of 1867) admissible in evidence by a Stipendiary Magistrate, becomes of no value whatever in proving what has been paid to any individual whose name may be mentioned therein.

Evidence of Pay-books worthless.

1815. In a word, the Pay-book or Wages-book on an estate shows only what the labourer's nominal wages are, and what is deducted from his wages for sickness or illegal absence; and the word "paie" only shows the balance after those deductions have been made, but does not show the amount actually paid to him. The books, as now kept, are utterly worthless as any proof of payment.

Complication in accounts.

1816. The manner in which it is customary on most estates, without any intention of misleading, to keep the Pay-books, prevents our being able to trust implicitly, or without further examination and correction, to the totals therein shown; because the incomplete portions of the month, in cases of the engagement and discharge of any labourer, are debited to him in the column headed "hospital." Thus, in every case of engagement made after the first day of the month, the deductions are augmented by the amount of the man's wages from the 1st to the date on which he joined the estate; and thus a man engaged on the 15th has his wages entered from the 1st, but debited for the first fifteen days in the column headed "hospital"; and a man discharged on the 15th, in the same way has his wages entered for the last fifteen days in the hospital column; whilst the man who may have re-engaged has his name entered twice in the Pay-list, and, consequently, the total of the month's wages would be increased by at least the full amount of one month's wages.

1817. Thus, on "St. Arold" estate in Savanne, the book showed wages for the year $15,455·78, and the deductions $5428·78; but, when cleared of the above entries of account only, the wages actually amounted to $14,535·67, and the deductions to $4508·67, leaving the actual payment in both cases to amount to $10,027 only.

1818. These entries, though of unreal payment and deduction, cannot be considered fraudulent, but only the result of a bad system of book-keeping.

Deductions of "Cluny."

Appendix B. "Cluny."

1819. The book at "Cluny," above referred to, in which all deductions are entered in order, is, therefore, the most honest we have seen or heard of in Mauritius, and is fully described in the 'Notes of our Visit to the Estate,' so need only be referred to here as showing that, by keeping these accounts, the rule laid down by the Government in 1846—that the deductions for absences should never exceed the wages of the month in which such absences have taken place—is not observed on that estate.

Deductions for absences in one month carried forward to another month.

Contract not strictly observed even "Trianon."

1820. At "Trianon" we found that, after deductions had been made of 35 cents for small pans and tin pots supplied to a New immigrant who had arrived the month before, this man had only 65 cents to receive, he having been twelve days ill, and having received an advance in India, the recovery of which, however, was not exacted in that month. This immigrant had a wife, sister-in-law, and two children, with him; and these he had to feed upon 1½ lb. of rice, and some dholl and salt-fish, and 65 cents, with no oil, as that is not given to New immigrants on this estate, though it is a condition of the contract. So that, even on this estate, one of the most prosperous and best managed in the island, the property of a member of the Chamber of Agriculture, we find the covenant not strictly adhered to. But here we have, in some measure, entered upon the next subject which requires our attention.

Rations.

1821. The contract is not only to give the immigrant wages, but also allowances of rice, dholl, salt-fish, ghee or oil, and salt.

Contracts observed.

1822. This part of the contract is not better observed than that relating to the wages.

Food stipulated for.

1823. The contracts generally provide for

1½ lb. of rice per diem.

(Though, in some cases, manioc may be given as an alternative, and sometimes is so given as a punishment, as we found at "Bénarès.")

Appendix B. "Bénarès."

½ lb. of	Dholl	per week.
½ lb. ,,	Salt-fish	
4 oz. ,,	Ghee or Oil	
4 oz. ,,	Salt	

Rations. No fixed time for serving out rations.

1824. There is no provision in the contract as to when the rations are to be served. To the Government labourers under the Surveyor-General rations are given in advance monthly, and on the estates rations are served out in every way possible. Some serve the rice weekly, and all the other articles monthly; some, the rice daily, and the rest weekly; some, the rice daily, salt monthly, and the rest weekly. Some serve rice and dholl weekly, fish and salt monthly; some, all weekly.

Question 8348. Appendix R. Indians Returns.

Loss from rice in cleaning.

1825. There is no provision that the rice shall be clean; and we have found that the one-and-a-half pound of rice loses a quarter of a pound in cleaning, which is much the same as Dr. Reid informs us is the loss, 5 or 6 per cent.; though, in the Civil Hospital, we have found from 2½ up to 15 per cent. allowed for cleaning rice.

1868. Representation of the Surveyor-General's men.

1826. In 1868 the Surveyor-General found the road labourers very dissatisfied and complaining bitterly of the rice supplied to them, in consequence of the large waste, of about one-fifth of the quantity of Saigon rice, during cleaning. Upon inquiry it was found that the loss in Ballam rice was only one-tenth. Orders were accordingly given that no more Saigon rice, which was distasteful to the Indians, should be issued to the free labourers, but that Ballam rice should be given to them instead, with an addition of one-tenth for cleaning. The Saigon was still to be issued to those in the prisons and vagrant depôts.

Appendix E 20.

Commissioners not satisfied as to whether immigrants generally get more than they are entitled to.

1827. Dr. Icery, who, in his pamphlet, boasts that

Appendix D 25. p. 29.

> "on most estates every man, without distinction, receives as a minimum, "during the whole of the year, 1¾ lb. of rice daily, and sometimes "more"—

declared his inability to tell us what rice lost in cleaning; so that, with regard to the rice, we must confess that we are not satisfied that the immigrants generally get more than they are entitled to, if the rice is to be cleaned.

Questions 8330 to 8332.

Ordinance No. 40 of 1844. Attempt to lower scale of rations.

1828. An attempt was made by legislation, in 1844, to fix these allowances at a lower rate than they now stand at: for, in Article 5 of Ordinance 40 of that year, it was proposed in the draft Ordinance that the daily allowances, where none had been specified in the contract, should be:—

Of Rice	1 lb. 10 ozs.
„ Dholl, or salt-fish	3 ozs.
„ Ghee	½ oz.
„ Salt	¼ oz.

—but, when passed, the ghee was struck out, and the dholl or salt-fish reduced to 2 ozs.

1829. This Ordinance of 1844 (*vide* Chapter XX., *Hospitals*, paragraph 2107), was disallowed, and the attempt to make the supply, whether of dholl or salt-fish, optional, failed, and such a provision has never been introduced into the law, under which the allowance must be of dholl as well as salt-fish; but so pertinacious are they in Mauritius when they take an idea into their heads—even though it may be a mean one—that, though the printed contract entered into in India has

Variance in the different scales of rations contracted for.

Rice	1⅓ lb.
Dholl	2 lbs.
Salt-fish	2 lbs.
Ghee, or oil	1 lb.
Salt	1 lb.,

the Stipendiary Magistrate or his Clerk, in drawing up the contract with *New* as well as with Old immigrants in Mauritius, almost invariably puts "or" between the dholl and salt-fish. But, he does not always double the amount to be served; and, consequently, our belief is not changed with regard to the opinion we had formed before we examined Dr. Icery, as to the allowances of dholl and salt-fish; for we find contracts for 2 lbs. of dholl and 2 lbs. of salt-fish per week; for 2 lbs. of dholl, the salt-fish being erased; for 1 lb. of dholl and 1 lb. of salt-fish; for 4 lbs. of dholl or 4 lbs. of salt-fish per month; for nothing but 1¾ lb. of rice; and, with servants, for no rations, but "Table-food."

Question 8365.

Excuses for not giving salt-fish.

1830. Every possible excuse is given for this change and for not supplying salt-fish: it is not always to be had in the market; the Indians do not like it; the Indians will not eat it. Notwithstanding all which, at "Poudre d'Or," 480 lbs. of salt-fish were issued on the 1st January 1872, as a "gratification," but none at all during the next five months.

Rations. Salt-fish dearer than dholl.

1831. Our Return does not extend further; but when salt-fish is given as a "gratification" at the New Year, nothing more need be said upon the subject, except that the Returns taken from the prices current for the years 1868, 1870, and 1871, show that, when the bag of dholl of 150 lbs. is at the *highest*, $5·60, it is not double the price of salt-fish at the *lowest* price it ever was known to reach in those three years, $2 per 100 lbs.

Appendix E 15.

Dholl not always given.

1832. We find too that dholl is not always given. The smaller and lighter *legume* called "Boëues" (*Dorichos catjang*), is sometimes substituted for it; though we have no reason to believe that an extra quantity is not given sufficiently large to compensate for the difference in quality.

Rice and dholl served by measure.

1833. The allowances of rice and dholl are invariably served by measure, and not by weight, which, according to the contracts, they should be.

Measure used.

1834. The measure is generally a wooden one of sufficient capacity to hold the allowance of rice or dholl for the whole week; and there is a smaller measure at hand equal to a day's allowance; so that, when the allowance is to be served to a man who has been absent, the full of the smaller measure is taken from the larger one for each day's absence.

Machine for merly used: "Mont Choisy."

1835. At "Mont Choisy" there was a machine on the principle of the charger of an old shot-belt, or like such as are to be seen in some stables for measuring oats; with a hopper in the room above, which let fall an allowance of rice, as the belt does a charge of shot; but the immigrants did not understand it, and we were sorry to hear it had fallen into disuse.

Full quantity of rice not issued on "Plaisance."

1836. We observe in Mr. Jenner's Reports that on one estate ("Plaisance") he found 76 bags and 13 lbs. of rice short issued between 1st January 1871 and 3rd March 1872. On inquiry, he was informed by Mr. Hart, the principal proprietor of the estate, that

Appendix O. Report upon "Plaisance."

Mr. Hart's explanation about rations the fault of the overseer.

> "The balance of rice remaining unissued each week must have arisen from the "measure, which had been long in use, being worn out: that the increasing figure "of surplus rice, remaining after issue, was not brought to the notice of the pro- "prietors until the month of March last, from which time a new measure had "been used, which makes a balance rather against the property."

We find it is a fact that, since the 17th March 1872, there have been trifling balances against the estate.

Food should be served in full.

1837. The allowances of food ought to be served in full, without any deduction, except for *unlawful absence*; but on many estates the allowance is cut for sickness—on some, one-half; on some, a quarter; and on others, a third—and Dr. Icery would maintain the legality of reducing the allowance of food, on the principle that food to which a man is entitled during sickness can only mean such nourishment as may be required by his condition. Dr. Icery himself, however, does not follow this reading of the law; for the practice he follows, and would enforce, is that, when a man is sick, independently of the extra food the doctor may order for him, he should receive his rations, so that his wife and children, and even his animals, should live.

Questions 8363 to 8370.

Dr. Icery's views.

Practice of allowing family of sick man excellent.

1838. It would be well that this rule should be followed out everywhere; but, unfortunately, it is the practice on some estates, when the doctor prescribes a diet, that the patient gets that alone, but his family see no rations while he is in hospital. It might be difficult, where there are so few families, to prescribe it as a law; but certainly it is an excellent practice.

Technical difficulty.

1839. It is a nice point to decide; for it is very evident that, if the law provided either directly or indirectly that the immigrant should only have such nourishment as might be required by his condition, the rule could not be applied that every immigrant's allowance, when sick, should be reduced to any fixed quantity.

Requisite to enforcement of rule.

1840. To apply the rule, it would be requisite that there should be fixed scales of diet for the several invalids and convalescents in every hospital, and that the medical man should visit oftener than once or even twice a week; for it would not be right to leave the question of diet for the days intervening between the doctor's visit to the judgment of the hospital attendant.

Cutting rations of sick not authorized by law.

1841. At present, the law certainly declares that the immigrant, incapacitated by sickness from labour during his contract, shall be entitled to food at the expense of his employer; and as by his contract he is entitled to certain allowances of food, there does not appear to be any authority for curtailing that allowance: certainly not by any general rule, although there is no doubt but that, if he is properly attended to in hospital, his diet there might, and ought to be, varied from time to time by the doctor's

Rations.

orders. Nevertheless, as Dr. Icery suggests, the sick man's family, if any, require food even though the man get no pay during his sickness.

The Procureur-General's report upon Ordinance No. 16 of 1862.

Report, para. 32, enclosed in Governor's Despatch No. 81 of 1862.

1842. The Procureur-General's opinion, in reporting upon Ordinance 16 of 1862, was that

> "Some doubt having existed as to the right of the immigrant labourers, when "incapacitated from labour by sickness, an opportunity was taken to provide that "the labourers shall be entitled to lodging, food, and medical care, although they "will not receive wages in money during sickness."

They will thus

> "on the one hand be duly cared for by their masters, without, on the other, being "induced to feign sickness."

Mr. Hodoul of Belle Vue.

Appendix O. Mr. Boyt's Reports, pp. 100, 101.

1843. Mr. Hodoul, however, does not think this sufficient; for on "Belle Vue," in Rivière du Rempart, he gives only half rations to malingerers and to those who stay away from work without coming for medicines.

1844. At "Cluny," we found that the allowance of food was not cut for illegal absence; but an additional 10 cents were stopped out of the wages, that being the estimated value of the day's allowance.

Appendix B. "Cluny."

On some estates both wages and food cut on account of hurricanes.

1845. On many estates, but not on all, both wages and the allowances of food are cut when the immigrants are absent on leave or for a holiday. On some the immigrants get their pay and a portion of their food; and, when a hurricane passes over the Island and men cannot go out to work, or when continuous rain interferes with their labours, both wages and allowances of food are cut on some estates; while the immigrant's wants are not the first attended to, as we shall see, after a hurricane.

In equity, there should be no deductions on account of hurricanes.

1846. Moreover, the immigrants being engaged on monthly wages, it certainly is not right to reduce those wages when they are prevented working by the act of God. The same act justifies the men being compelled to work all Sundays; and it would be inconsistent with what we have seen that they should receive extra pay for it, while equity would require that they should be paid when prevented from working by a storm unless we are to admit the principle, so vigorously denounced by Sir Clinton Murdoch in 1864, that, where one of two innocent parties must bear a loss arising from circumstances beyond the control of either, such loss shall always fall upon the weaker party.

Dr. Icery generalises upon his own good practice.

1847. Dr. Icery has formed an opinion, expressed in his pamphlet, with regard to rations, from what he does himself, and then says it is the general practice

Page 22. Appendix D 22.

whereas we have found that Dr. Icery's practices generally are those of the minority of the planters.

No account kept of rations.

1848. The law only requires that the allowances (Dr. Reid objects to their being called rations, as he maintains that they are not rations in any sense of the word; but a compensation or remuneration over and above the wages of the month) should be given. It does not require any account to be kept of them: but it does not authorise any deductions from them, except on account of illegal absence.

Vol. II., question 855.

Immigrants ignorant of their rights.

1849. The complaints we have received regarding the non-delivery of rations have not been many; but that has been owing, in many respects and in a great measure, to the immigrants' ignorance of their rights, for though Dr. Icery, in his pamphlet, says—

> "The question of food has never given rise to any difficulty, as the planters gene-

Appendix D 23, p. 22.

> "rally give their labourers more than is fixed by their contracts, and
> "almost always double the rations as regards dholl and fish,"—

Single rations of dholl and fish seldom given.

our experience is that single rations of dholl and fish are seldom given together, and that a double ration of either one or the other is never given when both are procurable at a moderate cost.

Cutting rations.

1850. We also find that on some estates the day's allowance of rice, and the whole week's allowance of dholl and oil, are cut for illegal absence; and at Bassin, we are informed that, by a convention with the labourers, a quarter of the monthly allowance of dholl, oil, and salt is cut for two or three days' absence, and one-half for an absence of four or six days. Mr. de Belloguet had given orders that on his estates, when a man was absent eight days, no oil should be given him.

Appendix B. "Mon Trésor." Mr. Jenner's Report. Question 6855.

1851. These show the necessity for keeping an account of the rations issued, and of the deductions made from them; for the results shown in Return No. 4 (Appendix C) of the number of suits brought for rations is curious. There were

	Suits brought.	Decided for Plaintiff.
In 1864	124	74
„ 1865	811	409
„ 1866	932	611
„ 1867 the suits fell to	360, of which	232
„ 1868 they rose to	1914 „ „	1612
„ 1869 they fell again to	260, of which only	19
„ 1870 of	455 only	100
But, in 1871, out of	460, as many as	382

Rations. Statistics of suits brought for rations.

were decided in favour of plaintiff.

Illegal absence.

1852. It only now remains for us, before leaving the subject of work and wages, to consider what constitutes illegal absence, and what is the effect of the penalties provided by the law upon the labourer and upon his wages.

Appendix D 25, p. 17.

1853. These illegal absences are computed by Dr. Icery to amount to 7000, on an average of 70,000 engaged labourers, per diem, making 2,100,000 days' labour lost to the colony per annum. But Dr. Icery has omitted to include *the days gained to the colony by immigrants working on Sundays.* These, upon fifty-two Sundays in the year, and 70,000 engaged labourers, would amount to 3,640,000 per annum; but, as the work ought not to be for a full day on Sunday, we will take it at one-quarter, which will give, *per contra*, 910,000 gained; thus showing a nett loss to the colony of 1,190,000 at the utmost in a year.

Penalties for unlawful absence.

1854. The penalties for unlawful absence are given in Article 18 of Ordinance 16 of 1862; and Article 40 of Ordinance 31 of 1867 declares that a labourer absenting himself from his work without the leave of his employer, or any justifiable cause, shall be considered guilty of an unlawful absence; while Article 10 of Ordinance 29 of 1865 provides that any labourer who, when sick, refuses to go to the hospital and remain there, and who shall absent himself from his work, shall, during the whole time of such refusal and absence, be regarded in law and fact as unlawfully absent, and liable to punishment.

Position of men refusing to go into hospital and absent from work.

1855. As regards the latter offence, there is a solitary instance to be found of a man brought before the Stipendiary Magistrate in Black River in 1867, convicted of refusal to go to hospital; and it appears that the planters never trouble themselves to insist upon any of their labourers going to hospital; for if they do not come to hospital, they are marked "absent," and suffer the same penalty as if they had refused to go thither; and cases are to be found of men going to hospital, and even dying there, who have been marked absent.

Justifiable absence.

1856. Our attention, therefore, need now only be directed to discover what are considered justifiable causes for absences by the Magistrates and by the planters.

1872.

Procureur-General's opinion that question of justifiableness for Magistrates' judgment.

1857. An opinion given by the Procureur-General on the 3rd of June, 1872 (see paragraph 887), upon the question as to the legal right of immigrants to go to the Protector of Immigrants with complaints, or, rather, as to the extent to which, and the circumstances under which, such a right might be exercised without constituting unlawful absence, shows that by the laws of Mauritius no right is given, either expressly or by implication, to engaged immigrants absent to themselves from their employers' service in order to go to the Protector to complain; and that the question whether such absence is or is not justifiable, is one entirely within the jurisdiction of the Stipendiary Magistrate.

Appendix E 18.

Sir William Stevenson's view of the position of the Protector.

1858. This opinion confirms that of Sir William Stevenson, given so long ago as the 17th of January, 1860, that the Protector is more in the position of the Colonial Agent or head of the Immigration Department than of "Protector." He bears the name, but the Stipendiary Magistrates are really the Protectors of the immigrants.

Appendix E 19.

Mr. Farquharson's opinion as to absence for complaints to Protector.

1859. Mr. Farquharson does not consider the immigrants would be justified in going to the Protector to make complaints. He would excuse them if they had grounds of complaint, but he does not know whether the law would bear him out. We have his decision in Paratien's case; that

Questions 12,404 *et seq.*

> "he would have excused the defendant had he employed the time of his absence in
> "going to His Excellency the Governor, or even to the Protector, had
> "he used reasonable diligence to go and return."

Appendix E 20.

Mr. Farquharson's opinion as to justifiable absence.

He does not think going to consult a lawyer a justifiable cause, but restricts the lawful causes for immigrants' absenting themselves to going to declare the birth of a child, going to the Magistrate, and going to a court of justice on summons, or anything of the kind.

Illegal absence.

Mr. Daly's denial of Ramjuttun's case.

1860. The Magistrate of Savaune, Mr. Daly, on a complaint by the manager of "Riche Bois," sentenced Ramjuttun to two months' imprisonment for illegal absence from the 18th to the 26th April, 1872, in consequence of his having gone with others to the Protector to try and get themselves removed from the estate: one of their comrades having died there from rupture of the spleen after a blow struck by the manager, and for which the manager was not punished. Ramjuttun had been the principal witness in the case. The Magistrate did not consider going to apply to the Protector to be transferred to another estate a justifiable cause for absence, and punished him. Mr. Daly is one of the best, if not *the best*, Magistrate in the colony; but we fear that his ignorance of the language and character of the Indians prevents his appreciating their motives and objects as a Magistrate when judging their cases should do. But Rughoobur's case, and Ramjuttun's as connected with it, will require further notice hereafter.

Some planters cut double when immigrants at court, complaining.

Questions 7994 *et seq.*, and 8901.

1861. To return to the question of illegal absences. We find that the planters on several estates have a different opinion from Mr. Farquharson, for they cut double for every day the man goes to court; which, considering that, in many cases brought by immigrants against their employers, adjournments are asked for as soon as the defendant appears, the expenses are considerably enhanced to which the immigrant is put, who seeks to establish any supposed right he may have, independently of other expenses, and the fines to which he is subject for frivolous or vexatious complaints, which we have to consider in another place.

The Magistrates cause unjustifiable absence.

1862. But going to complain to the Magistrate, or being brought before the Magistrate, is not the only unjustifiable cause of absence. On some estates, being apprehended by the police, or being sent to gaol, is unjustifiable, and, perhaps as a general rule, it may be; but our inquiries have obliged us to come to the conclusion that it is often the Magistrates, who commit to prison, who cause the unjustifiable absence.

Double cutting during imprisonment, monstrous.

1863. That a man is entitled to his wages, during the time he is in gaol, could never be maintained; but that he should be liable to the "double cut" for it, appears monstrous (notwithstanding the labourers employed by Government upon the public roads, under the Surveyor-General, are subjected to it; as are those employed at "Anse Jonchée" and "Plaisance," as well as on many others): especially when we consider that the majority of persons sentenced in Mauritius undergo imprisonment, of from seven to twenty-eight days; and that, if a man has been fourteen days unlawfully absent and had his wages cut for it, he has to work for the rest of the month for his rations only; and that, for the day he returns from prison, he has to work without his rations; and, on most estates, as we are told by Mr. Renouf, a man must work a day before he gets his rations.

Question 10,704.

Appendix D. No. 6.

Hardship of so doing.

Question 7852. 11,479, 13,871.

Mr. Renouf's severity.

Rations served by Dr. Icery to returning absentee.

1864. Yet Mr. Renouf punished a man for illegal absence with four days' imprisonment, because, on his return from gaol on the 28th March (to one of the few estates, we must imagine, where rations are issued in advance) he applied for his rations before going to work, and was told he had had them before going to gaol. Had this man belonged to Dr. Icery's estate, he would have fared better; for on that estate the first thing a man does when he returns from a long absence, is to ask for his rations. No objection has ever been made there to delivering rations in advance.

Questions 7550, 7551, 7561.

Double or single cut, during imprisonment, still a moot point.

1865. It, however, assuredly appears to be still a moot point whether a man in prison should have his wages cut, as if for illegal absence; since Mr. Baudot, another Magistrate, will not venture an opinion as to whether men ought to be cut double or single for absence while being in prison.

1866. We come now to consider the effect of the penalties provided by the law against absences, upon the labourer and upon his wages.

Penalties for unlawful absence.

1867. These penalties, we may remember, are:—

Losing his claim to wages and allowances during such absence; and

Forfeiting to his employer one halfpenny for each shilling of his monthly wage for each day of absence.

(This forfeiture, which is commonly called the "double cut," may be applied by the master in the first instance; but he must justify it to the Stipendiary Magistrate, in the event of the immigrant complaining that his wages had not been fully paid.)

Or,—

The employer may complain to the Stipendiary Magistrate, who may sentence the man to a penalty not exceeding fourteen days' imprisonment.

Or,—

At the option of the employer, the Magistrate may sentence the immigrant to a prolongation of the contract equivalent to the time of absence. But the immigrant

may redeem that prolongation by a payment, at the rate of 6*s.* per calendar month, to the employer.

Penalties for unlawful absence. Observations in favour of immigrants.

1868. But none of these penalties can be inflicted if the immigrant, before absenting himself, have applied for wages lawfully due, and been refused them; nor, if the wages had been unpaid for any period longer than two calendar months before his absence; nor, if two calendar months had elapsed, after his return, between application of the forfeiture or lodging of the complaint.

Effect of the "double cut."

1869. We have already shown that the forfeiture and wages together exceed, by one-fifth, two days' wages. This might be accepted as a forfeiture of two days' wages for one day's absence, and be a sufficient punishment for that one day's absence generally; though, perhaps during the "coupe," cases might arise in which no amount of fine or imprisonment could compensate for the loss of a single hand. Fortunately, we find that absences during the *coupe* are of less frequent occurrence than absences during the *entre-coupe*.

Absences during the *coupe* and *entre-coupe*.

Deduction according to the Ready Reckoners.

1870. The very name by which the forfeiture is known—the "double cut"—shows that, if a man be absent one-half the month, he must work the other half without pay, and for his rations only. But the real state of the case is that, if a man is absent for 13 days, he receives on the 14th his pay for that day; but, if his pay exceed $1, he merely receives half the day's pay; and he works on the remaining 16 or 17 days of the month for his rations and a fraction of one day's pay, and that according to the most favourable Table. The other Table gives the man his full wages on the 14th day only, when his wages are $1 per mensem. At every other rate of wages he only gets a part of his wages, should he work on the 14th; and on the other 17 days he works for his rations only.

Appendix E. 31. Ready Reckoners A and B.

Over cutting on some estates. Riche-en-eau.

1871. Such is the general rule; but there are estates, such as "Riche-en-eau," where the proprietor was not content with the above Tables, but adopted one for himself, by which, in addition to the sums that would have been deducted according to the Tables, he, in the year 1871, deducted $331·09 more than he had any right to for absence and sickness; though the one-cut was not taken from the sick for the last four months of the year.

Appendix B. Riche-en-eau.

"Bon Air."

1872. On the otherwise well-managed estate of "Bon Air," in Moka, we find that 2 cents, sometimes more, are added to the deductions made each day for sickness or sickness or illegal absence. Whether this is to compensate, as alleged, for the taking no notice of sickness or absence on Sundays, is not established.

"La Rosa."

1873. At "La Rosa," they have no Tables, nor any rule for cuttings. The figures are supposed to be put down according to chance.

Question 9462.

The "double cut" not considered sufficient compensation to the planter.

1874. This "forfeiture," which, as we have seen, at the least exceeds a "double cut" (to which Mr. Pitot objects, though it is the term known in the colony, if not in the law), is not considered to compensate the planter, nor has it cured absenteeism; and Dr. Icery is of opinion that there would be no difficulty in abandoning it, if a proper substitute could be found. But, though this appears to be admitted on all sides, no one save Mr. Poulin has suggested a remedy; and his appears to us to be so complicated and impracticable, that we do not think it requires further notice; for, if the Magistrates have been unable to carry out the law as it now stands, whether from carelessness or from an incapacity to comprehend it; if they did understand Mr. Poulin's scheme, they have given us no reason to think that they would enforce it, if we were to recommend it for other reasons.

Vol. II., question 307.

Questions 7589, 6535, 8423, 13,000, 13,506.

Question 13,000.

Impracticable suggestion of Mr. Poulin.

Present law has not cured absenteeism.

1875. There can be no doubt that the present law has not cured absenteeism; the question whether the penalties for absenteeism have indemnified the planter or not, is more doubtful.

1876. Lord Glenelg, in 1838, expressed his dissent from those who held that punishment ought to be so selected as to exonerate the employer from all loss accruing from the misconduct of his apprentice: and he objected to the too frequent and indiscriminate use of those punishments from which the employer derived a direct advantage; and had his views been carried out, we should not have found Dr. Icery complaining that the fine does not compensate the planter for the losses he has to submit to in consequence of the want of hands at any given moment; though it is very certain that in some senses and on some occasions it never can. But, had the forfeiture been inflicted in all cases only where it was lawful, the planters would themselves, ere this, have discovered that the law was an entire failure; and it is to be hoped would, by this time, have discovered some improvement upon it.

1838.

Lord Glenelg's view of punishment of apprentices.

Despatch No. 54 of 12th July, 1838.

Appendix D. 25. p. 18.

Had forfeiture been inflicted only where lawful, planters would have found "double cut" a failure.

1877. The law, hitherto, has been entirely in one direction: the punishment of the

Questionableness of the law.

Illegal absence.

immigrant, and an attempt to compensate the planter. No attempt has ever been made to oblige the planter to exert himself to *prevent* the labourers' misconduct.

Planters not made to feel loss through absence of their men.

1878. Great complaints are made of the injury and loss caused by unlicensed absence; but that has never yet been sufficient to force the planters to prevent it. They are put to some expense in introducing New immigrants; and if these desert or are absent, the planters suffer positive injury. But those who employ Old immigrants have nothing to pay for their introduction; and, whether they engage one man only, or two hundred, they have but two shillings to pay for the contract and a shilling for each certificate. The consequence is, that it signifies little to the planter whether he engages ten or a dozen men, even though some of them be notorious idlers. They cost him but one shilling and probably a fraction more each; and, as they belong to the band, it is better to engage the whole band at this trifling expense, than to lose all the good men he would otherwise engage. Thus, the law, by relieving the planters from the necessity of the strictest economy in the engagement of their labourers, prevents their exerting themselves in controlling their absences.

Employers to be restrained from engaging more men than required.

1879. Should means be found to restrain employers from engaging more men than are absolutely necessary for their estate, the planters would themselves soon find out how to restrain illegal absences.

Planters have found it more advantageous to break the law than to observe it.

1880. From answers to many of our questions upon the subject, it is evident that the witnesses were under the impression that we have thought the forfeiture itself illegal, instead of observing that we had seen that the legal forfeiture had been applied in so many instances in an illegal manner, as entirely to vitiate it. But these illegalities have been so much to the benefit of the planter, that though they may not have indemnified him, they have shown how far better the illegal application of the law was than a strict compliance with it would have been, and that it was more to their advantage to adhere to the law as illegally administered, than to seek to have it strictly applied.

1881. It would be a waste of time to take any notice of what has been urged before us:

Question 15,507.

> that application of the forfeiture is not illegal until four months' wages be unpaid; for there can be no law more clear than this,—
>
> That if a man has applied for his wages legally due and been refused payment of them, his absence thereafter is not illegal: that if the wages of the immigrant have been unpaid, even though he had not asked for them, for any period longer than two calendar months, his absence thereafter is not illegal:
>
> That if the wages have not been paid, nor complaint been made against the immigrant for two months after his return to work, he cannot be punished for unlawful absence.

Payment of wages on Government estates.

1882. The Government, in the management of the estates they themselves hold, "Belle Vue" and "Mon Repos," sanctioned, as we have been informed, the payment of the wages on those estates every two months, instead of every month. This system has been followed since July and August 1868, having been verbally sanctioned by Messrs. Kerr and Chasteauneuf, it is said, at the request of the immigrants, though there is no written proof of such a request ever having been made.

Appendix E 16.

Planters observing only so much of the contract as suits them.

1883. But whether at the request of the immigrants or not, the Government had no right to depart from their contract; and, they should have kept strictly to their part of it, and have insisted upon the other party doing the same: but so long as Government or their agents (with or without the sanction of the Governor) will not when bound by a contract, adhere strictly to it, contracts, as in this Island, become empty forms, the stronger party only observing just so much of them as suits his convenience; and we must not be surprised at the planters following, or adhering to, the example set them by Government, and justifying themselves as Mr. Chasteauneuf has justified himself and the Government, in that

Vol. II. just before question 754.

Bad example set by Government to the planters.

> "Payment was delayed at the request of the labourers themselves: and as he did "not refuse them their pay when asked for it, he was perfectly justified in prac- "tising the 'double cut.' Nothing would have been easier than to pay monthly "if they had wished it."

1884. There is no occasion to doubt what Mr. Chasteauneuf says was the case, as he had no personal interest in the matter: but the planters have; and if they find the Government hold to their written contracts loosely, they will, of course, take advantage of the example.

Mr. Chasteauneuf's explanation of the practice.

1885. The system above noticed, of paying sometimes at an interval of two or three months, continued in force until January 1872, the manager, as Mr. Chasteauneuf informs us, having said that the men had wished to be paid in that way. Mr. Chasteauneuf tells us, however, that he mustered them and asked whether they

Vol. II., question 599.

wished to be paid promptly. Some said they wished to be paid every two or three months, but the majority preferred monthly payments: and hence they have, since January 1872, been paid every month, without a month in arrear. He further asked them whether they would be paid weekly or fortnightly, when they told him they preferred monthly payments, as the amount to be received weekly or fortnightly would be very small.

Alleged preference of Indians to have wages in arrears.

1886. It has constantly been asserted that Indians entertain a preference for payments at protracted intervals, whereby they receive a larger sum at one time. This might be plausible if we had found it to be a fact. But even when payment is deferred, the labourers seldom receive the full amount due to them; while, in most cases, they are paid only the wages of one month, which accrued due perhaps two months before.

1887. That the immigrants have no predilection now for allowing their wages to be in arrears, these cases show, and that such a weakness was by no means universal in times past, is shown by the case above cited, which occurred at "Virginia" in 1869, as well as by a similar case about the same time at "Les Marres," when we find that great disorder was apprehended by the Magistrate on account of the discontented state of the labourers.

Question 14,980.

Reported strikes against being paid monthly.

1888. The assertion respecting the supposed preference of the immigrants for having their wages in arrear was prominently brought to our notice by its being reported that the immigrants on the "Grande Baie" estate had refused to receive their wages monthly, since we had been insisting that monthly payments were required by the contract and by the law. The immigrants on "Clemencia," "L'Union," "Belle Rive," "Bon Espoir," "Clairfond," and "Mill Vale" were also reported to have declined receiving their wages monthly.

"Clemencia," "Union," and "Belle Rive."

1889. At "Clemencia," "Union," and "Belle Rive" their objection was, that as another month's wages were nearly due, they preferred having the two together. A very good reason, and likely to expedite the payment of the second month's wages; for, on the Manager promising to pay them early in the following month for the one then current, they accepted their wages readily for the month before.

Appendix E, 16.

"Clairfond."

1890. At "Clairfond" the Inspector of Immigrants, in the course of his inspection in November 1872, found that the proprietor had not paid the wages for August, September, and October, and that he did not intend to pay them until the end of the year, when it was his intention to pay them, and still to inflict the double cut upon all who did not dispute his right, as it was the men's wish to have four months' wages at the New Year. At "Mill Vale" three months' wages were unpaid; and the owner declared his intention of applying the double cut. In this case the proposal came from the proprietor.

Appendix E, 17.

"Mill Vale."

"Clairfond."

1891. As regards "Clairfond," however, on further inquiry it appeared doubtful whether the proposal came, as urged by the proprietor, from the men, or from himself; and there were very good grounds for believing that not only did the suggestion come from himself, but that a promise of seven days' leave at the New Year, instead of two only, had been held out by him as an inducement, and that he had not kept his word.

When Mr. Mauvis offered to refund the amount of double cut, men refused to receive it.

1892. Mr. Mauvis subsequently offered to repay these men, seventy-four in number, who had been cut, $101·97; and the Protector of Immigrants on one occasion, and the Inspector, Mr. Jenner, on another, went there with the money received from Mr. Mauvis to pay them. Four only of the men, whose claims amounted to $17·42, consented to receive it when offered by Mr. Beyts; and eight more, with claims amounting to $24·09, received it from Mr. Jenner; six men had left the estate, with claims amounting to $5·20, so that the fifty-six who remained had not, on an average, to receive $1 a-piece. The amount is of minor importance. The objection is to the principle which allows men, after making a solemn contract in writing, to deviate from it by parole agreement.

1893. It is, however, but justice to Mr. Mauvis to say that, had he kept his word about the holidays, the probability is that none of the men would have accepted the refund: for one, even after he had taken it, brought it back to the Inspector, who would not receive it, and then took it to Mr. Mauvis and gave it to him, saying,

> "Here is your money, sir!"

an example of fidelity to a parole engagement which shames the planters as to the way in which they keep their written contracts, and proves that these men have a nicer sense than their masters of the duty of keeping their word; for, on a former visit, the spokesman told the Inspector

> "Malabars" (as they call themselves) "will not refuse to give a good master time to "pay when he is embarrassed: but if he makes promises he ought to keep them."

Mr. Mauvis appears, in many respects, what is considered in Mauritius a good master.

Alleged preference of Indians to have wages in arrear.

for, though he might not always act up to his contract, he appears to do so in giving both fish and dholl, which few others do give; and to be liberal in food as "gratifications;" with which the planters generally try to atone for other shortcomings.

Visit to the "Dry Docks" at Port Louis.

1894. We were requested by Mr. de Courson to visit his establishment at the "Dry Docks," of which he is manager, where he employs 264 men, 65 of whom are Indians.

The system there is to pay the wages monthly. Mr. De Courson informed us that he had tried the experiment of paying weekly, but the consequence was a great increase in the number of absences. He, therefore, reverted to monthly payments.

Small proportion of absentees.

1895. On looking over the Pay-book for April, May, and June of 1873, we found the legal absences among the Indians in April amounted to 228; illegal, 73; in May, legal 186, illegal 47; in June, legal 157, illegal 59.

Upon pointing out to Mr. de Courson that the illegal absences, except in April, did not amount to one day in the month for each Indian immigrant, he informed us that he had not so much to complain of in the Indian as in the Creole workmen; the former having been for some years at work under him, indeed, having followed him from his estate in Grand Port to the Dry Docks.

Absentees mostly Creoles.

1896. The Indians were engaged for one year only, the Creoles for two. The Docks find lodgings for the men, but do not compel them to live in these lodgings, if they prefer to live elsewhere. He has no hospital, but pays 1*s.* 6*d.* a day for those men he sends to the Civil Hospital. Those slightly ill see the doctor on Mondays and Thursdays, when he comes to visit them at the Docks: a system which he has introduced since the month of May last. Mr. de Courson informed us that the ready reckoner used by the Company was Ready Reckoner B, and, on comparing his books, we found they were scrupulously correct. This establishment has never been visited by the Protector, Stipendiary Magistrate, or Inspectors, any more than the other estates in Port Louis, until after our arrival in the country.

Gratifications.

1897. So constantly is reference made to "gratifications" as an equivalent for extra work, and as a quittance for various shortcomings, that to prevent attributing too much weight to it, we must bear in mind that it is the cheapest compromise planters can make, as it requires no ready-money payment; and that "gratifications" can be given,

"Mon Trésor."

Appendix B. "Mon Trésor."

as Mr. Chauvin showed us at "Mon Trésor," to conceal an illegality which had existed for several years. He was afraid, if he acknowledged too

Mr. Chauvin setting about doing tardy justice.

abruptly that he had been cutting the men's rations, it would create disorder among them; so he promised to take advantage of the "coupe," and announce that, as the crop had been good, he would give up his illegal practice as a "gratification."

"Gratifications" the subject of verbal agreements.

1898. These "gratifications" are the subject of verbal agreements between the planters and their labourers; but, Mr. Daly informs us, are not enforceable upon the master, and he suggests that they should be made the subject of a supplementary contract binding upon both parties. We see no objection to such a covenant being introduced into the usual contract that, in the event of extra work being required, it shall be paid for at a certain rate per hour; for, whether the work upon which a man is engaged be task-work or day-work, the extra work he may be called upon to do is more likely to be measured by the hours spent upon it than by individual tasks.

1899. We believe it, however, to be the practice on the great majority of estates to give a "gratification" in some shape or other, for the extra work rendered during the "coupe;" though the rule is the same on scarcely any two estates, and on still fewer is any record preserved whereby the statement, almost universally made, can be properly proved, "L'Union," in Flacq, being almost the only exception.

"Trianon."

"Combo."

"St. Aubin.

"Bénarés."

"Hewetson.

1900. The "gratification" most commonly consists of an extra allowance of rice, or an extra payment in money; sometimes of both, though they vary very much in their details. Thus,—

At "TRIANON," a daily "gratification" was given to the mill-men and carters at the rate of 60 cents per month to the former, and of 50 cents to the latter, beside ¼ lb. rice per diem.

At "COMBO," it consisted of 1 rupee per month to the mill-men and carters whilst double rice was generally given to such men as worked regularly without absenting themselves.

At "ST. AUBIN," the mill-men and carters received double rice and 4*s.* for every 26 days they worked.

At "BÉNARÉS," 2½ lbs. of rice extra were given as an inducement to regularity in working.

At "HEWETSON," in Flacq, 1¼ lb. extra of rice was given every day during the

"coupe;" which amounted in one week to 2783 lbs., besides 1 rupee per month to the firemen.

Evil attending delay in payment of wages.

1901. The delays in payment of wages are accompanied by all the same evils to the Indians as they are to other people: for the labourers, when not paid regularly, are obliged to borrow money from their sirdars; sometimes without interest, at other times at the exorbitant interest of one halfpenny or three farthings a month for each rupee; or else, if they can, to take credit at the shops.

Bons.

1902. We have already alluded to *bons*, which are given on some estates. They are the natural consequences of delay in the payment of wages, and are, of course, most common on those estates where payment of wages is longest delayed; and the very existence of these *bons* refute the assertion that the Indians prefer not being paid every month.

Bons, natural consequence of delay in paying wages.

"Bar-le-duc."

1903. At "Bar-le-duc," a number of slips of paper, marked with Chinese characters in one corner, hang ready at hand at the door of the room in the sugar works, where the books are made up. On these slips of paper the *bons* are made out, which precludes the possibility of their being tendered to any other shopkeeper than the Chinese, who lives on the opposite side of the road.

Appendix Q. Mr. Mitchell's Reports.

"Frederica."

1904. Similar *bons* are given at "Frederica," in Savanne, upon a Chinese shopkeeper at Jacotet.

"Mon Trésor."

1905. On "Mon Trésor," in Grand Port, *bons* are not given with the same facility as at "Bar-le-duc" and "Frederica," or even as on other estates. Here, the Indian goes to the shop on the estate, kept by a Creole, and gets a note of the articles he requires, which he takes to get the signature of one of the employés to it, and then returns for his goods.

The "Mount."

Appendix Q. Mr. Beyt's Reports, p. 16.

1906. On the "Mount" estate credit was taken by the Indians in October and November 1871 upon the shop for $180. The average of the wages paid for those two months amounted to $976.

How are bons repaid?

1907. A question has arisen and been much canvassed, as to how these *bons* are repaid,—

Whether the shopkeeper is allowed to be present at the pay-table?

Whether the planter, as being answerable for the *bon*, deducts the amount due? Or,—

Whether the immigrant is left to settle his account with the shopkeeper himself?

The evidence is very conflicting; but it does not affect the subject as we are now considering it, as a proof that Indians cannot desire delayed payments; because they are obliged to take up money from time to time to meet their present wants.

"Plaisance."

"Henriette.

"Beau Plan

Appendix Q. Mr. Jenner's Reports.

Appendix Q. Mr. Beyt's Reports.

1908. Yet, to obviate the necessity of recurring to the subject, we may remark that at "Plaisance" *bons* are stopped on pay-day, on account of the shopkeeper, a Frenchman; and that at "Henriette" and some other estates, the amounts of the *bons* are deducted from the wages, and paid to the shopkeeper, who is present; while at "Beau Plan," the shopkeeper is not allowed to be present on pay-day, but sends up his *bons* on that day, and they are made a set-off against the wages.

1909. We trust we have shown that the very fact of delaying wages after they have become due is not, and cannot be, acceptable to the Indians, even if it were not a breach of contract.

Amount of deductions for unlawful absence.

Appendix F, 3.

1910. Before, however, proceeding to consider the other ills which attend this disregard of the contract and the law, it may be well to mention that, in the year 1871, according to the Returns we have received from estates, the total amount of the pay-lists for that year was $2,580,901·72; whilst the sums deducted for illegal absences, during the same twelve months, amounted to $428,750·32—as shown by those estates which have furnished us with complete Returns; and there is a further sum of $10,068·59 to be added on account of nine estates whose Returns are not complete for the year: making a total of $438,836·91, at the least, cut for illegal absence. And it must not be forgotten that a large proportion of these deductions were illegal, in consequence of the wages having been unpaid for more than two calendar months.

Table drawn by Mr. Robt. Mitchell showing the working of the double cut.

Appendix E, 4.

1911. Mr. Mitchell framed for us the Table in the Appendix, which shows on eight estates (with only one, "La Gaieté," selected as very good, and the rest as in no way remarkable) the value of the days worked for which no wages were paid, both through the application of the double cut and also through the illegal application of the double cut.

1912. With the exception of "La Gaieté," and "Bénarés," where there were no

Tables framed by Mr. Robert Mitchell showing the working of the double cut.

illegal cuttings at all, there is but one other estate, "Bel Ombre," where the illegal cuts are not more than half the entire sum. On "Wolmar," the whole sum cut was $667·80, and of that $622·60 was illegally cut.

1913. A second Table has been added, showing what would be the result as regards the whole Island. If there are 75,000 labourers on estates, and each of these eight estates be taken as the unit of comparison, then it appears, from the average of the eight estates, that 1,393,186 days' work would have been obtained in that year for the men's rations only: which, reckoning the month at thirty days and the wages at an average of $3 per mensem, represents a sum illegally saved of about $139,317, or £27,863 sterling.

Observations of the Chamber of Agriculture, 8th September, 1867. Parn. 20.

Oversight of the Chamber of Agriculture.

Appendix F, 9.

1914. We should hardly have thought that the Chamber of Agriculture, who, in September 1867, were of opinion that

"Tout homme qui travaille sans recevoir de salaire n'est qu'un mauvais travailleur, et qui donne lieu à un mécontentement journalier et des réclamations continuelles au détriment de la discipline de l'atelier,"

could have so long endured two or three millions of days' work being done in the year without men being paid for it.

Stipendiary Magistrates' returns of arrears of wages.

1915. The returns sent in by the Stipendiary Magistrates show how many months the estates they visited were in arrear on the days of their visits, as we have mentioned above; but the Protector, when he received these reports, only inquired whether the arrears had since been paid. He made no inquiry as to whether the double cut or prolongation of service had ever been inflicted for absences while such arrears were due.

Negligence of the Protector and the Stipendiary Magistrates.

1916. In a word, neither the Protector nor the Stipendiary Magistrates appear ever to have known, or to have thought of inquiring, whether imprisonment or prolongation of service had been inflicted while the wages had been for so many months unpaid.

The double cut as an indemnity.

Question 7539.

1917. The question how far the forfeiture, if applied only according to law, indemnifies the planter, need hardly be discussed. We may admit that the loss of a man's work during crop-time is, as Dr. Icery informs us, irreparable; and we can fully understand that, saving the man's wages for that day of irreparable absence, and obliging him to prolong his service, perhaps during the *entre-coupe*, when his labour is hardly required, or even during the *coupe*, is not a full indemnification. Nothing but an entire eradication of the evil can do that. But it is not unimportant to see what the effect of the forfeiture, as illegally imposed, has been upon both the planter and the immigrant.

Dr. Icery's view.

Question 7542.

1918. Dr. Icery has worked this out in favour of the planter, not intending the result to be considered unquestionably exact; but, to show that it is not to the interest of the planter that a man should absent himself from his work, and that his cupidity, which might have been thought to foster those absences, would rather go the other way. This shows a loss of $9944·80 upon 17,064 days, on which the men worked for no wages, except their rations.

The Commissioners' finding.

1919. On the other hand, it appeared to us that, by a similar calculation, there would be a loss only of $9043·92.

Difference in loss by absence at certain seasons.

Appendix E, 7.

1920. The tables, and Dr. Icery's letter upon the subject, are in the Appendix; but it is not possible to put a money-value upon the time lost by absenteeism; for the loss, as we have said above, which might not be felt at all at one season of the year, might be irreparable at another. It is, therefore, wrong to estimate the loss for the year round by the loss which is calculated as accruing upon a day during the 111 days only on which the mill had been working.

The planters' view of the job contractor's gain and unlawful absence.

1921. It is, however, worthy of remark, that the Chamber of Agriculture, when, on the 10th of May, 1855, reporting upon the question of job contractors, urged that the evil of absenteeism was looked upon by the job contractors in a very different light from that in which it was viewed by the planter; as the job contractors only paid their men for the work they might actually do, and were not losers to a serious extent by what the men left undone. The job contractor

"often consequently speculates upon absenteeism as a matter of profit to himself, "from his being enabled to deduct two days' pay for every day's absence."

We are, nevertheless, willing to admit that it is possible, especially during the coupe, for a day's absence to cause an irreparable loss to the planter.

Mr. Henri Pitot's views.

Vol. II., question 308, and Appendix thereto.

1922. Mr. Pitot further contends that no man works on an estate for his rations alone; for the immigrant is furnished with lodging and medical attendance; and by that he shows that the New immigrant, whose average wages he assumes are $3·25 a month during his first five years, receives the equivalent to $4·30 in rations, medical attendance, &c. So that, after all deductions have been made, though he have been absent fifteen

to $3·48.

1923. The estimate is high in the first pl
grant during the first five years of his enga
generally being for 10*s.* per mensem, to increase
average of five years 12*s.*, or $3.

1924. Again, Mr. Pitot charges the immigrant wit
fee, all expenses included ($60), at the rate of $1 a m
the only person benefited, and not the planter likewise; o
not bound to make the whole outlay, or he would not get the immigrant.

Hospital expenses.

1925. So, too, as regards the charge Mr. Pitot makes against the immigrant for his share of the doctor's fee, 8½*d.*, and for hospital expenses and attendance, 11½ cents per man; as, until the planter has engaged all these, he cannot have the men; and, if he charges them for it, where is the agreement in which he promises, in addition to their wages, to furnish them with all these things?

Hospital attendants.

1926. His estimate for the hospital also is too high. He charges for the hospital attendant at $186 per annum, and for the assistant at $90; whereas, in the return we received from St. Aubin, one attendant is said to g $12·50 per mensem, or $150 per annum, and the other $3·50, or $42 per annum. If it be urged that these last sums do not include the value of the rations, and that the higher sums do, it appears, then, remarkable that the head-man should get but $36 per annum worth of rations, or $3 per mensem, whereas his inferior should have $48 worth, or $4 per mensem.

Mr. Pitot's estimates may be correct, when hospitals have been improved.

1927. These charges and estimates may be very fair when the hospitals are reformed, and made what hospitals should be; but, until then, it will be wise in the planters not to quote their hospitals among the advantages that accrue to the immigrants by coming to Mauritius. (See Chapter XX., *Hospitals.*)

No nourishment in knowledge of fact that a hospital exists.

1928. If Mr. Pitot means to contend that the money wages do not represent all that the immigrant receives for his labour, he is right. But when a man has his wages stopped, and receives nothing but an allowance which requires condiments and other things to make it palatable, and is not of itself sufficient, it is no satisfaction to him that there is a doctor and a hospital if required. The knowledge of that fact will not supply him with the other food he wants, and which he cannot procure if he receives no money payment.

Alternatives for the double cut.

1929. We come now to consider the alternative punishment for illegal absence, of imprisonment or prolongation of service.

Imprisonment.

1930. Imprisonment is seldom had recourse to as a punishment for simple illegal absence. The period of imprisonment is reckoned as a part of the term of service under contract, and hence only increases the number of days lost to the planter. Consequently, when it is applied for, it is as a punishment, and it has generally been attended by the double cut, which, as we have shown above, is sometimes continued during the whole 14 days of imprisonment.

Ordinance No. 21 of 1867. Article 79.

14 days' imprisonment not sufficient where long-continued absence.

1931. Fourteen days is the greatest length of imprisonment that can be awarded for illegal absence; and that would be no punishment to a man for his absence extending to 1439 days, as we find in Grand Port; 1460 in Pamplemousses; 1206 in Flacq; 1815 in Savanne; 1580 in Moka, and 1730 in Rivière du Rempart. Of course, in these cases it was most probably forgotten to inquire whether the forfeiture had been applied or not for the few days before the immigrant absconded, and there would be no use in contending about it at the end of four or five years, as proof might have been difficult, if not impossible. But absence for such a length of time becomes a more serious offence than one that can be adequately punished by 14 days' imprisonment; and the planter, when applying for such protracted prolongation, ought to show that he had exerted himself to discover the immigrant's haunts, and had failed to find him, or should be held to have condoned the offence and given the immigrant a prescriptive right to his liberty.

Imprisonment and prolongation of service.

Where prolongation for long-continued absence, planters should use due diligence.

Prolongation of service.

Magistrates not regarding the law.

1932. But these applications for prolongation of such protracted absences are evidently what the present law never contemplated. Under the old law, which required notice to be given monthly of illegal absences, in order that at the termination of the contract they might be added together and prolongation granted, they were necessary and legal, but since Ordinance 16 of 1862, this arrangement has been superseded, and punishments for protracted absences like the above only show how the Magistrates have gone on administering justice in utter disregard of the provisions of the law.

Redemption of prolongation.

1933. That the time they are absent is not always spent in idleness we find from the return from Grand Port, whence it appears that there were 135 persons condemned to prolongation of service during the years 1870 and 1871; and that of these, 79, or more

paragraph 4, of section 18 of Ordinance
endar month of absence, and redeemed
d to replace 630 days, must have paid six
-for-nothing man could not have commanded.
there are other causes for unlawful absence
ted—a natural propensity to laziness, the bad
want of relaxation from work.

roceedings in cases in which application has been
even Mr. Daly admits that he has been somewhat
Question 13,534. negligent, while not quite as careful as he might have been in ascertaining that the double cut had not been applied, and that the wages were not, at the time of absence, two months unpaid, although we believe him to have been the first to realise and draw attention to the evils of long arrears of wages.

Mr. De Charmoy.

1935. Mr. D'Emmerez de Charmoy, following the old system, sentenced men to Questions 14,459 to 14,463. prolongation amounting to 150 days, without having any dates before him, and consequently without the possibility of knowing anything about the double cut; but, he has since discovered his error.

Mr. Renouf.

1936. Mr. Renouf, when he prolongs service for absences, invariably now examines the Questions 10,907, 10,998. books, to see that when the man absented himself, two months of wages were not unpaid; but he cannot say that he did so in 1870 or 1871.

Mr. Farquharson.

Questions 12,759, 12,760. 1937. Mr. Farquharson admits that it would have been better to have had evidence before condemning men for illegal absence.

Mr. Messiter.

1938. Mr. Messiter did not make inquiry before passing sentence of prolongation of service, whether the double cut had been inflicted, or whether two months' Questions 14,840, 14,841, 14,842. wages were unpaid. He thinks this provision of the law has generally been overlooked. He believes it has almost been a dead letter, at least it had been so with him. It was a long time before he perfectly understood article 19 of Ordinance 16 of 1862.

Two exceptional cases where the law was observed.

1939. In the course of our inquiries we found a case decided by Mr. Baudot, and another decided by Mr. de Charmoy, in which inquiry was made as to Appendix F, 8. whether the defendant had been subjected to the double cut; but those are the only cases we have seen, prior to 1872, in which the question had been asked, or information been sought for. Mr. Baudot himself, in his evidence before us, says that Questions 13,832, 13,835. he generally asked the question before sentencing a man to prolongation of his service; but it cannot be denied that in great many cases it was overlooked.

Magistrates of Moka and Plaines Wilhems.

1940. We did not examine the Stipendiary Magistrates of either Moka or Plaines Wilhems, but from an examination of the books of the estates, we find that they had sentenced men to a prolongation of service without, apparently, making any inquiry as to the pay they had received, or how many months' wages were unpaid when they became absent.

Before 1872, Magistrates generally disregarded the law.

1941. With all these admissions, it is quite unnecessary to go into the multitude of Appendix E. cases given in the Appendix, which we have before us, to show that the Stipendiary Magistrates throughout the Island, previous to 1872, as a general rule condemned men to prolong or make good their contracts, without any inquiry whether the forfeiture for illegal absence had ever been exacted, or any sentence of imprisonment had ever been passed upon them for such absence.

1942. The following will perhaps serve as a by no means extraordinary example of these cases.

Bundhoo's case.

Bundhoo was brought before the Stipendiary Magistrate of Rivière du Rempart to have his contract prolonged for 5 months and 25 days. It appeared that he had engaged on the 29th of March 1871 to Mr. Duboisé de Ricquebourg, of "Bavin," for Appendix E, 6. two years, and that on the 25th of the September following he was condemned to replace 5 months and 25 days, equal to 178 days, for absence during the months of April, May, June, July, and August, and 25 days in September.

1943. The Magistrate's proceedings show, *the plaint*: that, complainant complains against defendant for having absconded and deserted from his service since 20th March "last" (1871); *the charge*: desertion; complaint lodged the 11th September, judgment given on the 25th; *admits* 5 months; 25th September, *judgment*: sentenced to replace 5 months and 25 days' absences and costs, with the initials of the Stipendiary Magistrate.

1944. From an examination of the books of Mr. Duboisé de Ricquebourg, it appears that Bundhoo was only absent the whole month of August; in April, but 12 days; in May, 5; in June, 8; in July, 7; in September, 25; for all which absences, amounting to 88 days only, he had been cut double by his master, and was by the Magistrate condemned to replace 178 days in addition, a sentence not applicable to the offence with which he

was charged, and both illegal and unjust; because, for every August, for which he had been absent he had already been puni

1945. This is a glaring instance of the injustice which has Magistrates. Mr. Farquharson tells us that he una Question 12,727. well, so that he had no excuse, and yet he punis absent only 88 days with a prolongation of 178 days, though before for the same offence!

1946. Not one of the Magistrates has contended that it was th to plead that he had paid the forfeiture, or been imprisoned, be or that the Magistrate could not plead it for the immigrant. But been told that the Stipendiary Magistrates are the immigrants' protect appointed specially to look after their interests, we should have expecte every plea for the immigrants. We are, however, induced to think, and of the Magistrates' evidence shows that they are most unfit for such pre

1947. There is another liberty which the Magistrates take, and Mr. Questions 10,937 to 10,950. attempted to defend it; and that is, when a man is brought before desertion, to punish him for illegal absence by condemning him to pr his service.

1948. The punishment for desertion is imprisonment, and that alone; and this cannot be inflicted if the offence has been condoned by the man being allowed to work after his return from desertion; so that prolongation of service, at the expiration of the contract, could not be awarded on account of desertion, as, in most cases, the offence must have been condoned. This, however, does not affect the wages, and will be discussed elsewhere.

Evidence in proof of absence.

1949. As regards the evidence required to prove these absences. We have seen (paragraphs 258, 259, and 261), the value placed upon estates' books in 1846 by the Stipendiary Magistrates. The books themselves are not always required. An extract from them is generally thought sufficient; but as regards the books themselves, we have already shown that they are valueless to prove what is due to any man, as they only show what the wages are, and what his absences have been, and what is due after deducting those absences; while we have seen that even these are not reliable, and that men are marked absent who have been sick and treated in the hospital, and even died there, and have been entered as absent even after their deaths.

Case of Kisstamah, of "Ferney."

1950. A very remarkable case of the worthlessness of these entries is to be found on the "Ferney" estate, at Grand Port. There, one Kisstamah was sent to the police on the 17th of May, for desertion. On looking at the Pay-book, he was found marked A (absent) on the 4th, 5th, 6th, and 7th, and marked as present to the 17th, when he was sent to the police. It was observed to the manager and co-proprietor that the man had condoned his offence; upon which the manager pointed out that if they looked at the Carnet they would find the man had been absent four days; but that on making up the Pay-book from the Carnet, the accountant put down the number of days absent and sick anywhere he liked, so long as he did not exceed the actual number, and that the manager never found it out, unless L.'s partner pointed it out to him. On his being shown several P's opposite a man's name in the Carnet, and nothing opposite to it in the Pay-book, he said they might mean Plantation, but that he did not always know what signs were made in the Carnet.

Case of "Bagnantu."

1951. Of entering dead men in the Pay-book, perhaps the most glaring case is that of Bagnantu, as he is sometimes called, a labourer on the "Ile d'Ambre" estate, who hanged himself on the 7th of October, 1870, in his hut, having received no pay since April, when he received 75 cents. His death was reported to the police by Mr. La Case, an overseer on the estate, on the day on which it occurred, but his name was continued on the books until February 1871.

Pay-books valueless.

1952. Thus, the Pay-books are not reliable evidence, whether they are those kept by the Surveyor-General's Department for Government labourers, or on Question 10,681. estates, as proving a man's presence at work or not; whilst as regards the proof of any payment to him, they are utterly valueless, because on most estates the immigrants are paid, not from the Pay-books, but from pay-sheets, as before noticed (paragraph 1811), which sometimes are, and sometimes are not, preserved and bound up, but are never produced in court.

Double set of books at "Albion."

1953. On other estates they keep two sets of books, as we found at "Albion," where there Appendix B. "Albion." was one set showing the double cut and another showing the single cut; the former being required for pay purposes, the latter to show the Magistrate.

1954. In explanation of this we have received the following letter from Madame Chauvin and Mr. Serres, the proprietors of the estate:

"Albion Estate, Black River,
"31st December, 1872.

...mitting to you some explanation with reference to
... to be labouring under relative to the Pay-book of
...state; a book which, on two different occasions, the
...non declared to be most irregular; stating at the same
... two distinct sets of books.
...ublicly expressed, carries with it a grave accusation against
...perative upon us that we should so enlighten you as to dispel
...n from your minds.
...ise by stating that when circumstances compelled us to become
...bion,' we had but a very imperfect knowledge of the laws which
... acts entered into between masters and servants, and that ignorance
... the month of November 1870, to ask, before the Magistrate, the
...g, or making good, of illegal absences of a band of five men, whose names
...:

"Seechurn,
"Sutchmun,
"Seewecar,
"Gelhee,
"Gopee,

all of whom had already been subjected to the fine provided for by law.

"Our demand was naturally rejected by the Magistrate; and it was then that w
learnt that the labourers were only bound to replace days of illegal absence in
the event of their having been subjected to the single cut.

"As at that time we owed several months' wages to our men, and as the Pay-
book for the months of August, September, October, and November had been
made up, deduction being made of the fines allowed by law for illegal absences,
we then resolved to cause these four months to be replaced by means of the single
cut, in order to have the right of claiming from another band (consisting of five men
whose names follow, and whose engagement was on the point of expiring) the
replacing in kind of their absences, namely:

"Toolsee,
"Jupsee,
"Jhomanutu,
"Mothe,
"Ramdhin.

"Here a great surprise awaited us, for, contrary to our expectations, these men
were allowed to free themselves on paying us an indemnity of £1 4s.

"In the face of such a provision in the law, we, from that moment, renounced
laying claim to the replacing of days of absence by the men of the estate, and we
immediately sewed up the pages on which were entered the four months' pay,
and which, after all, only served to procure us the feeble indemnity above alluded
to, and this solely for the band of five men already mentioned.

"We continued to pay the men in accordance with the accounts made up for the
four months as primarily established.

"This, gentlemen, is the whole truth, and these are the only motives which
prompted us to cause the four months' pay to be copied over again.

"You will, no doubt, gather from these explanations, that the estate never had two
"sets of Pay-books, as seems to have been your impression at first; and, indeed, if
"we had been capable of committing such a fraud, we should not have allowed the
"proof to subsist of such an infamous transaction, the only Pay-book of the estate
"which at any time was liable to be called for and examined by the Magistrate.

"The strongest additional proof that can be adduced in our favour is, that no
"man belonging to the estate has ever complained against us for his wages (reference
"on this point can be made to the Magistrate), and that the greater part of our
"labourers have remained on, and re-engaged with, the estate for a number of
"years past.

"We hope, gentlemen, that the proofs and explanations which we have thus
"given you, and for the sincerity of which we vouch, will be deemed by you to be
"sufficient, and that you will discard from your minds the first impressions which
"you experienced, viz., that the 'Albion' estate could have possibly had two sets
"of Pay-books, and, in case you so find that we have committed some irregularities
"in our manner of dealing with the men, you will, at least, have gained the
"conviction, and acquired the certainty, that they were not the result of any
"intentional scheme, and that they have in no wise been prejudicial to any one.

"We have, &c.,
(Signed) "F. Chauvin.
(Signed) "A. Serres."

Double set of pay-books.

1955. We are willing to hope that the practice may have ceased, but the wages for the month of August were not paid until the 6th November, and the receipts are given on both sets of books; so that whether the double set only existed for the four months, or whether the system of taking the forfeiture and foregoing all claim to restitution of time, and the keeping but one set of books, and those showing the double cut only, has been adopted since, it is very clear that for the time the two sets of books were in existence the fraud was most perfect and deliberate, as appears from the following Tables, taken from the different books for the months of August and September.

Appendix B. "Albion."

1956. One shows:—

	Number of Days Marked *Absent*.	Number of Days Marked *Sick*, and Single Cut.	Number of Days Marked Formiation, and Single Cut.	Number of Days Worked for which no Wages were Paid.	Deductions.	Payments.
					Dols. cents.	Dols. cents.
August	1274	388	254	1125	313 96	698 73
September	1243	307	49	1205	296 65	719 44
Total	2517	695	303	2330	610 61	1418 17

The other shows:—

					Dols. cents.	Dols. cents.
August	155	1311	254	..	188 72	820 24
September	178	1362	49	..	177 71	842 82
Total	333	2673	303	..	366 43	1663 06

With a declaration at the end of the month's account that the above wages had been duly paid. The payment in one book or the other must, therefore, have been false.

1957. We have already shown that the men being paid, not from the books but from pay-sheets, is as objectionable as the keeping of a second set of books; and though we have not met with such a set, we have had books produced before us with pages cut out, which has strengthened the impression received from Mr. Messiter's evidence that, though he never met with them, he has heard of estates with two such sets of books; for we have no reason to believe that what has been done at "Riche-en-eau," the property of Mr. Rochecouste, without doubt the first planter in the district of Grand Port, and at "Albion," might not be done on many other estates.

Question 927.

Question 15,022.

Question 9367.

Chapter XVIII.—*Illegal Absence, Desertion, and Vagrancy.*

Existence of the evil from the earliest days of Immigration.

1958. Illegal absence, which occupied so much of our attention in the last chapter, and the kindred offence of desertion, or "marooning," as it was known in the time of slavery, and which name still adheres to it, has formed a subject of constant complaint against the Indian labourers from the earliest times of immigration.

Estimate of Mr. Rawson's Committee 1845, of desertion and absenteeism.

1959. Mr. Rawson's Committee, in their first report in 1845 (see Chapter VI., paragraphs 234 to 243), estimated the proportion of deserters at 6 per 100 upon the total number of 35,000 Indians then employed in agriculture, whilst they reckoned the proportion of temporary absentees at 11 per 100.

Causes to which it was ascribed.

1960. Various causes were assigned for this evil (desertion); most of which are as applicable to the present day as they were to the times thirty years ago, and have been attributed by different witnesses who have been examined before us to that "disposition to idleness and ease" which one of the witnesses, himself an Indian, stated to Mr. Rawson's Committee

Questions 11,037, 13,556, 14,465.

Report of Mr. Rawson's Committee, 19 February, 1845, para. 242.

"forms part of the Indian character; a love of wandering" (or, as it is termed now, "the erratic tendencies of the Indians"), "an unfitness, "from physical causes, or previous employment, for hard or constant "work; the facility of engaging by the month or week, and of being

"employed without any engagement, abduction (embauchage) from the estates,
"fondness for petty traffics, evasion of creditors, escape on account of theft, and,
"lastly, dislike of estate over-rigid discipline, or ill-treatment."

Causes of absenteeism.

1961. The cognate offence, absenteeism, is ascribed to much the same causes, for we find enumerated the inefficiency of the police, the inability of the employer to maintain discipline, the excessive forbearance of masters, irregularity of payment of wages, over-rigid discipline, want of rest when fatigued, drunkenness, and a desire to visit friends of both sexes.

Estimate of Sir W. Gomm.

1962. Sir William Gomm, writing in the course of the following year (1846), while expressing his unhesitating opinion that it would be difficult to obtain from the Indian the continuous and systematic work of the European by any code of regulations short of an approach to prison discipline, reported if a remarkable how frequently the amount of labour contributed by them was favourably spoken of by employers who understood and studied their characters, who were punctual in their payment of wages and in the supply of their rations, and who chose the proper time for granting an indulgence.

Sir W. Gomm to Mr. Gladstone, Despatch No. 150 of 24. 8. 46.

State of the law upon the subject before 1847.

1963. The stringent penalties denounced against desertion in Article 7 of Ordinance No. 1 of 1846 (*vide* paragraph 266) having been disallowed, there remained no severer punishments than those sanctioned by the 8th section of the 4th chapter of the Order in Council of 7th September 1838, for neglect of stipulated work, viz., a pecuniary penalty for the benefit of the master, not exceeding one month's wages, or imprisonment of fourteen days, or both; or, lastly, the dissolution of the contract of service; but, as this doubtless was regarded as a very inadequate punishment for a long period of continued desertion, we find the 9th Article of Ordinance 24 of 1847 enacting that

"in every case of neglect of stipulated work, whether by absence or otherwise, the
"Stipendiary Magistrate may, according to circumstances, award a fine not
"exceeding £10 in place of compensation to the complainant,"

as provided by the Order in Council.

Ordinance No. 7 of 1849. Police empowered to arrest deserters without warrant on declaration of employer.

1964. By Ordinance No. 7 of 1849 (*vide* paragraph 309) the police were empowered to arrest without a warrant deserters "in every public place where they may be found," on the declaration of the employer, provided the labourer so arrested was taken, with the least possible delay, before the nearest Magistrate; while, in the event of the labourer not being then shown to be a deserter, the declarant who had caused his arrest was liable to penalties for false arrest and imprisonment.

No definition of the offence.

This Ordinance, however, while providing the mode in which deserters were to be dealth with, wholly omitted to give any definition of what in law constituted the offence, which, in the disallowed Ordinance of 1846 (*vide* paragraph 265) had been regarded as continuous absence from work, or from the estate on which the labourer was engaged, for one calendar month—an omission repaired for the first time in 1867; nor did it attach any further penalty than that provided by Ordinance No. 24 of 1847, which was re-enacted in Ordinance No. 15 of 1852, Article 10.

Failure of Ordinances Nos. 15 and 16 of 1852 to repress desertion.

1965. These means do not appear to have diminished desertion any more than the enactment of the double cut by Ordinance No. 22 of 1847 did absenteeism—for, on the 28th December 1852 we find a circular from the Colonial Secretary addressed to the Magistrate, by order of Governor Higginson, in consequence of the complaints made to him

Circular B, 820, of 28. 12. 52.

"by several of the planters of the losses to which they are subjected by the
"frequent desertion of their labourers,"

in which various inquiries were made as to the cause of, and the means taken to redress, the evil.

Opinion of Captain Davidson, Magistrate of Savanne, on the causes of desertion, &c.

1966. We have the answer of one of the Magistrates—Captain Davidson of Savanne, who, whatever may be the value of his opinion, had certainly been long in the Colony, and must have at least had opportunities of forming a sound judgment. He wrote as follows:—

Captain Davidson to Colonial Secretary, 15. 1. 53. See Appendix.

"Desertion may be attributed to two causes: first, to irregular payment of wages.
"and next the indifference with which they are treated by their masters; but I
"don't think that they enter into any description of trade during their absence;"

Irregular payments, and indifferent treatment.

or, in other words, they sank into vagrancy.

The two Ordinances of the year previous (Nos. 15 and 16 of 1852) had not repressed desertion, in consequence, partly of the masters being too idle or indifferent to go before the Magistrate to lodge their complaints, of which the men took advantage; and partly because if they did complain, and the men got punished, the labour imposed as punishment in prison was not so severe as that on the estates.

Masters idle or indifferent about lodging complaints.

The 24th Article of Ordinance No. 16 of 1852, by which the Magistrate could

condemn New immigrants to make good the time of absence before becoming entitled to their certificates of discharge, had remained a dead letter, in consequence of masters neglecting to send in the monthly return of absences, as required by that Article.

Neglect to send in monthly returns.

Men exposed to abuse through system of masters' leaving everything to overseers and sirdars.

Captain Davidson concluded with again expressing his opinion that the system of masters leaving everything to overseers and sirdars exposed the men to abuse and bad treatment,

"both of which the master too generally looks upon with indifference, and on this
"the men get callous, and do as little as they can, more particularly on estates
"where they are not regularly paid, whereas if he would take a personal interest
"in their welfare, things would change, I am convinced, much for the better, both
"for him and them."

Failure of Ordinance No. 21 of 1854 to repress desertion.

1967. Ordinance 21 of 1854, as we have seen (paragraph 349), made further provision for the making up by immigrants to their masters the terms of their absence, at the end of the current engagement, which measure was nevertheless reported by Mr. Hugon as having completely failed; the men having refused in most cases to work up the time of absence. This result appears to have been produced by the inveterate tendencies of planters of a certain class to overreach their neighbours—a practice denounced alike by Sir William Gomm and Sir William Stevenson; as we find Mr. Hugon, in the same letter, declaring his belief that the Indians, left to themselves, would have obeyed the orders of the Magistrates or the advice of the Protector, had they not been, to his knowledge in several cases, encouraged to resist by other planters, who had bespoken them for engagement, who had given them money, and promised them legal advice, if they required it, free of expense.

Letter of 30th October, 1856.

Ascribed by Mr. Hugon to the crooked practices of planters.

Ordinance No. 16 of 1862.

Present punishment for illegal absence.

1968. By Ordinance No. 16 of 1862, Article 18 (Chapter VII., paragraph 429, also preceding chapter, paragraph 1854), the punishments of illegal absence were placed upon their present footing, and it was just before this Ordinance was proposed that Mr. Beyts, in his Annual Report for 1861, reviewed the law upon "absence and desertion" in the following terms:—

Mr. Beyts reviews the law in 1861 regarding "absence and desertion."

Mr. Beyt's 2nd Annual Report, 1st March, 1862, para. 33.

"The law regarding *absences from work* is now being reframed. Although I have
"already made known my sentiments regarding it, I beg permission to
"repeat them briefly in this place.

"The *absences from work*, with which the law ought chiefly to deal,
"are those to which penalties may be rightly attached; those absences
'which imply a want of reasonable excuse on the part of the absentee, or bad
'faith on his part, and those which constitute fraudulent violations of contracts.

Where want of reasonable excuse, &c.

"I think it perfectly right that such violations of contract should be punished;
'and that employers should be fully indemnified for, and as far as possible pro-
'tected against, the losses entailed by such violations of contracts. But, on the
'other hand, I think that the servant himself should be just as fully protected
'from all oppression and unjust dealing; that the want of reasonable excuse, the
'bad faith, the culpability on his part, of whatever nature and degree it be, should
'be determined, not by his master, but by a Magistrate judging between him and
'his master; and, that whenever redress is claimable by the master, it ought to be
'claimed within a reasonable time—within two months at most—and not at the
'end of a three years' contract, as may now be done. It is perfectly obvious that
'a servant charged with a violation of contract so long after its alleged occurrence
'may no longer be in a position to show in his defence proofs that he might have
'commanded had he been called upon to do so sooner.

Employers to be protected.

Servants to be as fully protected.

Default to be judged of by Magistrate and not by Master.

Master to sue within a reasonable time.

"It is also obvious that the difficulty so entailed on the servant would be con-
'siderably enhanced if the term of contracts of service were extended to five
"years, as is proposed in the Draft of Ordinance now before the Legislative
'Council.

Suit within reasonable time especially necessary, if contracts for five years.

"I beg leave to state that, in my opinion, the principles on which our new
'legislation ought to proceed, with reference to the subject above alluded to, ought
"to be as follows:—

"1. To leave masters to deal personally, and without recourse to Magistrates,
"only with those non-performances of contract which imply no culpability on
"the part of the servants.

Where masters may deal, without recourse to Magistrate.

"2. To render all those non-performances of contracts which imply bad
"faith on the part of servants appreciable by the Stipendiary Magistrates only,
"with a view to the infliction of punishment, whether by damages, forfeitures,
"or imprisonment.

Where Magistrate only should punish.

"3. To render consequent on such non-performances of contracts as to
"imply bad faith on the part of servants, an indemnity to the masters who are

Full indemnity for loss to master.

"injured—an indemnity to the full extent of the loss entailed by the non "fulfilment of the contract, including the loss of any profit, which the master "may reasonably have expected to derive from the servant's work.

Compensation to be awarded only if claimed within a reasonable time.

"4. To make it imperative that the compensation awardable in favour of "the master be only awarded if claimed within a reasonable time, so that the "servant accused of a non-performance of contract may have a fair opportunity "of defending himself, and if convicted may be fully and immediately warned "of the award given against him."

We must confess our inability to appreciate the distinction here drawn between the cases which imply no culpability on the part of servants and those which do imply bad faith; and why masters should be left to deal personally with the former any more than with the latter, we are at a loss to conceive.

1969. One point, however, it is clear Mr. Beyts insisted upon as an essential, viz., that the compensation to the master—that is, the forfeiture of the double cut—should be awarded only if claimed within a reasonable time, which he limits to two months at most,

"so that the servant accused of a non-performance of contract may have a fair "opportunity of defending himself,"

Question 15,507. and how he is to do so, if the double cut is not exacted until his wages are paid at a period

"at least three, and it may be four, months after the absence has occurred,"

as Mr. Mercer contends to be lawful, is beyond our comprehension.

1970. It might be urged that the issue of rations or allowances, weekly or monthly, gave the immigrant an opportunity, finding that his rations were not issued, of questioning his master's right to consider him absent for those days; and that relief was open to him by an immediate appeal to the Magistrate, but, as we have already noticed (preceding chapter, paragraph 1848), it is not necessary to keep an account of the rations issued to individual immigrants. Consequently, were an immigrant to complain of his rations having been stopped either the day before or a month before, there being only his oath against the manager's word, we know very well what the decision would, in all probability, be.

Ordinance No. 4 of 1864, Article 16. Desertion included as an act of vagrancy.

1971. By Article 16 of Ordinance No. 4 of 1864, desertion was included as an act of vagrancy (of which we shall treat more hereafter), rendering the offender liable to the severe penalties imposed by the 13th Article of that Ordinance. Consequently, under the law as it stood during the years which intervened between the passing of Ordinance No. 4 of 1864 and of Ordinance No. 31 of 1867, it was possible for an immigrant, guilty perhaps of only a desertion of a day or two from the estate, to be imprisoned for not less than six nor more than nine months, if twice convicted of a like offence within the

Question 1382. preceding two years; a supposition which might be thought extreme, had we not been informed by Mr. Beyts that such had been held to be the law, and had we not, as we shall show, found that such sentences had been repeatedly awarded illegally by some Magistrates since 1867, when the law was altered; and, consequently, it is not unfair to assume that they had been awarded more frequently previous to 1867, when they could be awarded legally.

Ordinance No. 31 of 1867. Distinction between unlawful absence and desertion.

1972. Ordinance No. 31 of 1867, for the first time since 1846, attempted a definition of desertion, as contrasted with illegal absence; declaring merely, with regard to the latter, in Article 49, that any labourer absenting himself from his work, without leave or any justifiable cause, should be held guilty of illegal absence, and liable to the punishments enacted by Article 18 of Ordinance No. 16 of 1862.

Article 50. Definition of desertion.

1973. Article 50 defined desertion to be illegal absence aggravated by the circumstances of the deserter's having absconded

"from his dwelling-place for a space of more than three consecutive days,"

in which case he was liable to three months' imprisonment.

Where desertion condoned. Penalties under Ordinance No. 4 of 1864, Article 13, for repeated vagrancy, not to apply to deserters.

The offence was restricted to labourers under written contract, and there was a proviso that any such desertion should be deemed to have been condoned by the employer, if the latter should have allowed the labourer to resume work without previous prosecution for the desertion; and a further proviso declared that the penalties imposed by Article 13 of Ordinance No. 4 of 1864 upon repeated vagrancy should not apply to any deserter as defined, condemned as such upon the complaint of his employer.

Arrest of deserters without warrant; subject to proviso with penalty.

1974. Article 51 declared it to be lawful for any employer, or any servant acting with his authority, to arrest deserters without warrant, and without the assistance of the police, in any public place where they might be found; provided that, if any unnecessary violence be used, and if the party making the arrest do not forthwith hand over the labourer to the police, together with a written statement, mentioning the name and

residence of the party making the arrest, and the charge upon which the labourer has been arrested; or do not appear, and support the charge before the Stipendiary Magistrate, he shall be liable to a fine of £10, or to a month's imprisonment.

Powers of arrest given to employers, and their servants acting on their behalf.

Thus the powers which, by Ordinance No. 7 of 1849, were only conferred upon members of the police force, were now conferred upon every employer and every servant

"acting with his authority and on his behalf."

Article 52. Ordinance No. 7 of 1849, re-enacted, with an additional safeguard. Article 53.

1975. Article 52 substantially re-enacted Ordinance No. 7 of 1849, which was at the same time repealed; but with the additional safeguard that the police should only arrest the alleged deserter without warrant,

"upon being furnished with a statement" (whether to be in writing or not is not specified) "containing the particulars specified in Article 51."

1976. Article 53 declared that any person wrongfully arresting a labourer, or causing one to be arrested, and that all aiders and abettors in making such arrest, should be liable to a fine of £10,

"a part of which may be paid to the labourer so apprehended as damages; or to "an imprisonment for one month."

1977. Such is the law at the present day with regard to illegal absence and desertion; but, before proceeding to show how this law has been applied, we must describe the laws relating to another, and a far more serious, offence—viz., VAGRANCY, with which, as we have stated, desertion was in 1864 declared to be synonymous.

Review of the law of vagrancy. Order in Council of 7th September 1838.

1978. THE LAW OF VAGRANCY is founded as well upon the Royal Order in Council of the 7th September 1838, which was sent out to Mauritius at the same time as the Order regulating the relations between masters and servants, as upon the Penal Code. The Royal Order defined the acts essential to constitute the offence, of which we need not here speak more particularly (as it was reproduced almost verbatim in the Ordinance of 1844) than to mention that the penalty on conviction as an IDLE AND DISORDERLY PERSON was imprisonment with hard labour not exceeding 14 days; as A ROGUE AND A VAGABOND, 28 days; and as an INCORRIGIBLE ROGUE, six months.

Vagrancy, as defined by the Penal Code.

1979. By Articles 192 and 193 of the Penal Code, vagrancy is declared to be a misdemeanour, and vagrants to be those who have no fixed domicile nor any means of subsistence, and who, being able to labour, do not habitually work at any trade or profession; and who, on being duly declared to be such, are punishable on that account alone by imprisonment not exceeding six months.

Lord John Russell to Sir Lionel Smith, Despatch No. 12 of 15th April 1840.

1980. The next mention we find made of t[illegible] occurs in a despatch addressed by Lord John Russell to Sir Lione[illegible] shortly after the assumption by the latter of the Government of M[illegible] His Lordship called the Governor's attention to the two s[illegible]nd police, as being of peculiar importance.

Objections to the Order in Council.

In pursuance of these instructions, Sir E[illegible] upon inquiry, that the

Sir L. Smith to Lord J. Russell, Despatch No. 14 of 11th June 1841.

"main objection to the Orde[illegible] (on the subject of vagrancy) "consisted in mendicity ha[illegible]n [illegible] a constituent part of the "offence of vagrancy;"

and mendicity being almost unkn[illegible]wn [illegible] of time in Mauritius, the Order in Council was therefore to a great extent ren[illegible] inoperative.

Ordinance No. 10 of 1841.

He therefore caused an Ordinance to be [illegible]ared, which was passed on the 26th April 1841, as Ordinance No. 10 of 1841,

"for the more effectual suppressi[illegible]ncy;"

and substituted for the definition of vagrancy [illegible]ain[illegible] Order in Council, another more applicable to the circumstances of Mau[illegible]ius [illegible]ce state of society there; for, while the Order in Council had decided [illegible] certain cases, the offence of vagrancy should not be complete unless acco[illegible] some act of mendicity, the Ordinance enacted that, in the case supposed [illegible] mendicity should not [illegible] non-

Colonel Staveley to Lord Stanley, Despatch No. 93 of 23rd September 1842.

"mation as to the motives by which the Board had been actuated "in passing these laws, a Resolution was agreed to by the Council "to the following effect:—That a Committee, composed of three un- "official members, together with the Colonial Secretary and the "Procureur and Advocate General, be appointed to furnish such explanation in "regard to the above despatches as may tend to remove from the mind of the "Secretary of State the unfavourable impression which he seems to entertain on "some of the Ordinances passed by the Council."

Report of Committee of Council regarding mendicity as forming part of vagrancy.

1982. The Report of this Committee, dated 20th January 1842, was considered by the Council on the 27th February following; and, upon the subject of vagrancy, it stated that the Committee reiterated the opinion that if

Minute of Council of 27th February 1843.

"mendicity or receiving parish relief be continued as a condition of vagrancy, "the Order in Council will be a dead letter in Mauritius, and very prejudicial "consequences follow to the colony in general;"

Sir W. Gomm to Lord Stanley, Despatch No. 39 of 7th March 1843.

an opinion in which Sir William Gomm, in his despatch transmitting the Report in question to the Secretary of State, expressed his concurrence; citing Jamaica as a parallel case to that of Mauritius, and the law of vagrancy there in force as similar to that which had been disallowed.

Lord Stanley points out a difference between the Jamaica law of vagrancy and that of Mauritius.

1983. Lord Stanley, however, demurred to the correctness of the comparison, pointing out that the first definition of a vagrant in the Ordinance of Mauritius was more stringent than any definition in the law of Jamaica; and that, while the latter enacted that if any

Lord Stanley to Sir W. Gomm, Despatch No. 100 of 30th July, 1843.

"idle and disorderly, who shall refuse to work, and shall thereby become burden- "some upon any parochial or other funds set apart for the relief of the poor:"

the definition attempted in Mauritius had been

"whosoever, male or female, being able to gain a livelihood by labour or any other "lawful means for himself, and according to the case for his wife, child or children, "shall refuse or wilfully neglect so to do whilst leading an idle and disorderly "life," &c.

Vagueness of definition of vagrancy.

Lord Stanley, therefore, feared that the vagueness of this definition, particularly as no act of mendicancy, nor the becoming burdensome upon public funds was required to constitute vagrancy,

"might lead to the punishing as vagants of individuals who are merely indolent "or idle, and who, though they may thereby injure themselves and families, do no "harm to the public:"

words, which it would have been well minds of the magistrates and police

The law of vagrancy assimilated to the Jamaica law.

Although therefore, he could nance as then submitted, he provisions modified so as to Jamaica.

1984. In pursuance of this following year, submitted a draft,

Sir W. Gomm to Lord Stanley, Despatch No. 88 of 28th June 1844.

"studiously framed "from it intentionally "inapplicable to the

Question 4896.

which was passed nance still in for

Ordinance No. 42 of 1844.

1985. By the 1st Article Order in Council), "idle and

Article 1. "Idle and disorderly persons."

1st. Every person being his wife, or his or her chil- shall wilfully refuse or ne his wife or family bur poor.

Failing to maintain one's self or children.

2nd. Every beha

Common prostitute misbehaving.

3rd. ing in funds, or gath

Mendicancy by able-bodied.

and a prison

ad they been more strongly impressed upon the nis Colony.

ise your Majesty to assent to the proposed Ordi- he should feel no difficulty in doing so, were its th the Acts upon the same subject in force in

on, Sir William Gomm, on the 11th April in the

on the model of that in force in Jamaica, departing nly where the provisions of that law were found al institutions of Mauritius,"

ne 10th June as Ordinance No. 42 of 1844; an Ordi- the "organic law" upon vagrancy at this day.

ich is almost the same, verbatim, as section 1 of the orderly" were defined as including,—

wholly or in part to maintain himself or herself, or child, by work or other lawful means, or who lo, and thereby become burdensome, or render ublic funds set apart for the relief of the

public

ort, and

ublic

beg

"Rogues and vagabonds" defined.

1st. Every person committing any of the offences mentioned in the 1st Article after having been convicted as "idle and disorderly."

2nd. Impostors pretending to witchcraft or fortune-telling.

3rd. Every person wilfully exposing to view in any public place any indecent exhibition.

4th. Every person guilty of behaving indecently in public.

5th. Every person attempting to procure charitable contributions under any false pretence.

6th. Every person gambling or betting in any public place.

7th. Every person having in his possession any burglarious implements, or being armed with offensive weapons, with intent to commit felony.

8th. Every person convicted of having, on apprehension as an "idle and disorderly person," violently resisted the constable so apprehending him.

Thus for the Order in Council: to the provisions of which the Ordinance added the following five acts of vagrancy, viz.:

9th. Every person wandering abroad and lodging in any outhouse or shed, or in any deserted or unoccupied building, or in any mill or other building, or within any cane piece, not having any visible means of subsistence, and not giving any account of himself.

10th. Every person endeavouring to obtain alms by exposing wounds or deformities in public.

11th. Every person running away and leaving his wife or child, so as to become chargeable to any public funds set apart to the relief of the poor.

12th. Every person found upon any premises for an unlawful purpose.

13th. Every suspected person or reputed thief frequenting any premises, or any place of public resort, with intent to commit felony:

and every person upon conviction was declared liable to an imprisonment with hard labour, not exceeding 60 days: a term which was reduced by the Home Government in confirming the Ordinance to a maximum of 28 days: the result of which was, that, while an "idle and disorderly" person could be punished by an imprisonment of a [illegible] a person convicted of the more serious offence of being a "rogue and a vagabond," could not be sentenced to more than 28 days.

Article 3. "Incorrigible rogues" defined.

1987. Article 3, which is a reproduction verbatim of section 3 of the Order in Council, defines "incorrigible rogues" as,

"Every person who shall be guilty of breach of prison * * * or of committing any "offence against this Ordinance which could subject him to be dealt with as a "rogue and vagabond, after a previous conviction:"

Article 7.

and any Stipendiary Magistrate was authorised to commit such offender to prison, there to remain until the next sitting of the Court of First Instance in correctional matters, by which tribunal he might be sentenced to an imprisonment, with hard labour, for a period not exceeding 6 calendar months.

Articles repealed by Ordinance No. 2 of 1850.

These Articles, however, were practically repealed by Ordinance No. 2 of 1850; by which the Court of First Instance was abolished and the Supreme Court established in its place.

Article 4. Any one may arrest for breach of ordinance.

1988. Article 4 authorised any police functionary whatsoever, or in the event of no such functionary being within reasonable distance, any person whomsoever, to apprehend any persons found offending against this Ordinance, and forthwith to take them before a Stipendiary Magistrate, whilst Article 5 authorised the Magistrate, upon oath made before him, to issue a warrant for the bringing before him of any persons suspected of so offending.

Article 5. Warrant might issue.

Article 8. Penalty for hindering police.

1989. Article 8 imposed a penalty not exceeding £20 on any person hindering a constable in the execution of his duty under the Ordinance.

Article 9. Warrant where rogue &c. harboured.

1990. Article 9 empowered the Stipendiary Magistrate, upon information upon oath before him made, that any idle or disorderly person, rogue, or incorrigible rogue, is, or is reasonably suspected to be, harboured or concealed in any house, to authorise, by warrant, any police functionary to enter at any time into such house and arrest and bring before him the person so offending.

Special legislation against immigrants.

1991. Such the law practically remained for twenty years: although, with the view of checking absenteeism and desertion from estates, it was enacted by Ordinances Nos. 22 of 1847 (Art. 25), 25 of 1848 (Art. 20), and 16 of 1852 (Art. 21), that any immigrant (thus, for the first time, placing the immigrants under special penalties from which other portions of the population, not Indian, are exempt) found in a district where he has no residence, or in any house or premises without the consent of the proprietor or occupier, might,

"on failing to prove that he was an Old immigrant, or under a written engagement

Special legislation against immigrants.

"to labour for hire, or to produce a receipt for his monthly tax last due, be appre-
"hended without a warrant:"

provided he was brought without delay before the Stipendiary Magistrate of the district.

Origin of the practice of the police stopping Indians.

This law laid the foundation of the practice of the police stopping Indians on the road for the purpose of examining their tickets and arresting them in the event of their being unable to produce them; a practice which has, in the course of time, been carried to an excess scarcely credible, were it not for the indisputable evidence to the contrary which has come before us during our inquiry, and which renders it difficult to understand how masters even could have submitted to the continuance of a system productive in many cases of what we should term intolerable annoyance.

Questions 5961-5965.

1993. Thus, we find the senior Stipendiary Magistrate of Port Louis reporting in 1860 that, by this practice, occasional injustice was done to the Indian, and

Appendix.

"great indignation aroused in the masters of others, when, for instance, a cook upon
"his road to the bazaar, or a messenger in search of a doctor, &c., is arrested;"

but he came to the conclusion that, on the whole, it was to the benefit of masters generally that all Indians without papers should be arrested, as it greatly tended to prevent marooning and absence from the house on the part of the servants while the master is away at his office; and, consequently, he strongly recommended that the carrying of papers should be made compulsory by law.

Ordinance 4 of 1864.

1993. The next Ordinance upon the subject of vagrancy is Ordinance No. 4 of 1864, the necessity for which appears to have first made itself felt at or about the time coincident with the completion of the industrial residence of those immigrants who had arrived in 1859; and, as we have seen (Chapter VIII., paragraph 447), how in that year the numbers introduced exceeded 50,000, we can feel no great surprise at finding an increase in the number of idlers at the very time when the enforced term of three years' service had just terminated, and they found themselves free from any further obligation or restraint.

Result of the great immigration of 1859.

Great outburst of crime.

1994. It is, moreover, to be remarked that it was at this same time that sudden and alarming outburst of crime generally, and of "gang-robbery" in particular, perpetrated by Indians, occurred, which appears to have produced so deep an impression in the colony, and was one of the chief reasons advanced three years later in support of the exceptionally stringent legislation proposed to be adopted against the Old immigrant population.

Ordinance 4 of 1864, introduced to the Legislature by Sir Henry Barkly.

1995. On the 22nd February, 1864, Sir Henry Barkly, in a Minute, in which he dwelt at some length upon the motives for submitting the measure, introduced the Draft of an Ordinance on the subject. He had been struck, he said, on visiting the gaols, with the fact that a large proportion of their inmates were imprisoned for vagrancy, which caused a crowding in the prisons, and, notably, in that of Port Louis, thereby rendering it a focus of epidemics.

Minute of Council of 12th February, 1864.

Want of room in prisons.

1996. On several grounds, however, a change was desirable; for,

"owing to want of room, any attempt at classification and separation of prisoners,
"as prescribed by the Prison Ordinance of 1858, is, in most instances, out of the
"question, and the man who has committed no graver offence than that of absenting
"himself from the service in which he engaged, is left to work all day, and too
"often to herd all night, with the vilest and most hardened criminals. Nor is the
"treatment he experiences whilst so confined at all calculated to render crime
"repulsive in his eyes; for the prison regulations adopted under the influence of
"the humane reaction which succeeded slavery have been rendered so scrupulously
"lenient, that he is called on to work fewer hours, and finds himself better fed,
"than on the estate he has deserted; so that if at the commencement of his first
"sentence the New immigrant looks forward with apprehension to the imprison-
"ment he has to undergo, by the end of its term he not merely ceases to dread it
"but leaves his cell to earn his own livelihood with feelings of reluctance and
"regret."

Hence no classification and separation.

Prison work lighter, and prison fare better, than work and fare on estates.

1997. He seemed to anticipate that it might be requisite in the country districts to impose on all Indians an obligation

Necessity of proving freedom from engagement.

"to produce on demand such certificates as would prove their right to be free from
"engagement; greater power being at the same time given to check the frauds now
"often perpetrated with the aid of old or duplicate, or even forged tickets;"

but he expressed himself loath, until all other means had failed, to propose recourse to stringent measures of a general nature, or to curtail, even to the slightest extent,

"the ample privileges with which Old immigrants become here endowed as British
"subjects."

Sir Henry Barkly expresses himself loath to curtail privileges of Old immigrants.

1998. The Draft was published as usual in the Government Gazette on the 16th February, fourteen days being allowed for observations to be made thereon, and on the 3rd March it came on for the second reading, when remarks upon it were read, received from Mr. Telfair and Mr. Rennards, the Magistrates respectively of Savanne and Black River, from Mr. Pipon, the President of the Chamber of Agriculture, Mr. Hazlitt, a professor, we believe, at the Royal College, and from Mr. Legentil, a proprietor.

Observations made upon the Draft of Ordinance No. 4 of 1864.

Remarks of Mr. Telfair, Magistrate of Savanne.

1999. Mr. Telfair drew attention generally to the existence

Squatters worse than vagrants.

"of a large class of Indians, who are even worse than vagrants, which the law
"cannot now touch, and which, by the addition of another clause in this Ordinance,
"could be brought within its provisions—I allude to squatters. Under Article 7
"of Ordinance No. 27 of 1845, any man who occupies a piece of ground under a
"lease, be it but of a quarter of an acre in extent, may apply to the District Magis-
"trate of his district for a number and badge, under which he can hawk wood,
"milk, vegetables, the produce of his own ground;"

and, having obtained them free of charge,

"he then harbours every Indian that presents himself,"

who, if questioned by the police, on producing their Old immigrant's ticket, could not be further molested, and he alleged that the fabrication of such tickets was a matter of common occurrence.

Squatters.

Their alleged wickedness.

These squatters, he stated, did an enormous amount of mischief to agriculture:—

"1st. By harbouring men who have no ostensible means of earning an honest
"livelihood and men illegally absent from estates,"

and,

Their misery in time of pestilence.

"2ndly. By the wicked and corrupt lives they lead themselves; a life of idleness,
"of illicit fishing, and hen-roost robbing. In times like the present, when we are,
"happily, free from cholera, the existence of these squatters is not so grievous a
"matter, but when pestilence breaks out, as it did two years ago, these men, who
"have no means to pay a medical man for his attendance, and no funds to purchase
"drugs if they were prescribed, die like sheep. These squatters, I respectfully
"submit, should be placed under the surveillance of the police; they should pay
"an annual tax of one pound sterling for their badge and number, and it should be
"discretionary with the Magistrate to refuse or grant an application for a badge
"and number, if he were not certain of the morality of the applicant."

The "ticket-system" subsequently (vide para. 2129). "Passes."

Remarks of Mr. Rennards, Magistrate of Black River.

2000. Mr. Rennards drew attention to the utter insufficiency of the law, as then existing, to repress vagrancy, arising mainly from the laxity of the prison discipline, labour in gaol being considerably lighter and far less irksome than that on the estate. In support of which assertion he quoted the declarations frequently made by labourers when sentenced by him to fourteen days'

Futility of the prison discipline.

"hard labour (so called) for absenteeism, that they would much sooner go to prison,
"where their work is comparatively light and their food substantial, than return to
"their stipulated employment on their masters' estates, where their work is very
"often of a more arduous description, and their food not so good and substantial:"

Immigrants prefer prison fare to that on estates.

and he concluded his observations with the statement that sentences to imprisonment were listened to by the accused with "perfect nonchalance," and in some instances "with a certain degree of pleasure."

Remarks of the Chamber of Agriculture.

2001. The Chamber of Agriculture expressed lively satisfaction at the attention the Government was bestowing upon the question, and recommended that in order for the future to avoid any doubt as to the position of the deserters from the estates, the words "and deserters" should be added to the title of the Ordinance.

Deserters to be included.

Upon the 11th Article of the Draft, relating to the disposal of the vagabond under engagement, after the expiration of his punishment:

1st. The Chamber solicited that the vagabond under engagement should be conducted by the police to his employer's estate, if he was known, and be placed in his hands. The repression of vagabondage was, they urged, tantamount to the prevention of crime and disorder, and, therefore, should form one of the principal duties of the police, not only in the interest of the employers alone, "but above all, "the interest of order and morality of the inferior classes."

2nd. That if the employer was unknown, public notice should be given of the conviction of the vagabond.

3rd. That in order to enable employers to claim New immigrants, upon whose services they had a lien, the depôts should be open "at certain hours of the day to

Disposal of vagabond under engagement after punishment.

Ordinance No. 4 of 1864. Observations upon the Draft. Remarks of the Chamber of Agriculture.

" employers, or their representatives, in order to identify vagabonds, and to publis
" their reclamation."

Release of deserters before or after condemnation.

They next suggested that, as the object of the Ordinance was to punish the vagabond or the deserter, and not the labourer who might by chance become technically liable to the penalty, it would be desirable to invest the Magistrate with a discretionary power to release, either before or after condemnation, the deserter who might be under engagement, and be claimed by his employer.

Traffic in tickets.

They further called attention to the abuses arising from the traffic in tickets, and concluded with observing that on various previous occasions the Government had taken up the same question, and

When vagrant laws worked with severity, they are very beneficial to the estates.

" that whenever it has done so seriously, the result has been of great advantage in
" the maintenance of order and estate labour; but that severity having frequently
" given way to deplorable slackness, the evil has immediately reappeared; that
" perseverence in the application of the measures projected will certainly be the
" most efficacious means to obtain the object in view."

Remarks of Mr. Hazlitt. Draft only embraces one-third of the Indians.

2002. Mr. Hazlitt showed that as the Draft Ordinance applied to vagrants alone, it would only apply to about one-third of the Indians sentenced by the Stipendiary Magistrates, and, consequently, all Indians condemned for desertion, refusing to work, and other offences against the Immigration Laws, would, as theretofore, be sent to the ordinary prisons, and not to the new vagrant depôts.

He urged that, as

" it may be said that the deserter is often a vagrant, and that all vagrants began by
" desertion."

it would be more in the spirit of the remarks of His Excellency to include vagrancy, desertion, &c., in the same Ordinance. He strongly advocated that, as a punishment for habitual vagrancy, the offender should, after a fourth conviction, be sent back to India; means being taken previously for his identification by the police in the event of his returning, in which case he should be apprehended, severely punished, and sent back again.

Confirmed vagrants.

Ordinance No. 4 of 1864.

Preamble of the Ordinance.

2003. We now come to consider the provisions of the Ordinance itself; the preamble of which stated, that

" the prisons in the Colony are not sufficient for the accommodation of all prisoners
" confined therein under the existing law."

and that

" it is expedient and necessary to remove therefrom prisoners committed as vagrants,
" and to amend the law regarding the punishment of vagrancy."

Article 1. Establishment of the vagrant depôt.

Article 2. Vagrant depôts in the country.

Inspection by Magistrates.

Article 8. Inspection by the Protector.

Article 10. Imprisonment in vagrant depôts.

Article 12. Disposal of vagrants upon completion of their sentences.

2004. Article 1 authorised the establishment of a vagrant depôt in the Convict Barracks at Grand River, N.W.; and by

Article 2 the Governor was authorised to establish other similar depôts in the different districts, as they might be required, to which visiting Magistrates were to be appointed, who are required to inspect the depôt at least once a week, and report thereupon to the Governor.

2005. By Article 8 power is given to the Protector of Immigrants to visit and inspect every vagrant depôt in the colony, and to make such reports and recommendations to the Governor as he may think requisite.

2006. By Article 10 all warrants of imprisonment for vagrancy may be executed either in whole or in part in any vagrant depôt.

2007. By Article 12 vagrants, upon the completion of their punishments in the depôt, are to be dealt with in one or more of the following ways:

Where vagrant claimed by employer.

1st. If such vagrant be under engagement, and be claimed by his employer, he shall be delivered to such employer, or to any person having his authority; and it is lawful in such case for the chief officer in charge of the depôt to send the vagrant under escort to his employer; for which special purpose it is lawful for every Stipendiary Magistrate to "swear in, as special constables, one or more " persons in employment on any estate in his district, who shall be presented to him " for such purpose by their employer, provided that the Magistrate be satisfied that " such persons are fit" for such duty. Every such special constable having the powers of an ordinary constable of police in conducting to his employer's property any vagrant under the provisions of the Ordinance.

Where vagrant not claimed by employer.

2nd. If the vagrant be under engagement, and be not claimed by his employer notice shall be sent to the employer, if known, with the view of his claiming and recovering such vagrant.

3rd. But if he be not claimed by his employer [illegible]

Where vagrant not claimed by employer after notice.

Unclaimed vagrant to be employed upon public works, and after three months to be allotted to a new employer.

permitted to leave the depôt, to go to his employer's property, or be sent thither under escort, as may be determined by the Stipendiary Magistrate.

4th. Should, however, the employer of an unclaimed vagrant not be ascertained, "he shall be employed at public works, at such wages and allowance as shall be " fixed by regulation," for a further period of not less than three months (fixed by regulations of the 4th August, 1864, as the minimum), and then forwarded to the Protector of Immigrants for allotment to a new employer (unless he were proved to be still under an unexpired contract), at such rate of wages and allowances as shall be provided by regulations, and for such period as the Protector may decide to be necessary in order to complete the original obligation of a five years' industrial residence in the Colony; and

Vagrant employed upon public works; how to be cared for.

5th. During the time that the vagrant may be so employed at public works, he shall remain detained in the vagrant depôt, and subject to all the rules and discipline of it, as if he were actually undergoing punishment.

Article 13. Punishments for vagrancy.

2008. Article 13 lays down the punishments to be inflicted for vagrancy, viz., imprisonment for not more than twenty-eight days, thus following the law of 1844 in regard to rogues and vagabonds, except in case of persons convicted of vagrancy *after two or more convictions therefor within the preceding two years*; in which case the penalty is imprisonment of not less than six or more than nine calendar months.

Article 16. Definition of vagrancy.

2009. Article 16 defined the word "vagrants" as including rogues and vagabonds as defined in Ordinance No. 42 of 1844, and *also deserters from service*; and

Article 17. After sentence for breaches of contract prisoners may be dealt with as vagrants.

2010. Article 17 provided that

" All persons who shall undergo punishment under sentence of Stipendiary
" Magistrates on account of non-performance of any obligations of their contracts
" of service, may be dealt with in the same manner as vagrants, under the pro-
" visions of this Ordinance."

These words, be it remarked, apply to such person *only after his sentence*; that is, only authorising his being sent to undergo his period of imprisonment at the depôt, but not authorising the Magistrates to punish, as for the more serious offence of vagrancy, persons who have merely been charged with breach of contract unaccompanied by desertion or any act of vagrancy, for which an aggravated punishment may be inflicted; although it would appear that doubts have been entertained by Magistrates as to the proper construction of this Article.

Question 4916.

Question 15,087 *et seq.*

Simple breaches of contract not punishable as vagrancy.

Desertion considered an act of vagrancy.

No definition of desertion.

Though offences since defined, the Magistrates have blindly disregarded later modifications.

2011. Thus, it was provided by this Ordinance that desertion should be considered as an act of vagrancy; rendering the offender, if twice convicted of desertion within the two preceding years, liable to an imprisonment of nine months; but no definition was laid down as to what constituted the offence to which such severe penalties were attached; and the result of this omission has been that even though the different offences have, by subsequent legislation, been defined, Magistrates have committed the error of blindly continuing to administer the law as laid down in the Ordinance now under consideration, regardless of later modifications.

Question 4911.

Question 4907.

Identification of the law of vagrancy by Ordinance No. 31 of 1867.

2012. By Ordinance 31 of 1867 and the regulations published under it, the law of vagrancy received important modifications, which doubtless the policy of the Legislature intended should supersede the provisions of Ordinance No. 4 of 1864; but as no mention is made of them in the repealing clause of the more recent Ordinances, they still remain in force, and, in the opinion of some Magistrates, a man may be charged as a vagrant under the provisions of either.

Question 4945.

Question 14,553.

Question 15,082 *et seq.*

Article 46 of Ordinance No. 31 of 1867.

2013. By Article 46 of Ordinance 31 of 1867 the failure of any Old immigrant to produce his papers (*i.e.* either his police pass or certificate of engagement) is *primâ facie* ground for his detention by the police, and his being forwarded to the Protector for inquiry by the Immigration Department whether or not he be following any *bonâ fide* employment; and, in the event of his being found not to be following such *bonâ fide* employment,

" he shall be deemed and taken to be a vagrant, and may be dealt with as such."

Non-possession of papers not *in se* an act of vagrancy.

2014. It is, however, to be observed that the law nowhere enacts that the non-possession of papers shall, *ipso facto*, constitute such an act of vagrancy as to justify the conviction of the defendant. This was very clearly laid down by Mr. J. Colin in a letter on the 16th of February 1869 to Colonel O'Brien, who had raised the point:

Opinion of Mr. J. Colin, Procureur-General, Feb. 1869.

Appendix G 48.

" If the law had intended that the mere fact of having no papers should be
" constitutive of the offence of vagrancy, the article above-mentioned (Article 46)
" would certainly not have provided for the making of inquiries to ascertain the
" status of the immigrant, and for the adoption of one of two courses, according to
" the result of the inquiry; indeed the Ordinance No. 31 of 1867 has given no

"extension to the legal meaning of the term vagrancy, as defined in Ordinance "No. 42 of 1844.

"An Old immigrant who does not provide himself with proper papers, but who "shows that he has *bonâ fide* employment, exposes himself to arrest, and to all the "inconvenience attendant thereon; but he is not a vagrant, and the law does not "contemplate his condemnation for an offence which he proves he is not "guilty of."

Case of Sheik Salamedee, App. G 32, April 1869.

2015. This reasonable view of the law had not previously been acted upon by the police nor the Magistrates, and apparently was not acted upon even subsequently, for on the 20th of April a petition was addressed to Sir H. Barkly from Sheik Salamedee, whose case is in several ways curious, and proves further that Indians were convicted and punished as vagrants notwithstanding they were following a *bonâ fide* employment.

His petition to Sir H. Barkly for such papers as would enable him to earn his living unmolested by the police.

2016. The petitioner stated that he had come two years before to Mauritius as a passenger, but had up to that time been unable to procure any regular papers, either from the Police Office or the Immigration Office, and consequently was debarred from following any regular employment. The cause of his inability to procure papers was that he could not give any precise information as to the date of his arrival and the name of the ship in which he had come, and he therefore prayed that the Governor would issue such orders as would enable him to receive a paper of some kind, in order to admit of his working; for which paper he expressed his readiness to pay any sum that might be demanded.

Minute of Mr. J. Douglas on the case.

Not a passenger, so unable to obtain a pass from the police.

Not an immigrant, so unable to get papers from the Protector. Yet no vagrant, though condemned as such many times, and likely to be so again.

2017. The petitioner was referred to both the police authorities and to the Procureur-General, and the following minute of Mr. Douglas, the Assistant Colonial Secretary, explains the case very clearly:—

"The case of this man is a somewhat singular one. He ran away from Réunion, "in a ship of which he cannot (as he says) or will not tell the name, two years "ago. He cannot be registered as a 'passenger,' from the impossibility of finding "out the ship, therefore he cannot get a Police Pass, as Indian traders do who "come here on their own account. But also as certainly he is not an immigrant, "not having come here from India, or been introduced 'as such.' He therefore can "get no papers from the Protector; and has in consequence been sentenced three "times to imprisonment as a vagrant, and is likely to be so again. But he is not "in reality a *vagrant*, being in the service of a shopkeeper in Royal Street, who "has offered to redeem the man's industrial residence, if that could be done."

Opinion on the carelessness of both police and Magistrates.

2018. The police reported that beyond the non-possession of papers nothing was known against him, and the only untruth in the petition was stated by Mr. Boulter, the Detective Inspector, to be that the petitioner did not know the name of the ship, which in truth he knew perfectly well, and which was the 'St. François.'

2019. It would pass our comprehension why the police did not ascertain all these facts before they charged this poor man with "vagrancy," as also that any Magistrate should have tried the case so carelessly as not to have elicited the facts for himself, were it not that numerous cases prove that, notwithstanding the opinion of Mr. J. Colin, non-possession of papers has been regarded both by the police and Magistrates as in itself constituting the offence of vagrancy.

Petition granted.

2020. We have only to add that Sir H. Barkly ordered the Inspector-General to give Sheik Salamedee such a pass as would enable him to earn an honest living unmolested.

Article 18 of Ordinance No. 31 of 1867.

2021. Article 18 justifies the detention of any immigrant if found out of the district of his domicile and if *unable to give a satisfactory reason* of his being there, in which case the Magistrate may, on his being brought before him, forward him to the Immigration Office for inquiry

Provisions of Articles 16 and 18 compared.

2022. In this second case, again, the detention is only justifiable upon the immigrant arrested being unable to give a *satisfactory* reason for his being out of his district; but there is nothing, in the opinion of Mr. Colin, either in the Ordinance or in the regulations, to justify the summary arrest and punishment as a vagrant (without inquiry) of an immigrant simply for being out of his district, a view of the law which exactly agrees with the written opinion given by his brother and predecessor, Mr. Jules Colin, to Colonel O'Brien, above quoted.

Evidence before the Police Enquiry Commission. Question 1810.

The Procureur-General to the Inspector-General of Police, No. 186 of 16. 2. 69. Appendix G, 13.

2023. Yet in practice we find numerous instances of immigrants being punished for no other offence, apparently, than being out of district without permission. Thus, on the 13th January 1870, Armoogum, a gardener, was out of his district, though at a place which was on the border of the two districts, and was fined 6*s.* by Mr. d'Emmerez de Charmoy, who sometimes, at the beginning of the system, inflicted much heavier fines—14*s.*, 16*s.*, and even £1; and we find that in that

Armoogum's case.

Question 14,757.

same month of January 1870 twenty other men were punished for the same so-called offence.

Article 47 of Ordinance No. 31 of 1867.

2024. Article 47 of the Ordinance, and Regulation 41, constitute it an act of vagrancy — immediately punishable as such — to obtain a police pass on a false declaration.

Article 55 of Ordinance No. 31 of 1867.

2025. Article 55 invests any constable of police with the right of entry at any time of the day, or under warrant of Magistrate at any time of the night, into

"any premises wherein any immigrant is employed or resides, in order to ascertain "whether such immigrant is a New immigrant under contract of service, or an Old "immigrant, having a ticket and pass in due form as prescribed;"

and in case of his

"not being satisfied with regard to the status of such immigrant,"

to arrest him and take him before the Magistrate of the district to be dealt with. A notable instance of the manner in which this Article was enforced by the police will be found in the case of the "Bois Marchand" labourers (Chapter XI., paragraph 758 *et seq.*).

Administration of the laws of illegal absence and desertion.

Compared as to the three offences.

Alternative penalties. Again as illegal absence have been treated as cumulative.

2026. From the foregoing statement of the law it will be seen that a very marked distinction was intended to be preserved between the three offences of illegal absence, desertion, and vagrancy; the two first being offences against the employer, arising out of a breach of contract, while the latter is a more serious offence against society at large. Yet we find that, in practice, they have been confounded one with the other, as well by employers as by the police and Magistrates; the result of which has, in many cases, been the infliction of gross and cruel injustice; whilst, in too many cases, the penalties enacted against illegal absence, instead of being merely alternative, have been treated by the Magistrate as cumulative, whilst clauses of the law (such as those in Article 19 of Ordinance 16 of 1862) intended to be safeguards against the abuse of the extensive powers conferred by the preceding Article, have been altogether neglected.

Case of Appanarain.

Procedure as to wages having been unpaid for two months or five by agreement.

Maximum amount of punishment overlooked by two Magistrates.

2027. We have seen how in the case of Appanarain (Chapter XVI., paragraph 1486) both employer and Magistrates were guilty of every illegality and oversight which it was possible for either of them to commit; and we also see (Chapter XVII., paragraphs 1934 and following) the admittedly universal disregard of the Magistrates as to whether, at the time of the absence, more than two months' wages were unpaid before inflicting punishment either of imprisonment or prolongation of service; whilst some of the Magistrates have entirely overlooked the maximum amount of imprisonment that could be awarded for illegal absence, and have very commonly awarded the punishment for desertion when illegal absence only was charged.

Questions 11,602, 13,119 *et seq.*, 13,551, 13,595, 14,077-79, 14,839.

Recklessness as to illegal sentences.

Case of Baboojee and others. Mr. Delafaye's perfunctory proceedings.

Unlawful sentences.

2028. Thus, on the 21st November 1870, Babajee and six other men belonging to "Fontenelle" estate in Savanne, were brought before Mr. Delafaye. No charge is stated in the Magistrates' Note-book, and the only note of the evidence taken by him is the following:

"Prosper Dauban, of Fontenelle, sworn—constantly absent—swears that the men "have been more than six days absent; caught idling."

One thing is perfectly clear from this very scanty note, namely, that whatever the charge, it could not have been desertion, as they were "caught idling;" whereas, the essential feature of desertion is that in addition to the fact of absence from work, there should be a total absconding from the dwelling-house for three consecutive days. The offence, therefore, could not have been more than illegal absence, for which, as we have ascertained through a special inquiry by Mr. Seed, the first four of the men, namely, Babajee, Hatchayah, Dhakeea, and Chatooree, had already forfeited their entire wages. Yet Mr. Delafaye condemned them *to six weeks'* imprisonment, although *fourteen days* was the maximum that he was by law empowered to inflict, if they had not been already punished.

Mr. Trouchet's proceedings.

2029. Neither was Mr. Trouchet, his immediate successor, more careful, when, on the 30th May 1871, he condemned Ramdoo, Pothanah, Beckharry, and three others to

"Six months' hard labour,"

for desertion, which was just double the maximum of punishment allowed by law for that offence; even assuming that their absence had been such as to constitute it; of which, however, no evidence appears on the Magistrate's notes. The note is—

His summary notes.

"Desertion—all admit having been condemned once before for desertion,"

an admission having no pertinence to the amount of punishment to be awarded by any legal process, as it is only in the case of vagrancy that the punishment is increased by previous convictions; and even then, as we have stated above (paragraph 2008), *two* convictions for *vagrancy* must be shown; and further, that they took place *within the preceding*

Reckless and illegal sentences.

two years; otherwise twenty-eight days was the limit of the utmost punishment that could have been inflicted, even admitting the two offences of vagrancy and desertion to be synonymous.

Ramdoo's case.

2030. Had Mr. Trouchet, he [illegible]ferred, as we have done, to the books of the estate, he would have found that at all [illegible] Ramdoo and Beekharry were not legally guilty of any more serious offence than illegal absence. Ramdoo, howbeit an irregular worker and constant absentee, was certainly not, in this case a deserter by law; for, though he had been absent every day from the 1st to the 16th of May, he is marked as having worked on the 17th, and, consequently by Article 50, Ordinance 31 of 1867, the employer having allowed him to return to work without previously prosecuting him, any desertion of which he had before that day been guilty was condoned.

Mr. Trouchet's negligence.

Ramdoo was again absent on the 18th, but worked on the 19th, was marked sick on the 20th; worked from the 21st to the 25th inclusive, and was again absent on the 26th, an offence which we presume exhausted the patience of his master—for, on the 27th Ramdoo was in prison, whence on the 30th he was taken before Mr. Trouchet with the result above mentioned.

Beekharry's case.

2031. The case of Beekharry was still harder. He was absent on the 2nd, 3rd, 4th, 9th, 10th, 16th to 18th inclusive, and on the 26th; but worked on the 1st, from the 5th to the 8th inclusive, from the 11th to the 15th inclusive, and from the 19th to the 25th inclusive. Thus, while he had been absent nine days (for which he was duly cut double) he had worked seventeen days. Yet, for the absence on the 26th he was sentenced to six months' hard labour; whereas, the highest penalty, could he have been punished at all (which he could not, having already been cut double) should have been fourteen days.

Needless to multiply examples.

2032. It is needless to multiply examples of this kind of practice, as they are numerous in the Note-books of the Stipendiary Court of Savanne, and Mr. Trouchet admitted with regret that he had confounded the different offences, under misapprehension; but that since he had been shown the error of his ways by his brother Magistrate, Mr. Dupuy, he had been more careful.

Question 13,665–66.

Arrest of deserters in public places. Article 51 of Ordinance No. 31 of 1867.

2033. Equally regardless of the provision of the law has been the practice pursued respecting the arrest of deserters, which, by the 51st Article of Ordinance 31 of 1867, may be effected by any master or his agent without warrant in any *public place* in which the deserter may be found.

Arrests constantly made in camps.

Questions 9130 to 9138.

2034. In practice, however, arrests have constantly been made in the huts and in the camp itself; and, although latterly some inspectors of police have doubted whether under such circumstances they ought to receive into their custody a man so arrested without warrant, we do not hear of any case in which the police refused to receive a prisoner in order to try the point.

Magistrates of different opinions as to whether camp is public or private place.

Questions 13,787 to 13,789.

Question 12,121.

2035. Neither are the Magistrates unanimous in their opinion whether a camp is a public or private place; for, while Mr. Baudot regards a camp as a private place, Mr. Farquharson holds that it is a public place, and ought to be one; though, he informs us that the point once having arisen in a case of trespass tried before him in the District Court, he consulted Mr. J. Colin, the Procureur-General,

> "who, after reading the law attentively, said there was no way of getting out of it,
> "and he must condemn the man."

thus declaring it not to be a public place.

Mr. Renouf's opinion unsettled, his practice certain.

2036. Mr. Renouf before us did not appear quite certain as to the public or private character of camps; for, he gave it as his opinion that a camp was a private place, though practically public, and that it was a public place, though one upon which the master must control the actions of the people. But whatever may be the value of these somewhat contrary opinions, his own practice shows clearly that Mr. Renouf regards camps as private places: 1st, by his punishing a hawker who was taken up as a vagrant trespassing in a camp; and, 2ndly, by his application to Mr. Beyts for his authority to visit "Mont Choisy" as his deputy, being apprehensive lest Mr. Poulin should turn him off the premises as a trespasser (*vide* Chapter XIII. paragraph 964), which, considering the views held by Mr. Poulin as to the legal position of camps in this respect, Mr. Renouf might easily have conceived him justified in doing.

Question 10,911.

Question 10,910.

Question 10,915.

Questions 13,028 to 13,052.

In law camps private places.

2037. Notwithstanding, therefore, the apparent anomaly that a collection of human habitations, containing so large a population as many camps do, should not be a public place, we may affirm that, except for the purposes of arresting deserters without warrant, camps are regarded as private; and, probably, none would be more loath to admit them to be otherwise than the proprietors themselves.

Arrest of Dussoruth in the hut of a friend.

2038. A striking example of the way these arrests have been made is shown in the case of Dussoruth, who was a labourer in the employ of Mr. A. Castel, job contractor on Mr. Hewetson's estate, "Riche Bois," in Savanne, but who absented himself for a long period between November 1870 and April 1871, when Ramdoss, an overseer of Mr. Castel, found out that he was living with one Rajah, at "Camp Diable," an Indian village within a few hundred yards of the Mill at "Riche Bois," and reported the circumstance to Mr. Castel. Dussoruth was thereupon arrested while baking cakes in Rajah's hut, from which he was, notwithstanding the opposition of Rajah, forcibly removed by Ramdoss; and Rajah himself was prosecuted by Mr. Castel for illegally employing his servant Dussoruth.

Appendix O 14.

Arrest of deserter in public places. Article 51 of Ordinance No. 31 of 1867. Arrest of Dussoruth in the hut of a friend.

This case is fraught with other illegalities; but as they are not pertinent to the subject now under consideration, they will be treated in the chapter upon Magistrates (*vide* Chapter XXX).

Penalties for illegal arrest practically a dead letter.

2039. With such an example before us of high-handed proceedings, we naturally might expect to find a considerable number of convictions for illegal or wrongful arrests; but here, again, we find that, whilst we have abundant evidence of the use of the arbitrary powers conferred by certain articles of law, the Articles which embody the safeguards against their abuse have remained little better than dead letters. Thus, in the four years that elapsed between the passing of the Ordinance at the end of 1867 and the end of 1871, we find that only five persons not immigrants were convicted of illegal arrest under the 51st and two following Articles of the Ordinance; though, during that same period no less than 14,935 persons were charged with desertion, of whom 2734 were acquitted.

Statistics of arrest for desertion and for acquittals.

Appendix Q 1.

Appendix Q 13.

Confusion of desertion with illegal absence.

2040. The confusion of desertion with illegal absence has been still further increased by the custom which Mr. Renouf believes, and which we have found to be general throughout the island, of Magistrates allowing masters prosecuting their servants for desertion the option of changing that charge for what is at first sight the less serious offence of illegal absence, as by that means the master is able to procure a sentence of prolongation against his servant, no matter how protracted the desertion may have been; whereas, the highest penalty imposed by law upon deserters is three months' imprisonment. It is consequently more advantageous to the individual master to bring the lesser charge, and obtain prolongation of the contracts of the men than the more serious charge, which might cause the defendant to be imprisoned for three months, but would be no compensation to the master. The result is, that in comparatively few cases does it happen that deserters, unless arrested by the police as vagrants, under Ordinance 4 of 1864, Article 16, suffer imprisonment; masters generally preferring the other course.

Question 11,622.

Magistrates pliable and considerate towards planters.

Unusual punishment for desertion applied by Mr. Farquharson.

2041. In addition to the penalty under Article 50 of Ordinance 31 of 1867, we find a case in which desertion was treated in a novel and unusual manner by Mr. Farquharson, who fined the defendant £10, besides the costs. When examined by us, Mr. Farquharson had some doubts as to the legality of the proceeding, and had not applied it again. He had done it under Article 10 of Ordinance 15 of 1852, which enacts that in every case in which a complaint has been proved against a master or a servant under the provisions of the 7th and 8th sections of the 4th Chapter of the Order in Council, the Stipendiary Magistrate may award a fine of £10 in lieu of the compensation provided thereby; and Mr. Farquharson considering that desertion was equivalent to "neglect of stipulated work," acted upon this Article, coupled with the Order in Council, and inflicted of the fine.

Questions 12,118 to 12,123.

Administration of the law of vagrancy.

2042. If from illegal absence and desertion we turn to vagrancy, we shall not find any stronger reason to be satisfied with the manner in which the law has been carried out; for, since the passing of Ordinance 31 of 1867, the criterion of a vagrant has been, not whether he has committed an act of vagrancy under Ordinance No. 42 of 1844, but whether his papers have been *en regle*, and he could prove that he had employment. If they be not, he is deemed to be a vagrant, and, in almost every Magistrate's books we found entries, "no papers," as evidence of the vagrancy of the accused; and thus it frequently has happened (*vide* Chapter XI. *Enforcement of the Labour Law*) that persons have suffered punishment as vagrants when a small amount of further inquiry, either by the Magistrate or the Protector, to whom such cases should have been referred, would have established the *status* of the accused, and in many cases have shown him to be no vagrant, and possibly guilty of no offence more serious than illegal absence, or of being out of the district of domicile without previously having had his police pass properly endorsed.

Criterion of vagrancy whether papers *en regle*.

"No papers," evidence conclusive.

On all sides negligence.

Questions 1796, 11,103, 13,378, 13,792, 13,809, 13,816, 14,018, 14,019, 14,558, 14,817 et seq.

Evidence required by Magistrate in support of a charge of vagrancy.

Questions 11,101 to 11,116, 12,316, 13,792, 14,012, and 14,013.

2043. The evidence required by the Magistrates in order to convict of vagrancy consisted in the sworn statement of the police who arrested the man, and the admission of the man himself in answer to the questions of the

Men convicted by their own evidence.

Procedure not satisfactory.

Magistrates. This method has sufficed well enough for conviction, but not, however, to prevent persons from being condemned as vagrants who had little right to be so regarded: and, considering the practice of the police to have been such as we have shown in another chapter (Chapter XI., *Enforcement of the Labour Law*), we cannot say that we think the procedure has been satisfactory.

Kistnapen and Saulick's case.

2044. How little reliance is to be placed upon the evidence of policemen, or the careful investigation of Magistrates, in cases of alleged vagrancy, may be gathered from the case of Saulick (*vide* Chapter XI., para. 750). The case of Kistnapen, too, will show the very little trouble that either police or Magistrates have taken to ascertain the true character of persons arrested without papers.

Appendix G 33.

Appendix G 47.

Case of Kistnapen.

Kistnapen's arrest.

2045. Kistnapen was in 1869 servant to a Madame Courtois, and obtained from her leave of absence for about two days, which time however he overstayed. He was arrested by the police, and taken on the 27th August before Mr. Gautier, the Magistrate of Flacq, and was charged by them with vagrancy. The only note taken by the Magistrate is of the usual scantiness:

Scantiness of Magistrate's notes.

"Defendant has no papers; no residence in the district; no means of living."

How this evidence was elicited we of course cannot tell; but, at any rate, the Magistrate, being satisfied of the vagrancy of the accused, condemned him to twenty-eight days' imprisonment.

Utter absence of inquiry.

2046. It is impossible to believe that Kistnapen could have been so very bad a character as to have merited this punishment; or, that a very small amount of inquiry would not have established who he was; for only three days elapsed after his condemnation, when a letter was addressed to Mr. Gautier, by one Mr. Mongelard, at the request of Madame Courtois, praying for the release of the man, whom she declared to have been on leave at the time of his arrest. Mr. Gautier answered that Kistnapen having been condemned for *vagrancy*, on a police charge, the Stipendiary Magistrate had no power to release him (Act 23 of Ordinance 16 of 1862), but that if the Governor were applied to, he would recommend that the petition be granted. Mr. Mongelard accordingly, on the 7th September, petitioned Sir H. Barkly, which petition, after being referred to the Stipendiary Magistrate for report, was on the 8th acceded to and the man was, we assume, liberated, after being eleven or twelve days in prison in satisfaction of an illegal sentence of twenty-eight days' imprisonment.

Madame Courtois's request for Kistnapen's release.

Mr. Gautier's answer.

Release of Kistnapen from his illegal imprisonment.

Mr. Farquharson's mode of dealing with vagrants.

2047. Two Magistrates alone of those we examined appear to have properly appreciated and strictly to have followed the law upon this point. Mr. Farquharson told us that he hardly ever punished a man for vagrancy; but that when the police bring men up as vagrants, the first thing that he does is to ascertain whether the prisoner has a master; and as soon as he gives the name, he writes to the master, who generally then comes and begs that the prisoner may be released, or enters a charge of desertion, or illegal absence against him; but in the event of his finding it difficult to identify the accused, he makes it a rule to send him to the Protector.

Question 12,323.

Question 12,320.

Question 12,322.

Happy results of Mr. Farquharson's manner of proceedings.

2048. This practice will account for the small number of convictions for vagrancy returned from Rivière du Rempart (33 out of 143 charges in a male population of 12,865) compared with those in other districts. As usual, the returns do not agree, for according to that furnished in 1872 to the Governor, the number of convictions for vagrancy is only *nine!* Nevertheless, even taking thirty-three as the correct number, we shall see the effect of Mr. Farquharson's rule by comparing that number with those of other districts in which the same care was not observed. In Pamplemousses, out of a male population of 26,348, we find 616 persons charged with vagrancy, of whom 365 were convicted. In Flacq, out of a male population of 30,975, there were 918 charges and 592 convictions. In Grand Port, out of a male population of 27,323, there were 1051 charges and 692 convictions.

Appendix C 12.

Appendix G 46.

Census Returns. Appendix 5.

Mr. Daly's practice.

2049. Mr. Daly follows a practice similar to that adopted by Mr. Farquharson, and repudiates the idea that the mere fact of non-production of papers constitutes vagrancy; although, until his arrival, persons without papers had always been treated as vagrants in Savanne.

Question 13,358 *et seq.*

Non-production of papers merely entails detention and reference to Protector.

2050. The not producing papers when called upon to do so (under Article 46, of Ordinance 31 of 1867) Mr. Daly considers merely justifies the detention of the immigrant, and the sending him to the Protector for inquiry.

Requires sworn testimony of the police, and admission by prisoner.

He had had very few cases of vagrancy latterly brought before him, owing to his having established the practice in his court of refusing to hear a charge of vagrancy upon any other ground than the sworn testimony of the police, or that the man had admitted one of the specific offences mentioned in Article 1 of Ordinance 44 of 1841, necessary to constitute an act of vagrancy.

Question 13,365.

Accused "without papers."

2051. Those who are brought before him by the police without papers are asked to whom they belong and to what estate, and on learning the name of the master, he remands them to the earliest day possible, to enable him to communicate with the master with a view to his either coming or sending with reference to the accused; and on the master's appearance, he requires a charge, whether of illegal absence, desertion, or vagrancy, to be stated in regular form.

Question 12,368.

He remands on learning the accused are under engagement.

Mr. Renouf's practice in dealing with vagrants.

2052. Mr. Renouf thinks a deserter is tantamount to a vagrant, and condemns, apparently indiscriminately, the one for the other, though latterly, when a man under engagement has been charged with vagrancy by the police, he has, instead of condemning him, struck out the charge of vagrancy, and sent a note to the master to appear against the man.

Question 11,121.

Question 11,801.

Lawlessness of Mr. Renouf towards deserters and vagrants.

2053. Thus on the 2nd October 1871, Coopoomoofoo and another labourer of "Espérance" Estate, in Pamplemousses, were given into the custody of the police, on a charge of desertion. They appeared before Mr. Renouf on the 3rd, and, for some unexplained reason, were remanded, and were brought up again on the 9th, charged on the police sheet with vagrancy, although the plaint note or paper sent to the police by the employer with the prisoners mentioned desertion as their offence. No prosecutor appears to have been present, and no witnesses were heard, yet the entry on the 2nd states that both were deserters from Mr. Lesur's service, which Mr. Renouf supposes must have been arrived at from the admission of the men; and he consequently sentenced them to fourteen days' imprisonment, as deserters. We think it improbable that these men suffered any great injustice, as they might have been awarded three months' imprisonment as deserters, or twenty-eight days as vagrants; but the case is a strong one, as showing the very indiscriminate manner in which the two offences have been dealt with.

Question 11,545, *et seq.*

Coopoomoofoo's case.

No prosecutor present.

Impartiality of Magistrate illegalities.

Mr. Messiter's practice in dealing with vagrants.

2054. Mr. Messiter does not condemn for vagrancy if the accused can give proof that he has visible means of subsistence; but, as we have shown in another place (Chapter XI., paragraphs 718 to 730) that in one case Mr. Messiter did not consider the possession of cows and of garden land as visible means of subsistence, we find it hard to imagine any circumstance under which proof satisfactory to Mr. Messiter on that point ever could be given. In default, he sentences the accused off-hand, or sends him to the Protector, the latter being the only legal course, although the former course is more commonly followed; Magistrates frequently thinking that they are quite as good judges of the vagrancy of an individual charged in their own districts as the Protector would be in Port Louis; a view of the case, which though certainly not warranted by law, would not be wholly without reason, if the point rested on an act of vagrancy, and not, as it does, on the immigrant being able to prove his status; and seeing how the records and registers are kept in the Immigration Office, the Magistrates must have long since found by experience how perfectly superfluous a proceeding it was to send an immigrant to the Immigration Office, so far as concerned any superior information to be thereby gained respecting his status, the only result having been that the man is forthwith sent back to the Magistrate for further inquiry, owing to the inability of the Immigration Office to give any information at all about him (*vide* Chapter XIV., paragraphs 1159 to 1166, *Case of Nattowah*, &c.).

Question 14,771.

Question 14,777.

Questions 14,780, 14,398.

Mr. Messiter's criterion not well understood.

Magistrates view of their own rights as to vagrants' characters.

The Magistrates not wrong in their estimate of the uselessness of reference to the Protector.

2055. No one, however, appears to have sooner made up his mind of the uselessness of sending men for this purpose to the Immigration Office than Mr. Beyts himself, for within a fortnight after the Pass system came into operation we find him requesting the Stipendiary Magistrate of Flacq (Mr. Gautier) to take immediate action against persons of whose vagrancy he was satisfied, or to send their names to the Immigration Office for such action as Mr. Gautier might think best,—a system, of the practical results of which, so far as concern Mr. Gautier, we have seen an example in the case of Kistnapen.

Appendix K, 50.

Mr. Beyts also aware of the uselessness of such reference.

Remission of punishment in the instance of employers.

2056. One more point in the administration of the law of desertion and vagrancy remains to be noticed, namely, the practice which has been followed by some Magistrates of remitting the punishment pronounced upon men charged with vagrancy at the instance of their employers, if such they had.

Power under Ordinance No. 16 of 1862 Article 23.

2057. This has been done under the 23rd Article of Ordinance No. 16 of 1862, which entitles employers, on application to the Stipendiary Magistrate, to obtain the release of any immigrant in his service who shall have been imprisoned on his complaint,

"for any act or nonfeasance not involving a breach of the peace or of the public "law of the colony."

Action of Mr. Gautier in Kistnapen's case.

2058. We have seen how, in the case of Kistnapen (paragraph 2045), Mr. Gautier

Remission of punishment at instance of employer. Mr. Messiter's practice.

declined, and we think rightly, to release him on the ground of his having been condemned for vagrancy on a police charge.

2059. Mr. d'Emmerez, on the other hand, invariably lets men off if claimed by their employers; as does also Mr. Messiter. The latter defends this course on the grounds that, even admitting vagrancy to be an offence against the public law of the colony, he sees no harm in liberating a man who has been condemned for having no papers; especially if his master comes and says (as did Madame Courtois of Kistnapen) that he is no vagrant, but in his service, and a good workman, and that he wishes to have him released. We entirely agree with Mr. Messiter in regarding such a course as "perfectly harmless," but we also see great harm in a system under which a man of the inoffensive character contemplated by Mr. Messiter is liable to be condemned to 28 days' imprisonment, merely for being some distance from his employ, and being unable (perhaps only for the moment) to show who and what he is.

Question 14,729, *et seq.*

Question 14,521.

Hardship of the law.

Question 14,822.

Inequality of the law towards Old Immigrants.

2060. Neither can we forbear to point out the great difference which this rule at once raises up between indentured and unindentured immigrants. The former having a master, though they may have deserted his service and become practically vagrants, may, nevertheless, be released unpunished at the instance of a master who is either indulgent or in need of hands; whereas, the latter, simply from the fact of pursuing a calling on his own account, has no master, and, therefore, if unfortunate enough to incur the penalty of vagrancy, a matter of no great difficulty nor moral turpitude, he must endure his punishment; unless, indeed, he compounds by sacrificing his independence and engaging, as did Bhim and the gardeners of "Grand Sable" and "Grand River" (*vide* Chapter XL., paragraphs 712, 719, and following), under written contract of service, a course which, notwithstanding Mr. Renouf's inability to see it in that light, it is needless to say, may involve hardship and become an instrument of very great oppression.

Appendix C, 37 and 38.

Question 11,803.

Chapter XIX.—*Dwellings.*

2061. We will now proceed to consider the adjuncts to the wages agreed for in the contracts—lodgings and medical attendance.

Regulations under Ordinance No. 30 of 1858.

In the early contracts made in India we find no covenant that the immigrant shall be provided with lodgings; nor do we find that any regulation anywhere until we come to the regulations published under Ordinance 30 of 1858. It, however, appears to have been the general custom of the country to furnish lodging for the free labourers, as it had formerly been for slaves, the immigrants from India in 1836 having usually found on the estate a large log-hut prepared for their reception; and in Ordinance No. 40 of 1844 and No. 6 of 1845, passed when the former was disallowed, provision is made almost in the same terms as in Article 24, Ordinance 31 of 1867, that the employer shall provide for his labourers

Custom of the colony to provide lodgings for labourers.

> "sufficient and wholesome lodging according to the usage of the colony."

Interval, 1866–1868, when lodging not obligatory.

2062. The whole of Ordinance 6 of 1845 was repealed by 29 of 1865, as we shall mention hereafter (*vide* next chapter, paragraph 21); and consequently from the 1st January 1866 to the 15th September 1868, when Ordinance 31 of 1867 came into operation, there was no law subjecting the proprietors of estates to provide lodgings for their immigrants, whose only redress, in cases of neglect to find them in lodgings during that time, must have been by an action upon their contracts of engagements.

2063. But, as showing how little effect the law has in Mauritius, Mr. Gautier reports on the 25th July 1866, as regards Moka, that

> "the camps have also (as well as the hospitals), with few exceptions, followed in "the same way of improvement,"

though there was no law requiring lodgings to be furnished, and the lodgings were exempted from the supervision of the Medical Inspector to which the hospitals were subject; but, nevertheless, the Colonial Secretary on the 5th September 1866 wrote circulars to the Stipendiary Magistrates, directing them before the end of the month to report what steps had been taken to remedy the bad condition in which the *camps* and hospitals on different estates were reported to be.

Camps not subject to medical supervision.

Appendix D 2, p. 35.

Camps not much noticed by Stipendiary Magistrates.

With the above exception, and the Stipendiary Magistrates of Black River, Mr. Rennards and his successor Mr. de Charmoy, the Stipendiary Magistrates do not appear to have taken much notice of the camps in their periodic visits.

Ideal Coolie.

Appendix D 2, p. 21.

2064. Sir Gabriel Fropier, in January 1864, however, remarks that

> "they are not very good; but, in the present difficult circumstances, it would be "next to impossible to enforce considerable improvements;"

and consequently, when there is one to suffer, it must be the Coolie; but, in February 1870, things looked better, and

Dwellings not complained of.

> "the camps still leave much to be desired; but, with the improvement of the crop, "it is to be expected that corresponding improvement will take place in the lodgings "of the labourers, who" (he touchingly adds), "I must say, never complain of their "dwellings."

Camps in 1865.

2065. Mr. Rennards, in January 1865, describes the dwellings of the immigrants

> "as generally built of very rough materials either in palisades, aloes, or uncut "stone, and nearly the whole of them are covered with straw. The "labourers seem to be perfectly content with these rudely-built huts, "for I have never received complaints from any of them respecting the construction "of their lodgings. The interior of these dwellings is invariably kept tolerably "clean, but I have frequently observed the ground about them in a filthy state from "the sweepings of their huts, which they don't take the trouble to remove to some "distant spot, and which a number of pigs, fowls, &c., are constantly turning up, "corrupting the air with noxious effluvia. As Stipendiary Magistrate I have no "power to enforce cleanliness in these immigrants' camps; but as Vice-President "of the Local Board of Health, I have partially succeeded in improving the sanitary "state of many of them. The immigrants generally evince a great aversion to "aught resembling interference on the part of their employers with a view to "enforce cleanliness in their camps; and these latter well know that if they "attempt to forcibly carry out any improvement in this respect, it is more than "probable that, at the expiration of the engagements of their labourers, they will "refuse to re-engage on the same estate, and will transfer their services to persons "who will not interfere with their peculiar customs and habits. The Asiatic "immigrant will always be the last person to complain of the dirty condition of "his village or camp; and, indeed, his clothing and personal appearance too often "show a marked disregard to that great comfort, cleanliness.
>
> "On the whole of the estates of this district, the immigrants are allowed to rear "poultry in any quantity and to keep as many cows, goats, pigs, &c., as they "choose."

Appendix D 1, p. 1.

Filthy state of camps.

Stipendiary Magistrates have no power to enforce cleanliness.

Immigrants averse to interference of masters.

2066. What Mr. Rennards has therein said regarding the want of power in the Stipendiary Magistrates to enforce cleanliness in the camps, and the aversion of the immigrants to the interference of their masters in the state of their camps, extends to the interference of even the Sanitary Inspectors; for Mr. Currie informed us that the nearest approach he had had to rebellion was at his estate "Beauchamp" and "Belle "Rose," when he was assailed by two bands of furious women, and had to beat an ignominious retreat until he met with an interpreter.—in consequence of about 200 people having been summoned by the Sanitary Inspector before the Magistrate. The women could not be appeased by being told that the Inspector was under the orders of Government, and not under Mr. Currie's. They said they looked to him for protection under all annoyances; and the only way in which he could appease them was, by offering to build them an enclosure for their animals to prevent their wandering about the camp, and to let them choose a guard for the animals to look after them when their husbands were absent.

Aversion by Indians to the interference of the Sanitary Inspector.

Question 10,622.

Ignominious retreat of Mr. Currie from furious women.

Mr. Currie's admirable arrangements

2067. The plan, however, had but a very imperfect acceptance or success; although, in our opinion, it is the arrangement proper to be made if immigrants be allowed to keep large quantities of cattle and pigs. The master should, as at "Trianon," build a *parc à bœufs* or a *parc à cochons*, as may be required, and leave the Inspector to see that all be clean.

Excellent Order at "Trianon."

We shall return to this subject of live stock and poultry when discussing the wealth of the Indians in Mauritius. (See Chapter XXVII., *Social Condition.*)

2068. In July 1865 the number of deaths not having been so great on the estate as in the six months previous, Mr. Rennards attributes it to the Indian camps on estates having been kept in a more cleanly state than formerly, though he freely admits there is still room for improvement; and finding that the labourers' huts have generally only one opening, the door, quite inadequate for sufficient ventilation in his opinion, he recommended the planters to add a window to each hut, which would be a great improvement, and would unquestionably, in his opinion, contribute much to the comfort and well-being of the immigrant labourers who occupy them. He does not mention the result of the experiment, but it probably led to the windows being blocked up

Decreased mortality owing to increased cleanliness.

Mr. Rennard recommends more ventilation.

immediately, and to the immigrants objecting more than ever to interference on the part of their employers in the arrangement of their huts.

1867. Mr. De Charmoy's Reports.

2069. In September 1867 Mr. d'Emmerez de Charmoy reported that there were three camps which should be rebuilt; but the epidemics

> "had laid up so many labourers, that a sufficient quantity were not left for the "working of the canes,"

and so the immigrants could not have their huts repaired.

1868.

On the 1st August 1868, too, the proprietors had promised that the camps which had been blown down by the hurricane should soon be repaired. The hurricane occurred on the 11th and 12th March, and Mauritius is south of the Line, so that the most inclement season was nearly over.

1869. "Rivière Dragon."

In July 1869 Mr. de Charmoy comments on Mr. de Belloguet's camp at "Rivière "Dragon," which is mostly uninhabitable; but of him we shall have to say more hereafter; and in January 1870 the Magistrate says:

1870.

> "I have found the camps tolerable in general, but they might certainly be kept "cleaner. The Indians are generally allowed to keep cows, goats, and pigs; and as "the camps are not regularly cleaned, there is much accumulation of filth and "vegetable matter in most of the camps, which nuisances might be suppressed by "the Inspector of Nuisances."

1871. "Gros Cailloux."

In January 1871 he complained of the camp at "Gros Cailloux," and attributed it to the firm of Commins & Co. coming to a close, and their being unwilling to incur fresh expenses; but he believed the future proprietors, or renewed firm, would remedy this state of things.

Bad camp at "Gros Cailloux."

2070. We have here another instance of the Indian immigrants being sacrificed to the convenience of the planter; and we might have been content to pass it over, but those, who succeeded did not fulfil Mr. de Charmoy's hopes, for in July he reported the camp entirely out of repair and much to be criticised, and in January he still excepted the camp at "Gros Cailloux" from his commendation of camps: and therein we can confirm his opinion, for it was on the 11th June following that we visited that estate. The camp then consisted of eleven barracks and ten isolated huts; the former, built of palisade and mud, and roofed with thatch, were for the most part in a state of dilapidation.

1872. The Commissioners confirm Mr. de Charmoy's opinion.

The condition of the isolated huts was somewhat better, but many of these were built by the immigrants themselves, the proprietor not even furnishing the material, but allowing the immigrant to take it from the estate. Add to this that the goats and poultry straying about rendered it dirty and untidy in the extreme.

Appendix B. Visits to estates. "Gros Cailloux."

Establishments in Port Louis.

2071. Besides the dwellings on the estates belonging to the proprietors, there are also camps very generally on estates belonging to job contractors. These will be noticed hereafter. There are likewise establishments in the city of Port Louis belonging to carters, lightermen, wharfingers, and the several dock companies, which employ indentured immigrants, but which have never been noticed in the Protector's Reports, nor have ever been visited by him; nor has he ever received any returns from them until the latter part of the year 1873.

Appendix B, 52.

We visited some of these establishments, and notes of our visits are given in the Appendix.

The dwellings on these establishments differed from everything of the kind that we had seen on estates, though they, in some respects, resembled the descriptions given of upper-storeyed dwellings in other colonies which had been converted to the use of the engaged immigrants from the logies formerly occupied by slaves. The description of two of them will probably suffice.

Mr. Barraud's.

2072. One—Mr. Barraud's establishment—consists of three rows of dwellings, or, rather, sheds, 53 feet 4 inches long, and 17 feet wide, substantially built of stone, with corrugated iron roof. A wall runs down the middle, under the ridge-pole, which divides each shed into two. One of these sheds has only seven compartments in each row. The divisions are not covered up to the wall-plate, and are but barely high enough for privacy, though still furnishing in each row sufficiently airy and ventilated rooms, 9 feet 5 inches long, by 6 feet 3 inches wide, and 7 feet high, open above to the ridge-pole.

2073. The two other sheds furnish accommodation, if it can be so called, of a remarkable description. A passage the whole length of the shed is cut off, 3 feet 6 inches wide, and, on the side opposite the wall of the shed, a wall is built, 6 feet 2 inches high, and on the top of that a ceiling of planks is laid, which forms a gallery the whole length of the shed, 5 feet wide, and 5 feet 7 inches high to the ridge-pole, and 4 feet 10 inches at the lowest spot, where the balusters run along the front of the gallery.

Establishments in Port Louis, Mr. Barraud's.

On each of these galleries seven single men sleep. The heat of these galleries was extreme at 8 A.M., and must be excessive at noonday.

There were two flights of stairs to ascend to this gallery, one at each end of the shed.

The lower storey, or part under the gallery, was divided into ten rooms, 6 feet 2 inches by 5 feet 4 inches, with a door 5 feet 4 inches high, and no other ventilation than what came in between the top of the door and the ceiling.

There were ten of these rooms; and in each of them husband, and wife, and children, were supposed to live. The fowls they possessed had coops at the end of the passage. There was no cooking carried on in these sheds; that was done in a separate shed fitted up with hearths and hearth-stones, as usual in India.

Camp belonging to the Albion Dock.

2074. The other camp that we will describe belonged to the Albion Dock Establishment. It stands on high ground, and is a large stone building, 115 feet long by 33 feet (inside measurement), three storeys high, and, in outward appearance, something like an old slave logie and a warehouse. The ground floor has five blocks of eight rooms, with four rooms at each end. The rooms are 8 feet 3 inches by 7 feet 6 inches, and 5 feet 9 inches high. The open space to the ceiling, about 8 or 9 feet, is left for people to sleep upon, or stow away vegetables, wood, and rubbish. The first and second floor have a gangway 5 feet wide down the centre, and ten blocks of four rooms each, with four rooms at each end. The rooms on each floor are 7 feet by 7 feet 6 inches, and those on the second are 7 feet high, with arrangements similar to those on the lower floor as regards the top of the blocks and the ceilings.

There are seven larger houses in the yard, and a cooking-shed and cooking-places in different parts of the yard, with sheets of curved iron to keep the wind from the fire.

Water-supply in these establishments, good.

2075. The supply of water in these establishments is good. In one of them—that of Mr. Stanley, a wharfinger—it might be thought too abundant, as in wet weather it stagnates in many parts of the yard.

2076. There is one thing that the inhabitants of these buildings have learnt which, with few exceptions, has to be acquired in camps in the rural districts, and that is, the use of latrines: a fact which disproves the assertions so constantly made to us on estates—that the habits and customs of the Indians are so opposed to those usages, that they never can be made to adopt them.

Camps of the Surveyor-General's Department.

2077. Besides these, the camps of the Surveyor-General's Department for the use of the labourers upon the roads, and the camps of the Railway Department for the use of their labourers, are never visited by either the Protector or the Magistrate.

In the camps belonging to the Surveyor-General's Department for the labourers upon the roads there is no one order or plan.

At "Bel Etang."

2078. At "Bel Etang" there is a camp of thirty-one men, who have two rows of huts built by the person on whose estate they are encamped, large and comfortable-looking, but not more cleanly than the generality of Indian camps or the inferior villages are found to be. At Camp de Masque there is a camp of seven men, not more cleanly than the one at "Bel Etang," and of small inferior huts.

2079. We have seen other camps with substantial stone walls, dry-built, broad at the base, and sloping to the wall-plate, thatched with straw, and sometimes with corrugated iron. These are superior buildings, but not so popular as the straw huts, and the neighbourhood is not more remarkable for cleanliness.

The huts for the labourers employed upon the railroad are of much the same description, though camps on this last-mentioned plan have recently been built as model camps near the stations of Rose Hill, of Flacq, and elsewhere.

Law regarding labourers' dwellings, Ordinance No. 31 of 1867, Article 21. What lodging insufficient, unhealthy, or otherwise unfit. Order for alteration or repair. Another dwelling to be supplied. Allowance until proper lodging. Penalty for non-compliance.

2080. The law regarding labourers' dwellings is as follows:—

> "Every person employing labourers upon a country estate shall provide them "with sufficient and wholesome lodging according to the usage of the colony; and "whenever it shall be proved to the satisfaction of the Stipendiary Magistrate of "the district that the lodging of any labourer is insufficient, unhealthy, or otherwise "unfit to be inhabited by such labourer, the said Magistrate shall order that, within "a certain period, to be by him fixed, the employer shall cause the dwelling com-"plained of to be altered or repaired, so as to render it wholesome and sufficient, "or another dwelling to be supplied to the labourer; and he shall require the "employer to make the labourer an allowance or indemnity of three pence for each "day, from the date of his order, until the labourer be properly lodged to the satis-"faction of the said Magistrate; and any master failing to comply with any such "order of the Magistrate shall be liable to a fine not exceeding £5, and the labourer "shall be entitled to demand cancellation of his contract."

2081. This requires that the employer shall provide the lodging, and that it shall be sufficient and wholesome according to the usage of the colony; but if it be proved to

the satisfaction of the Magistrate that it is insufficient, unhealthy, or otherwise unfit to be inhabited by the labourer, the Magistrate may order it to be altered or repaired, or another to be supplied. We find from Mr. Daly's Half-yearly Inspection of the Sugar Estates in Savanne, that in one case an employer had given his servant four days' leave of absence and the run of the straw-yard and wood-pile, with directions to build his house himself, which was represented to the Magistrate as an ample method of providing sufficient lodging for the man. We also found at *Quartre Soeurs*, where the camp was in a disgraceful state of dis-repair, that the manager had told the men that they must repair the huts themselves. The furnishing a man with materials, and desiring him to build his hut, as in these two cases, and, after a hut has been built, requiring its occupant to make his own repairs, is, we understand, of by no means uncommon occurrence. We are, therefore, not surprised at finding that though there had been but 75 complaints brought against masters under the above section, only 11 of them were proved; whilst out of that 11, six were in 1871, out of 19 complaints, and 64 were dismissed, we may suppose because either of the impossibility of proving that the camps were not according to the customs of the colony, or that it was more difficult to satisfy the Magistrate than the labourer that the lodging was indifferent, unhealthy, or otherwise unfit to be inhabited, though we may conclude otherwise from Mr. Daly's answers, when examined by us upon this question. He said :—

Appendix D, 3.

Difficulty Indians find in proving complaints about their dwellings.

Appendix C, 1.

Question 13,551.

Mr. Daly's opinion as to camps.

> "As to the camps, I found a great many of them, according to my English notions, "very dirty and squalid, though on some estates there is, I think, a great attention "paid to decency. But as a proper answer to the question depends so much upon "what may be the state of the people in their own country, I do not think I "am competent to judge as to whether such a state of things enables the Indian to "live in comfort."

And, when desired to compare them with the villages in which the Indians live, of their own building, in Mauritius, he said :

Dwellings built by Indians for themselves.

Question 13,588.

> "I think then on many estates they are in a very miserable plight. "Comparing what the Indian does for himself, their condition is "miserable indeed. But I think I ought also to add that an Indian will live in a "place which an European will condemn, and that he will never grumble about "the want of ventilation or drainage."

But Mr. Daly appears to have been an exception to the other Stipendiary Magistrates.

Difficulty in putting law into motion.

2082. There is, however, here, as there was found in the Hospital Ordinance, a difficulty in putting the law in motion. Mr. Beyts tells us that a great deal still remains to be done in regard to "sanitation," but it was difficult to make out from him who he thought ought to put the law (Article 24, Ordinance 31 of 1867) in motion. Mr. Baudot considers the owner, as the occupier of property. To us it seems very clear that either the Indian might do it (but he is not very likely to do so) by proceeding against the planter, or that the Sanitary Inspector should do it, who, we learn from Mr. Antelme, visits and examines the camp, and sees whether it is clean or not; and is bound to report the camp to the Inspector of Police when it is not clean; but we do not find that he ever does it.

Question 3576.

Question 13,889.

Question 4441.

Visits to camps by Sanitary Inspectors.

Question 6674, *et seq.*

The Magistrate cannot be judge and prosecutor at the same time.

2083. In fact, the difficulty the Magistrates encounter is in the laws of the colony. The Stipendiary Magistrate, as Mr. Renouf says, cannot be judge and prosecutor at the same time. He is directed to visit estates, but if he finds anything wrong, either in hospital or on the estate, he must get some person to verify (*constater*) it. His having seen it is not sufficient; a policeman must (perhaps at the Magistrate's desire) go and see it, and then come and tell him of it. The nuisance or contravention may have ceased, or been removed, as we have shown elsewhere, by the time the policeman got there, and the contravenant escapes; perhaps to repeat the same contravention the next hour. So, the Medical Inspector has to send the police to verify that there is no medicine in the hospital which the Inspector himself had seen; and, meantime, the medicine had been procured, and though there might not have been any in the hospital for months before, the offender escapes, because the fact required to be verified.

Room for defaulter to escape through necessity for "constatering."

Magistrates' power.

Medical Inspector's power.

In the former instance, the Magistrate acted only under an order from Government, and the form of verifying what he saw might be necessary, but the Medical Inspector acted under an Ordinance; and it must be a glaring defect in the Ordinance when giving him power to inspect, not also giving him power to redress what on inspection he finds to be wrong.

Sanitary Inspector's power.

So, also, as regards the Sanitary Inspector. It ought not to be necessary for him to report to the Inspector of Police when he finds a camp not clean. He ought to be able to act directly.

"Stanley," Mr. Antelme's camp.

2084. But to return to the consideration of individual camps. On Mr. Antelme's estate there is a gang of men who go every day round the camp to see that it is kept clean. It is what he calls the manure gang. The chief sirdar has orders to go round the camp, and if he finds that there are cleanings to be made, he sends for his men to come and do it.

Quadrangle covered with litter.

But, judging from what we saw ourselves, the gang's attention must be directed solely to what will make manure, for at "Stanley" (things were better at "Ebène") the interior of the quadrangular area was covered with litter, as might be expected where children, goats, fowls, and dogs enjoy the fullest liberty.

Appendix B. Visits to estates. "Stanley."

"Frederica," Vegetable refuse.

"Antoinette." Sweepings heaped against backs of some houses.

Proprietors should be personally liable.

2085. At "Frederica," too, one of the best camps in the district of Savanne, there were two large heaps of vegetable refuse piled at either end of the camp, which ought to have been removed; and at "Antoinette," in Pamplemousses, where the camp was kept comparatively clean, the sweepings of the camp were heaped against the backs of some of the houses when we visited it on Thursday, and there it would remain, increasing, until carried away on Monday.

Appendix B. Visits to estates, "Frederica" and "Antoinette."

But until the proprietors of estates are made personally and strictly answerable for the state of their camps, it is vain to hope for any improvements.

"Bénarés," Royal Commission for Inspector of Nuisances.

"Providence." Separate camp for Mahometans.

"Espérance."

2086. At "Bénarés," in Savanne, at the time of our visit, the report had spread that the Commissioner was the Inspector of Nuisances, and everybody was hard at work, sweeping and cleaning up the litter. At "Providence," in Flacq, Mr. Brue, not to interfere with the labourers, had made a new camp, called the Lascars' camp, because the Lascars (mostly Mahometans) had complained to him, as they had good reason, of the old camp being overrun with pigs; and rather than restrict the license enjoyed by both pigs and owners, he made a new camp. And so at "Espérance;" a well-managed estate with good dwellings, but a filthy camp; Mr. Martin objected, as Mr. Wiehé and Mr. Brue had done, to the proprietors being made responsible for the cleanliness of the camps, because a strict observance of the requisite arrangements would create so much unpopularity, that unless the rule were made one of universal application, no labourers would engage on the estates where cleanliness was strictly enforced; and those who did not care to obey the law would alone benefit by it.

Appendix B. Visits to estates, "Bénarés" and "Providence."

Appendix B. Visits to estates, "Espérance."

Impracticability of summoning labourers.

2087. We are not convinced by these arguments. The Sanitary Inspector can never properly do his duty, if he has to summon every man having a hut 15 × 10 feet, before the Magistrates, for having the front or back of his house in a filthy state; but he can easily summon the proprietor or manager who allow such a state of things to exist; and if the Sanitary Inspector does his duty impartially, no planter could hold out indulgences in dirt to labourers which his neighbour did not allow.

Consequences of the present system.

Port Louis.

"Cluny."

"Etoile."

2088. And what is the consequence of the present system? In Port Louis we found the latrines generally used by the Indians in camp. At "Cluny" we found a very clean camp, with latrines being brought into use, and men employed preparing manure; while Mr. Macpherson informed us that he had experienced no difficulty in getting them adopted by the Indians; while on the other hand, at "Etoile," in Flacq, Mr. Hewetson had put up several of corrugated iron, which we were informed the Indians would not use at all.

"Beau Vallon" and "Riche-en-eau."

Question 878, Vol. II.

2089. Dr. Reid informs us that at Beau Vallon and Riche-en-eau, Messrs. Rochecouste have established latrines (they had not been very successful when we were there), and we know they take the manure from the cowsheds in lieu of grass, and he is sanguine that the Indians would be induced to use them when the proprietors found it to be to their advantage. But on 206 estates from which we have received returns, there are only 13 on which there are any arrangements whatever for conservancy in the camps. At "Providence," as mentioned before, we found one camp swarming with pigs and filth, but the other as clean and neat as could be wished. So also at "Beauchamp," where the people were certainly well-treated, the camp was in bad repair, dirty, untidy, and swarming with pigs. The very excellent camp at "Labourdonnais" was dirty, notwithstanding that there was a most suitable "*parc à cochons*" for the pigs; and while the planters object to Government appointing the medical men, because it will sever the connection between the labourers and their employers and put an end to the interest the planters take in their labourers, they will not hear of being made answerable for the state of the camps, in which they lodge their labourers and foster the causes of sickness, because if they should trouble themselves upon those subjects, the labourers will leave them, and go to other estates where they are allowed to do more as they please.

13 out of 206 estates have arrangements for conservancy.

"Providence." One camp filthy, the other neat.

"Beauchamp." Untidy, and swarming with pigs.

"Labourdonnais," dirty.

Obstructiveness of planters in the matter of cleanliness in camps.

This is the reason generally assigned; but there is very much cause to fear that there is another reason which operated more strongly upon many.

2090. If Government appointed the medical men, there would not be one of them

The planter's dislike to pay for the cleanliness of camps.

satisfied with either the hospital attendant, or the furniture, utensils, or appliances that they now find there; and, as has been admitted, the expenses of the hospital would increase; while, if the proprietor is made responsible for the state in which the Inspecting Officer, whoever he may be, finds the camp, the expenses of cleaning and draining the camp will also be thrown upon his shoulders—another item of extra expenses; and, consequently, the real objection to the appointment of medical men by Government as the medical attendants of estates, and to the making the proprietors responsible for the state of their camps, is the increased expense.

Lawlessness of some planters to be checked.

2091. The causes now urged, and which it cannot be denied may weigh with some of the best planters, that others would allow a license which they would not, must be put a stop to, and planters must be allowed to compete with one another only in the proper treatment of their Indians, not in the license which they will allow them. A more close and careful inspection of estates than has ever yet been held, will soon dissipate all cause for fear on the part of the conscientious planter, and will, we hope, effectually check all laxity on the part of the careless.

Closer inspection of estates necessary.

The necessity of cleanliness in camps.

2092. There is no doubt that the present arrangement, by which the grown people go into the cane fields and neighbouring thickets, as they do in India, on the mixen outside the village, or "into the jungle" as it is called, while they are indifferent as to where the children go, whether in front of the door or elsewhere, is in perfect accordance with their customs in India; but the state of the two countries is very different; and when immigrants were introduced into Mauritius arrangements should have been made, either to put a stop to the "filthy habits," as they have always been called, of the Indians, or to counteract them in some way.

Population doubled in 25 years.

2093. The planters of Mauritius have succeeded in obtaining a population which has doubled itself in twenty-five years, and the Indians have hitherto been allowed to follow the same course as they do in India, one perfectly innocuous there, but apparently pestilential here; and the planters throw the blame upon the Indians whom they have imported, instead of imputing it, as is due, to their own neglect of what was requisite when they introduced these people, and to that of their own legislature, which has not insisted on immediate remedies being applied.

Census of Mauritius, 11th April, 1871, page 6.

The planters blameable, and not the Indians.

No carrion birds.

2094. In Mauritius, island sparrows and minahas, comparatively clean-feeding birds, are alone to be found around the camps; while animals of all kinds, pigs and cattle, are confined to the camps and folds, and the other birds and animals which in India act as scavengers do not exist. The consequence is, that what in India is removed by the scavengering animals, is here left to fester in the sun and pollute the air until a shower of rain falls to carry it forth to poison the neighbouring brooks. The immigrants consequently must be taught, as in Port Louis, to adapt themselves to the necessities of the country, and their employers must be made answerable, not only for the health of their labourers, but that their habits do not tend to injure, not only their own health, but that of others.

Filth festers in the sun.

Rain washes filth into streams.

Employers to be made answerable.

2095. So much for the state of the camps; we have now to consider what the lodgings themselves are, and should be.

Lodgings.

Requirements of the law.

2096. The law requires the lodging to be "sufficient and wholesome, according to the "usage of the colony."

Vagueness of the law.

Nothing could possibly be more vague. What was the usage of the colony in 1844? and what is the usage at the present day, with a vastly increased population?

We have no means of answering the former question, and as regards the latter it is hardly possible to conceive a building that is not now allowed to be sufficient according to the usage of the colony, whether we take the sheds we have seen in Port Louis, with huts like hen-coops below for the married couples, and a shelf above for the unmarried, or ranges of stone with roofs of concrete, iron, or thatch, in which divisions are given to families or individuals to sub-divide and arrange as they please; or similar ranges of palisades, or sheet iron, with thatched roofs, or with sides and roofs entirely of thatch; they are all supposed to be as "sufficient," according to the usage of the colony, as the separate huts of straw and thatch are; but, how many square or cubic feet are sufficient, no one has attempted to decide.

Sufficiency according to the usage of the colony.

Regulations fixing lodgings in Port Louis.

There is no such provision with regard to the lodgings on estates: although, in Port Louis, it is required that all lodging-houses, or public or private establishments used as dwelling-houses for man, must contain 200 cubic feet of air for each child under ten, and 400 for all persons above that age who may reside therein, and that no horses, &c., cows, pigs, or goats, shall be kept in any buildings used for the habitation of man: but had these regulations been applicable to camps on estates, notice might have been taken of the camp at "L'Union,"

Regulations under Ordinance No. 18 of 1860, 5th July, 1863.

L'Union.

Lodging. Want of Regulation.

Men herded together.

"Combo."

in Flacq, where New immigrants had arrived before there was any accommodation ready for them, and six men were crowded into one apartment that certainly ought not to have held more than three. Though this case, which we saw ourselves, was worse, as far as the amount of ventilation was concerned, than one since reported to us that occurred in January 1873, at "Combo," it was not so bad as regarded the neglect of the immigrant. On this last estate, twenty men, ten women, and a number of children were received on the 25th January; and there not being room for them in the camp, Mr. Para, the manager, had about 20 feet square cleared out in one of the Bagasse sheds, and there these people were put up, and there they were on the 6th of February, and we do not know how much later; for though Mr. Para said the immigrants would get into their huts that day, the huts then were but skeletons, without a bit of straw or thatch on them.

Immigrants put up in parts of a Bagasse shed.

Wholesome lodgings.

2097. In like manner it never has been declared what constitutes "wholesome" lodgings. An immigrant has been shown to us on an estate where there is a *parc à bœufs* who never sleeps within the camp, but always with his cow. This certainly would be objected to on the same principle as that on which cattle are not allowed to be sheltered in the owners' houses.

Stone buildings.

2098. The stone ranges of buildings at "Mont Choisy," "Bois Rouge," "Trianon," "Antoinette," "Espérance," "Bel Air," "Bénarés," and "Labourdonnais," strike Europeans as being far preferable to the straw and thatch which we see even on those estates, and generally throughout the island. The labourers, however, infinitely prefer the huts which, Dr. Icery informs us, most of the planters are satisfied to give their men, and are such as under another *régime*, and before the introduction of Indian immigrants (under which euphemism he means in the days of slavery) constituted the lodgings of labourers. We were able to verify this at "Mont Choisy" and "La Gaieté," where they had the choice; and at "Grand Baie," where the roofs of the stone ranges having fallen into disrepair, the labourers preferred having huts built in front of them, than to having the roofs repaired.

Thatched huts preferred by immigrants.

Appendix D 25.

Question 10,009.

Dr. Finnimore, in his evidence, is of opinion that the straw huts are more healthy for the Indians than the stone ranges, as

"you cannot get contagion out of stone walls,"

and though the stone buildings are more lasting and, the first expenses having been incurred, are more economical, it appears better to indulge the Indians' taste and allow them to live in huts as they do in their own villages.

Dr. Finnimore prefers thatched huts.

Straw huts desirable in stone buildings.

2099. It may be urged that, while many of the stone ranges have the quadrangle in front untidy and littered, they are none of them so bad as the camps of thatched huts, such as those at "Quatre Sœurs," "Tamarin Falls," "Beau Fond," "Gros Cailloux," or "Rivière Dragon," which are disgraceful; or some at "Choisy" (Savanne), which are unfit for human habitation; or even such as at "Albion," "Beau Séjour" (Plaines Wilhems), or "Mon Repos;" but that is not because one is stone and the other thatch, but because they are not arranged in the same order. It might be urged that there is greater danger of fire in thatched huts; but precautions are taken against fire at "Côte d'Or," where half an inch of mud is put on the thatch, to prevent its catching fire, and at "Beau Séjour," where there are reservoirs at different distances in front of all the rows of huts, which can at once be filled with water from the canals; or at "Plaisance," where every hut is surrounded in a manner worthy of imitation by plantations which are found to check fire spreading. (Yet, in other respects, the camps at "Plaisance" are not by any means models of what camps should be.)

Question of danger from fire.

"Côte d'Or."

"Beau Séjour."

"Plaisance."

Proportionate area necessary.

Arrangement for cooking. Proper drainage.

2100. The huts may be as bad as we found those at "Quatre Sœurs," where the Indians were told if they wanted them repaired they must do it themselves; though the employer is bound to furnish them with lodgings; but whatever they may be, they should be of a certain area, according to the number of inmates for whom they are required: they should have proper arrangements for cooking, proper drainage, and other necessaries for men and women, separately, whether for the inhabitants of single huts or for the occupants of ranges of huts or buildings.

Reasons for such use.

There is no reason why the employer should not allow his labourers to *live* in huts, but oblige them to *cook* in a cooking-range built of stone, and as nearly fire-proof as possible, with separate cooking-places for each house, so that no one need interfere with another's cooking.

At present impossible to say whether overcrowded.

2101. Under the present arrangement, or want of any arrangement, it is impossible to tell whether the people are overcrowded or not, and until every hut and compartment of a range is numbered and the inhabitants of each entered by name, it will be impossible to tell how many inhabit it. At present each hut and compartment is said to contain a married

Lodgings

couple or three bachelors; whereas at times two men and one woman, as at "La Diète," are found in the same compartment, or six men, as at "L'Union," in Flacq.

No arrangements for cooking.

2102. As a general rule no arrangements are made by the employer for cooking-places; the immigrants make their own, either inside or outside their huts, whether in stone buildings or those of sheet-iron or thatch; and the wonder is that more camps are not burnt down. People in villages are punishable for having open fires in their houses, but this rule does not appear to be applied to immigrants on estates.

Conclusions as to camps.

2103. To sum up as regards the camps, there is nothing very unlike what may be seen any day in Western India. There are the ranges, whether of stone or other material which much resemble the chawls which are to be seen in Bombay and the Concan. There are huts, much as we see them above the Ghauts and in the Mawuls; none so good as the houses of well-to-do ryots in Guzerat, the Deccan, and Southern Mahratta country; but still, there is nothing for the immigrants generally to complain of, for the huts are much the same, perhaps, as they would have in their own country; though the European officer travelling through the district would certainly find fault with the state of the villages, and require them to be improved.

Nothing for the immigrants generally to complain of.

Suggestions.

Ventilation.

2104. As pointed out above, every person should be allowed the same amount of ventilation as in Port Louis.

Registration of huts and numbers of inmates.

The number of huts should be registered, and the number of inmates in every hut, as well as the number it is adapted to hold.

Air and water. Cooking-places.

Arrangements should be made to prevent the air and water being poisoned, and for cooking-places where there will be the smallest risk of fire. The cattle pens and pig-styes should be without the camp, as at "Trianon," "Labourdonnais," and "Stanley," amongst others, and the goats and fowls should not be allowed within the huts.

Vagrancy among the sick to be checked.

Huts to be kept in repair.

Planters to be held responsible.

Restrictions to be placed upon planters allowing license.

The huts should be kept in perfect repair, with arrangements of this nature, and the planters held responsible for them. A stop ought to be put to planters bidding against one another for the license they will allow on their estates; and sickness should be diminished; and when sickness does occur, the death-rate should be greatly diminished by improvements in the hospitals; the state of which we will now proceed to consider.

Chapter XX.—*Hospitals.*

2105. Before thinking of *improved* hospitals we must first consider the hospitals as they *are*, and what is the medical care furnished to the immigrant in fulfilment of the planter's contract with him.

1836.

In his letter to Lord Auckland, which we have noticed above (Chapter IV., paragraphs 113 to 122), giving an account of his visit to Mauritius in 1836, Mr. Woodcock mentions that a medical man periodically visits the estates, but he makes no mention of there being any hospitals on them. And the Stipendiary Magistrates and Mr. Campbell's Committee in 1839 show us that then there were 2 estates where the doctor visited daily, 6 where the doctor resided on the estate, 5 where he visited once in five days, 33 where he visited once a week, 3 where he visited twice in a month, 44 where he came only when sent for, 18 where there was no doctor, and 11 where there was neither hospital nor doctor. On the others, about 88 in number, attendance was given twice a week; that is, according to the planters account.

Blue-book No. 180 of 1838.

1839.

Blue-book Nos. 50 and 321 of 1840.

2106. This report omits a case mentioned by the labourers, where, instead of finding a medical man and hospital, when a man was sick he was given money by the planters to find his own medical treatment. It was therefore natural that, when early in March 1844 a Draft Ordinance was introduced on Hospitals, Lodgings, &c., the preamble should set forth that

1844.

> "it appears that the state of the hospitals existing on several estates are susceptible
> "of great amelioration, and that others are unprovided with any place set apart
> "for the reception and treatment of sick labourers residing and employed on such
> "estates."

But in the preamble of the Ordinance as passed all reference to the then state of the hospitals is omitted, and it is merely declared

> "expedient to establish regulations in regard to hospitals, &c."

Ordinance No. 40 of 1844.

2107. The Ordinance No. 40 of 1844, providing for hospitals and food to be daily supplied to labourers, was passed, but was disallowed by the Secretary of State, the provisions on the subject of food having been misunderstood, and the enactment in the 2nd Article that in certain cases a labourer might be removed and detained in hospital even against his will being considered objectionable.

Ordinance No. 6 of 1845.

2108. On the fact being communicated to the Council that your Majesty had been pleased to disallow the Ordinance, another Draft Ordinance was introduced on the 10th March 1845, the preamble of which declared that

> "it is a recognised and necessary custom in the colony that the labourers, more
> "especially the immigrants attached to country estates, should be provided with
> "lodgings and receive all necessary medical aid on the respective estates to which
> "they may be attached, independently of the conditions mentioned in their
> "contracts of service."

Estates having 40 or more labourers.

This Ordinance provided that every proprietor of an estate upon which forty or more labourers were employed and resided should have a building thereon adapted for an hospital; that it should be of sufficient size, established on a convenient spot, with an enclosure, and suitably provided with medicines; and that it shall be approved in all the above respects by the Medical Attendant of the establishment, the Government medical officer of the district, and another medical practitioner, to be nominated by the Government. Failure was punishable by a fine not exceeding £100, to be awarded by the Stipendiary Magistrate. Men were only to be sent to hospital on their own application or consent, except in case of insanity, contagious diseases, and cases the treatment of which called for temporary detention, of which notice must be given to the Stipendiary Magistrate, under pain of punishment for ill-usage under the Order in Council of the 7th September 1838. The Medical Attendant was to keep a journal or register of persons employed on the estate confided to his care, which was to be produced to the Stipendiary Magistrate when required, under a penalty of not more than £10 upon the proprietor or Medical Attendant.

Men to be sent to hospital only on their own consent.

Hospital register.

Doctor's fees privileged.

The Medical Attendant's fees for attendance during the past year were privileged after the wages of the labourers.

This Ordinance was passed as No. 6 of 1845, and your Majesty was pleased to allow and confirm it.

2109. This, which, as we see, was little more than a declaration that there should be an hospital on all estates, was the only law regarding Estates' Hospitals for the next twenty years; but Dr. Desjardins, the Government Inspector of Estates' Hospitals,

Questions 5015 and 5018.

informs us he believes that it was neither observed nor put in practice, and that it soon fell into disuse. There was, however, one marked exception at "La Caroline," in Flacq, the property of Mr. Bohler: but, as a general rule, the law was a failure. This is borne out by Mr. Rennards, the Stipendiary Magistrate of Black River, who, writing on the 6th January 1865, says that not one of the sugar estates

Appendix D, No. 1, p. 2.

Black River. Mr. Rennards opinion of hospitals.

> "possesses a building provided with everything required by an hospital, and as to
> "the building itself, it would be a mockery to call it an hospital. The law con-
> "cerning hospitals on sugar estates (Ordinance No. 6 of 1842) requires that every
> "planter employing more that forty labourers on his estate should have a building
> "thereupon adapted for an hospital, under a penalty of £100."

The planters generally say:

> "We are quite willing and prepared to build and maintain properly fitted-up
> "hospitals, but the fact is, that the labourers themselves positively refuse to occupy
> "them when sick, and the law forbids us to compel their attendance against their
> "will.
> "This is quite true, and unless some change be made in the existing law on this
> "subject there is but little chance of any improvement."

1845 to 18

Such continued to be the case until Ordinance No. 6 of 1845 was repealed: the planters and managers urging that they could do nothing to hospitals until the new law on hospitals came into operation; but that as soon as they were informed what was expected of them by the new Ordinance (29 of 1865) they would conform to it.

Appendix X, p. 8.

2110. So also Mr. Rencuf, the Stipendiary Magistrate of Pamplemousses, on the 11th January 1865, called the Governor's attention to the hospital and medical treatment of the Indian immigrants on the estates in that district. He is aware that they prefer being treated in their own huts, and even refuse to take the medicines prescribed by the doctor, and consequently the planters invariably declare that there is no necessity to keep an hospital on a proper footing for the labourers, when they cannot force them to go there. He therefore recommended that an uniform system of hospital-building and hospital-attendance should be introduced on all estates, and that the labourers complaining of being sick should be forced by order of the doctor to

Appendix D, No. 2, p. 1.

Pamplemousses. Mr. Rencuf opinion.

remain in hospital; but, apparently knowing that this power had been abused, he adds—

"At the same time I would suggest that the severest penalties should be applied "against any master who would force the men, when not sick, to be illegally "detained in hospital, as a punishment for any misconduct on their part;"

and that it had been abused we learn from Dr. Reid, who says that at that time a circular was issued stating that it had been brought to the notice of the Governor that some planters had used their hospitals as prisons.

Question, Vol. II., 882.

Appendix D, No. 2, p. 3.

In July 1866 Mr. Renouf mentions that hospitals were building at the time of his visits on all the sugar estates in his district.

Moka.

2111. We have no special reports of the other districts, except Moka, during 1865–66; but, from the returns to a circular, they appear to be very much the same; few places being more than dispensaries, and only one or two estates on which the visits of the Medical Attendant were made oftener than once a week. While, in Moka, the Magistrate, Mr. Gautier, reports, on the 25th July 1866 that the state of the hospitals watched by the Medical Inspector has improved remarkably; seven are completed, and others refitted or rebuilt on new plans. He further mentions that he is able to assert positively that the patients on the estates, either because they consider it an obligation, or from other cause, no longer object to go to hospital.

Mr. Gautier's opinion.

Appendix D, No. 2, p. 35.

Patients no longer object to go into hospital.

2112. In 1858 Sir William Stevenson called the attention of the Council to the medico-charitable institutions of the Colony, and got a Committee appointed on the 17th June in that year to inquire into and report upon the Civil Hospital, Lunatic Asylum, District Hospitals, Medical Practitioners, Laws of Quarantine, and Sanitary Regulations.

Governor Stevenson's Committee, 1858.

2113. They presented their Report in February 1859. It was proposed then by Dr. Finnimore, as he has since proposed before us, that there should be in every district a large District Hospital, to which the planters of the district should send all their serious cases, and that the Estates' Hospital should be confined to the lighter cases, which an inferior medical man might take charge of; and that, in a modified form, the Committee recommended.

District hospitals proposed by Dr. Finnimore.

They also proposed that the wards of the Civil Hospital should be opened to young men wishing to study medicine; and that, after three or four years' study, and having been duly examined by a Medical Board and proved competent, they should be allowed to practise in the colony.

2114. On the 5th April the Governor referred to this Report, and said that he should at a future day lay before them proposals for new hospitals in the districts and a medical school. The former he did on the 23rd March 1860, when he proposed that, instead of having an hospital in each district, there should be one at Mahébourg, another at Flacq, a third at Pamplemousses, and a fourth at Plaines Wilhems; that, without interfering with the then law, which required hospitals and Medical Attendants on estates, a capitation tax of 2*s.* per head per annum should be levied for every labourer engaged for a year or more; and that the planter should have a right to send any of their labourers to the District Hospital for gratuitous treatment.

Sir W. Stevenson's scheme of district hospitals.

Medical schools.

2115. On the same day the Governor proposed that an Ordinance should be framed, establishing in Mauritius a Medical and Surgical School, and legalising its foundation and powers, to give effect to licences which might be issued from it; and, as the Procureur-General was busy, he entrusted the preparation of the law to the Committee of Council.

2116. On the 23rd of April 1861 the Committee reported against the plan of Medical Schools, and their Report was adopted on the 21st May. They suggested getting medical aid from India. The Report on District Hospitals was read on 31st May 1861, and adjourned. It recommended hospitals in every district, but that they should not be maintained by a capitation tax, as it would throw the whole burden upon the planters, and if they sent all their sick to hospitals, the hospitals would be immediately filled. They proposed, as the best means of raising the funds, to add a percentage to the general taxes of the district, and that the planters should pay for the servants they sent to hospital.

District hospitals.

Consideration of this Report was adjourned to the "next meeting," every day down to the 29th April 1862 inclusive. At the next Meeting of Council after that, viz., 10th June 1862, no notice was taken of it, nor is it set down at the end of the proceedings of that day among the "Orders of the Day for the next Meeting," nor does it ever appear again in the Minutes of Council; and the subject, it seems, was allowed to drop, Sir William Stevenson's death probably preventing any revival of it.

Scheme of Hospitals drops.

Appendix D, No. 4, para. 82.

2117. Meantime, in 1860, Mr. Beyts, the Protector of Immigrants, commenced his Annual Reports, and in the very first, that for 1859, he writes:—

Protector's Report for 1859.

"The medical care due to the articled labourer by his employer under the "general condition of contracts of service is generally administered by a *médecin* "*abonné*, who once or twice a week calls at each estate, inquires for the sick *who are* "*disposed to show themselves*, and prescribes for their recovery. There are *hospitals* "on all estates on which there are more than forty labourers; this being prescribed "by an Ordinance under penalties provided against the proprietors of such estates, "in case of their not fulfilling its requirements. But these hospitals generally "remain closed. I think that this law has only gone half-way towards insuring "the proper protection of the sick labourer. To those who know the habits of "Indians, their apathy and mental prostration in ill-health, and their antipathy to "treatment in hospital, it is evident that in their own interest such treatment "ought to be imposed upon them. I have known numerous instances in which "diseases have been concealed by Indians until medical aid was of no further avail. "Humanity commands that so absurd and superstitious a notion as that which leads "the Indian labourer to decline the assistance of medical science and the care of "his master under the prescriptions of a professional practitioner should be disregarded in such cases. It appears to me that Government would only act "consistently with the task it has undertaken of *protecting* the Indian immigrant, "if it interposed itself in such cases *to compel the immigrant to receive medical aid*, "rather than stoically endure his bodily sufferings, till death itself becomes the "consequence, or at least incur the risk of death by following the nostrums of "empirics;"

and then adds,

Paragraph 84.

"I do not hesitate to recommend that, under proper restrictions, devised "so as totally to preclude the possibility of anything like *imprisonment*, "the medical practitioners who attend the various estates where there are hospitals "be vested with the power of keeping sick labourers in the hospitals whenever "such detention, in their opinion, is indispensably necessary for the purpose of "medical treatment."

2118. Neither Mr. Beyts nor his *locum tenens*, Mr. Chasteauneuf, revert to the subject of hospitals again until the 24th February 1865, in his Report for 1864, in which he says:—

Protector's Report for 1864.

"Very few immigrants have complained of not having received proper medical care.

Paragraphs 61 and 62.

"I think, nevertheless, that, in respect of medical attendance on sugar "estates there is room for great improvement yet in the system hitherto "pursued. I hasten to acknowledge that on some estates I have found hospitals "in perfect order, and all the arrangements therewith connected quite unexceptionable.* But on others which I have visited, I regret to say that the system "followed seemed to me to be faulty. The agreement made with the Medical "Officer on some of these was that he should call, not periodically, but only *as* "*often as he should be specially requested to do so*, and thus several months had been "allowed to elapse *without any medical attendance whatever*.

"I think it highly desirable that steps be taken by Government to insure regular "and sufficient medical attendance on sugar estates throughout the colony, and "recommend that the matter be committed to the consideration of a Special "Committee.

"I shall be able to refer more fully to this subject, as well as to others in which "the welfare of immigrants is concerned after I shall have received from the "Stipendiary Magistrates their Reports on their tours of inspection. I may, however, at once say that the reports hitherto forwarded to me are in most respects "favourable: that the condition of the generality of labourers in the Colony seems "to be highly satisfactory, while their conduct is represented as being generally "quiet and orderly."

2119. With this state of things—Ordinance No. 6 of 1845 being a failure, and having soon fallen into disuse, and neither being observed nor put in practice—Dr. Desjardins, in June 1864, wrote a "Mémoir" for Sir Henry Barkly on the subject, and the General Sanitary Inspector, in his Report for 1864, having assigned a prominent place to the state of the hospitals on sugar estates, and the insufficiency of medical relief to the Indian labourers, as among the many causes which contributed to

Sir Henry's Barkly's action.

Appendix D, No. 9.

* "Two of these deserve special mention: those of 'Caroline' Estate, Flacq, and 'Stanley' Estate, Plaines Wilhems. Some others which I have not yet seen may, perhaps, have to be classed with them."

Sir Henry Barkly's action.

the heavy death-rate of that year, the Governor, in introducing a Draft Ordinance amending No. 6 of 1845, referred to this Report and those from the Stipendiary Magistrates, to which we have already referred, which the Protector of Immigrants says

> "show that on some estates the Medical Officer attends only once a fortnight, on "others once a month, on others, again, only when he is sent for, and on some of "these intervals of three or four months elapse between his visits."

Report transmitted with Blue-book for 1865, p. 102.

Though when, a month before, introducing the Ordinance, Sir Henry Barkly reported on immigration, and anticipated the necessity for a new law regarding hospitals, he stated that the principal matter which remained to be remedied was the last of which the immigrants would complain—the want of proper medical care; and he added,

> "but I am almost afraid it will not produce much effect; the greatest of all "obstacles being the aversion of the Indians to restrictions on their movements or "dietary."

Ordinance No. 29 of 1865.

Still the Draft Ordinance was introduced on the 4th August 1865, and observations sought upon it.

2120. This called forth remonstrances or remarks from the proprietors in Flacq, Rivière du Rempart, Pamplemousses, and Moka; their chief objections being to the Medical Inspector; and also observations from the Stipendiary Magistrates of Pamplemousses, Rivière du Rempart, and Black River, both of which, together with the Report of the Chamber of Agriculture upon the subject, were referred to the Committee of Council, who further examined Drs. Desjardins, Finnimore, Currie, Reddy, Harel, and Grivot, and, on the 6th November 1865, made their report upon the Draft. The whole tending to corroborate what Sir Henry Barkly anticipated when he wrote to the Secretary of State on the 20th of August:

The Committee of Council receive reports and examine witnesses.

Minutes of Council, 18th September 1865.

Opposition expected by Sir H. Barkly.

Sir H. Barkly to Right Hon. E. Cardwell, Despatch No. 220 of 20. S. 65.

> "I am quite prepared to encounter a good deal of opposition even to "the moderate amount of interference proposed, both from some of the "unofficial members of that body (*i.e.* the Council), and from the Chamber "of Agriculture, as representing even more directly the planters, and "have been careful, therefore, while arousing their susceptibilities as little as possible "to address myself to the apprehensions and the interests of the public at large. "I feel, however, that the case is a very strong one, and when the month's publica- "tion of the Draft shall have been fulfilled, and the observations of all parties "received and duly considered, I intend to exert every means at my command to "carry the measure through, and to prevent its becoming, like its predecessor, 'a "'dead letter' when passed."

Views of the Chamber of Agriculture.

2121. The Chamber of Agriculture made their observations on the 6th September 1865; but, as we see is frequently, if not invariably, the case when in this Colony remarks are made, even with proof given, of any neglect or shortcomings on the part of the planters; though they may have had, as in this case, the opinion of the General Sanitary Inspector and the Reports of the Protector of Immigrants and Stipendiary Magistrates before them, or quoted to them, as mentioning facts, which they make no attempt to controvert; before proceeding to make their observations on the Draft, they say that they

> "must record that persons under contract of service on the estates of this colony "have never failed to have the advantage of medical attendance; and the planters "have always had at heart to give to their men the best medical care which could "be obtained in their respective districts and the best sick attendants whom they "could procure;"

as if this sick record was of any value in refutation of the facts mentioned by the General Sanitary Inspector and the Protector of Immigrants taken from the Stipendiary Magistrates' Reports. It might be perfectly true that the planters had it at heart to give their labourers the best medical care and best sick attendants they could procure; but we shall see that they never carried out what they say they had at heart, and were never hardly able to get even good sick attendants, or men who had any right to be called sick attendants at all.

The Procureur-General's views.

Report transmitted with Blue-book for 1865, p. 148.

2122. It is very certain that the Procureur-General did not share the opinion of the Chamber of Agriculture, nor did their having placed it on record prevent him from stating with reference to this very Ordinance on 18th July 1866, shortly before it was passed, that it had been ascertained by returns from the Stipendiary Magistrates that the duty of employers to provide medical attendance and hospital accommodation for their labourers was not properly fulfilled.

Proper hospitals rare.

2123. It appeared that on some estates hospital accommodation was either wanting or

was quite inadequate; while on others the so-called hospital was used for other purposes. The estates provided with proper hospitals were rare exceptions. Ordinance No. 29 of 1865.

Want of medical attendance.

The medical attendance, again, on many estates, each employing several hundreds of labourers, was limited to occasional visits of a medical practitioner when called in, which he rarely was, considering the average number of sick. In but few instances, even on the largest estates, was the attendance regular; still more rarely did it occur oftener than once a week.

Medical care of women and children.

It also appeared that no proper provision was made for medical attendance on the women and children of the labourers, although, generally, these were understood to be under the care of the medical man who visited the estate, and, in face of this, the Committee of the Chamber of Agriculture, with the same recklessness as noticed above, said they had no objection to its being enacted as law,

> "as it had always been the practice on all estates."

Proportion of beds.

2124. As regarded the Ordinance itself, the Chamber of Agriculture objected to the number of beds which it was proposed the hospital should contain, viz., 4 for an estate with between 30 and 50 servants, 6 between 50 to 100, and 5 per cent. on all in excess over 100. But the Ordinance as passed went even beyond their wishes, and provided 3 per cent. for all hospitals on all estates, but that no hospital should have fewer than 4 beds in it.

The medicines.

It was proposed that the kind, quantity, and quality of the medicines with which an hospital should be provided, should be to the satisfaction of the Inspecting Medical Officer. The Chamber of Agriculture objected; and the Ordinance was passed providing that the Stipendiary Magistrate should be the person to be satisfied of the kind, quantity, and quality of the medicines provided for the hospital, after he had received the Medical Attendant's Report, and made further inquiries if he considered them necessary. Their suggestion, however, that the Protector of Immigrants should come to an understanding with the Chief Medical Officer, in order to establish the nature and quantity of medicines to be kept at the hospitals, is perhaps better than the Ordinance as passed. The proposal to give the Protector of Immigrants any control at all, though limited, over medicines in an hospital appears strange enough, but to give the entire control to the Stipendiary Magistrate is perfectly unaccountable; but for this the Chamber of Agriculture are not answerable.

Hospital attendants.

2125. Apparently with the same view of getting rid of the Medical Inspector the Chamber of Agriculture proposed that, instead of the Medical Inspector, the Medical Attendant on the estate should approve and certify the qualification of the Hospital Attendant, which suggestion was adopted in the Ordinance as passed, it is to be hoped, for some better reason than that assigned by the Chamber of Agriculture:

> "Seeing the Hospital Attendant constantly at work, the Medical Attendant of "the estate will be the best judge of his qualifications, and will be better able than "any occasional visitor to ascertain whether he be competent or not."

The clause in the Draft Ordinance evidently required that the Hospital Attendant should, when he comes to the estate, be qualified for the duty of attending the sick, and that he should bring the Medical Inspector's certificate to that effect with him.

The Chamber of Agriculture's suggestion evidently is, that the certificate of qualification should not be required until the Medical Attendant has seen him constantly at work, during which time he might either prove himself qualified or disqualified, as the case may be; but the clause might as well have been struck out of the Ordinance altogether, as we shall see when we come to consider the Hospital Attendants generally.

Medical attendant's residence and clientèle.

2126. There were provisions in the Draft Ordinance that the Medical Attendant should not reside at a greater distance from the estate than ten miles, and that he should not attend more than 6000 servants. These provisions were objected to by the Chamber of Agriculture and omitted in the Ordinance as passed. The restriction as to the number of labourers to be visited was obviously objectionable; but the limit as to the distance would certainly be advisable on those estates where machinery is employed, and where accidents might arise from boiling water or syrup, while there is no duly qualified Hospital Attendant at hand.

Number of visits.

2127. The Draft Ordinance provided that estates on which there were from 50 to 100 servants should be visited by the Medical Attendant once a week; where there were from 100 to 300, twice a week; and where there were more than 300, three times a week. The Chamber of Agriculture thought these visits would be too frequent, and proposed that where the number of servants did not exceed 100, one visit a week would suffice; where it did not exceed 450, twice a week would be sufficient; and, exceeding that number, that the Medical Attendant should visit the estate three times a week.

Ordinance No. 29 of 1865.

The Legislature, however, thought this number of visits even excessive, and passed the Ordinance providing for one visit a week only to estates having less than 200 servants on them, and two visits a week where they exceeded that number.

Pay of doctors.

2128. The Chamber of Agriculture objected to the remuneration of the Medical Officer being fixed by law, being of opinion that it ought to be settled by the planters and the medical men themselves. We shall see when we come to consider the remuneration of the Medical Attendants, that though the law provides that the rate shall not be modified by any alleged contract between the parties, the provision is almost universally disregarded.

Medical inspectors.

2129. As regards Chapter IV., which provides for the appointment of Inspecting Medical Officers, the Chamber of Agriculture would have suppressed it altogether, asserting that

> "the Protector of Immigrants has full power to exercise an active and efficient
> "superintendence, and he would never allow that this Ordinance, enacted for the
> "special protection and welfare of the Indians, should remain unexecuted."

They, however, did not carry the Legislature with them; and though the appointments, as we shall see hereafter, have not done, and could not do, the good it was desirable they should do, the Protector of Immigrants, as we have seen (Chapter XII., paragraph 896), had no power; and, warned possibly by the evident unpopularity and suspicion with which his previous suggestion for extension of his power had been met (paragraph 436), never subsequently sought to possess the power, attributed to him by the Chamber of Agriculture, of exercising an active and efficient superintendence.

Shorn of the best provisions in the draft.

2130. The Ordinance, however, was shorn of its best provisions. It was proposed that if an hospital were not erected in proper time, no requisitions should be received for labourers; and that requisitions already made should not be complied with; and, in lieu of that, penalties were enacted; and the rules that no Medical Attendant should live more than ten miles from the estate, or attend more than 6000 servants, except in certain cases, were omitted.

The rule about the distance might not have been of any great consequence, as there were, until lately, but twelve estates in the colony from which the Medical Attendant lived at a greater distance than ten miles. There is one estate, however, which a doctor attends, with ten others, which is twenty-one miles from his house, up a very steep hill and with a bad road to it, and to which he should have paid two visits a week; but, as he has not done so, having only paid twenty visits in one year to an estate with 356 men on it, the Protector of Immigrants, fearing to enforce the law lest he might withdraw altogether, proposes to call upon him to be more regular in his visits in future. It is, however, noteworthy, that though entitled to $356 a year for attending this estate, the doctor has been content to take only $250 to neglect it.

Case of "Chamouset." Appendix D 11.

2131. Since the change in the Medical Attendants in Savanne, consequent upon Dr. Tyack's removal, we find that Dr. Bonnefin, who lives in Port Louis, twenty-five miles off, has been engaged to attend at "Constance," and the consequence is, that when a man attempted to commit suicide by cutting his throat, the Government Medical Officer who came to inquire into the case was obliged to order him to be removed to the Poor Law Hospital, as he could not have him in the Estates' Hospital.

Repeal of Ordinance No. 6 of 1845.

The Ordinance, however, was passed, and repealed the whole of Ordinance No. 6 of 1845.

Protector's Report for 1865.

2132. The Protector of Immigrants, in his Report for 1865, was sanguine that, though it might require some emendations and additions to work out its proposed result, even in its present form the Ordinance would improve the position of the immigrant as regards medical care. The Stipendiary Magistrates' Reports showed that hospitals had been erected or were being built where there formerly were none; that others, unsuitable, had been repaired and refurnished; and that surgeons had been engaged to attend regularly on estates where their presence was, if not quite unknown, at least so rare as to be of little practical utility.

P. 9, paragraphs 64, 65

Protector's Report for 1866.

2133. The next year the Protector's Report is still more favourable. The only serious obstacle he sees in the working of the law is the repugnance of the Indians to being treated in hospital—the prejudice is, however, yielding to the better care of the sick—but he recommends the employment of well-trained Indian attendants as likely to render the hospitals less repulsive.

Appendix D, No. 7, p. 11, para. 58.

Since then the question of hospitals has not occupied a prominent place in these Annual Reports.

2134. We shall now proceed to consider the law, as it at present stands, in detail.

The Ordinance requires (Article 2),

Ordinance No. 29 of 1865.

That where there are thirty or more servants, there shall be an hospital on a convenient site and of sufficient construction (paragraph 2), built of stone, planking, or palisades, roofed with tiles, shingles, slate, thatch, or metal; Article 3. Construction of Hospital.

in the last case to have a ceiling as well; with an area (paragraph 3) of 60 square feet and 500 cubic feet for each bed;

That it shall (paragraph 4) be separate from any camp of labourers, and completely enclosed by means of a fence; Separation and enclosure.

That it shall (paragraph 5) contain sufficient accommodation and beds, or sleeping-places, for 3 per cent. at least of the servants engaged, but in no case with beds for fewer than four persons; Number of beds.

That it shall (paragraph 6) be suitably provided with medicines, as the Stipendiary Magistrate, after having received the Medical Attendant's report, shall think fit; Medicines.

That it shall (paragraph 7) be provided with Hospital Assistants, qualified for the duty of attending to the sick as such attendants; Assistants.

That it shall (paragraph 8) be reserved exclusively for the purposes of an hospital. Exclusively for an hospital.

Article 7. In the event of epidemics, temporary hospitals are to be built: Temporary hospitals for epidemics.

and all under penalties. Penalties.

Article 9. Failure to have an hospital for three months is a ground for breaking the contract. Cancellation of contract where failure of hospital.

A master may insist (Article 10) on his servant going to hospital; and, in case of insanity, infectious or epidemic disease, may enforce his going there. Enforcement of going into hospital.

Provision is also made (Article 11) for an Union Hospital. Union Hospitals.

The engagement and change of the Medical Attendant is to be notified to the Stipendiary Magistrate, under penalty (Article 12). Engagement of medical men.

The Medical Attendant (Article 14) must visit every estate, either in person or by substitute, where there are not fewer than 50 nor more than 200 immigrants, once a week; and, where there are more, twice a week; but no provision is made for those estates where there are between 30 and 49 labourers, though there must be an hospital for them. Visits of doctor.

Article 16. There shall be a Register in every hospital, to be kept or signed by the Medical Attendant, under penalty. Register.

Article 18. Failing to make entries in the Register for a fortnight or more, to disqualify the Medical Attendant for three months. Entries in register.

Article 19. Remuneration at 4s. for each servant not to be modified by any separate contract, and, Doctor's fee.

Article 20, to include attendance on wives and families. Attendance upon wives and children.

Article 22. Payment to be enforced by imprisonment, and claim privileged; not taking priority of labourers' claims. Enforcement of payment to doctor.

Under Chapter IV. Inspecting Medical Officers are appointed; the General Sanitary Inspector being Inspecting Medical Officer for Port Louis, and the Medical Inspecting Officer in the district being the Inspecting Sanitary Officer. Medical Inspectors.

Inspecting Medical Officer to inspect hospitals (Article 25).

Article 26. Penalties to be enforced by seizure, and, in failure of sufficient distress, by imprisonment. Enforcement of penalties.

Every judgment (Article 27) subject to appeal to the Supreme Court, and Appeal.

Article 28. The General Board of Health to frame regulations for carrying out the objects of this Ordinance; all such regulations, approved by the Governor in Executive Council and published in the 'Government Gazette,' are as valid, if not inconsistent with the Ordinance, as if they had been embodied therein. Regulations.

Ordinance No. 29 of 1865 is a mere skeleton of a law.

2135. Thus the Ordinance, we see, is a mere skeleton of a law. It requires that there shall be an hospital, with accommodation and at least four beds, and with a space of 60 square and 500 cubic feet for each bed; that there shall be a Medical Attendant visiting the hospital once or twice a week, according to the size of the estate.

That there shall be such medicines as the Stipendiary Magistrate may consider necessary; and that there shall be an Hospital Attendant qualified for the duty of attending the sick.

That the Medical Attendant shall keep an Hospital Register.

It is, therefore, evident that the General Board of Health were expected to supply, by the regulations they were empowered to make, all the details required for furnishing and completing an hospital. Accordingly we find on the 5th January 1866, a Proclamation in due form (Appendix D 12), under Ordinance 29 of 1861, which provides—

Proclamation 5th Jan. 1866.

General Sanitary Inspector. Districts of Inspectors.

1. That the General Sanitary Inspector shall be Medical Inspector for Port Louis, Moka, and Black River.

2. That the two other Medical Inspectors shall perform the duties—one in Pamplemousses, Rivière du Rempart, and Flacq; the other in Plaines Wilhems, Savanne, and Grand Port.

Residence of inspectors.

3. None of the three to take private practice.

4. That they must reside in one or other of the districts over which their duties extend.

Quarterly visits.

5. Make not fewer than one visit in a quarter of the year to each hospital, at irregular intervals, without previous notice.

Reports.

6. Make Quarterly and Annual Reports for the information of the Governor.

Similarity of inspection.

7. Observe as much similarity as possible in the mode of performing their duties.

Forms.

8. Shall furnish the forms required by the Ordinance gratis to all having need of them.

Duplicate Report.

9. Forwarding a duplicate Report to the General Board of Health.

Sick in Port Louis.

10. The Medical Inspector of Port Louis to call upon all employers to say whether they intend to have hospitals on their premises, or send their sick to the Civil Hospital.

Register, where servants sent to Civil Hospital. Union Hospitals.

11. Every employer sending his servants to the Civil Hospital to keep a Register on his premises.

12. The same regarding Union Hospitals.

Magistrate to inform inspector. Specific information.

13. The Stipendiary Magistrate to give all information to the Medical Inspector, and information regarding number of men employed.

14. Information to be given in a specified form.

No rules as to internal economy.

2136. But we look in vain for any rules regarding the internal economy of the hospitals—for anything regarding the furniture and scales of diet; whether there is to be a cooking-room, a bath, a dead-house, or a latrine; whether there are to be any instruments kept at hand; whether the Hospital Attendant is to live on the premises, or whether the proviso that the hospital shall be reserved exclusively for the purposes of an hospital prevents the Attendant living on the premises, and sanctions his going away to his house in the camp and locking the hospital door, whether any patient be there or not.

2137. No reference is made, either in the Ordinance or elsewhere, to the necessity of having a separate ward for women; and if the object the Legislature had in view was, while assuring the Government of India that there were hospitals on every estate, at the same time to prevent any use being made of them, and so driving the immigrants away to perish, if seriously ill, in their own huts, they could not have done it more effectually.

How far law observed.

2138. The law requires an hospital and at least four beds or other sleeping-places, and a Medical Attendant: that, and *only* that, they have. An Hospital Attendant, duly qualified, is also required; but there are only three or four in the whole colony that have any qualifications at all, and so far even the miserable requirement of the law is not all carried out.

Dr. Reid's explanations as to the not framing the regulations.

In explanation of this defect in the law, Dr. Reid informs us that not giving the General Board of Health any power, when framing the regulations, to inflict penalties, they can only make a report to Government, and do nothing else. Question 839, Vol. II.

2139. However, Sir Henry Barkly himself was not satisfied with the Ordinance in operation, for, before a year was over, on the 19th October 1867, in the case of Dr. Propier and Mr. Chasle, we find him recording

> "the Ordinance, as introduced, would have worked stringently and effectively
> "enough, but it was so altered in Council as to hang very loosely together;"

and he then adds,—

> "It must not be allowed, however, to become a dead letter, for a whisper to that
> "effect at the Indian Board, after the late epidemic, would suffice to
> "stop emigration for ever." Appendix D 13, p. 2.

It is perhaps this last clause—or rather a general prevalence of the opinion expressed therein in the minds of the public of Mauritius—which gave occasion to what Dr. Tyack is reported to have said before the Stipendiary Magistrate:

> "The Ordinance is one only passed, and hastily also, because the Legis-
> "lature wished to avoid the suspension of immigration;" Appendix D 14, p. 13.

though Mr. Beyts says he does not think there were any grounds for Dr. Tyack's statement. Question 1516.

The draft Law to amend Ordinance No. 29 of 1865.

It appears, however, strange that when, on the 7th December 1866, Sir H. Barkly presented a Draft Ordinance to amend No. 29 of 1865, he did not propose to re-introduce the really stringent clauses, but says that the Medical Inspecting Officers found a ready

compliance on the part of employers generally with the provisions of the Ordinance, and testify to its working satisfactorily; and yet the most important amendment that he proposed to introduce was, to limit the doctor's visits on all estates to one a week, provided that more than seven days did not intervene between each two visits,

Sir Henry Barkly proposes to limit the Medical Attendant's visits.

> "as to insist on more is simply to limit the sphere of utility of the few practitioners
> "established in some of the rural districts."

Proposed amendment of the law.

2140. The amendments, as they stood on the draft, were, first, to make the Medical Inspector, instead of the Stipendiary Magistrate, determine the quantity and quality of the medicines that were to be kept in the hospital; and next, to bring all cases of contravention of the Ordinance within the cognizance of the Stipendiary Magistrate.

It appears remarkable that the Governor should have relaxed the stringency of the law as regards visits by the Medical Attendants without making any demand from the planters to re-introduce the sections which he thought impeded the working of his Ordinance, and which this would have given him a favourable opportunity of re-imposing, and thereby escaping the undignified position of appearing to keep what was doing concealed from the eyes of the Indian Government.

Decrease in visits opposed by Chamber of Agriculture.

2141. The curtailing the number of visits was opposed by the Chamber of Agriculture, because they feared that if the doctors were to extend their sphere of utility, it might occur during the existence of any serious epidemic that they would be unable to satisfy all the necessities of the service which they had undertaken.

That the Inspecting Medical Officer should replace the Stipendiary Magistrate in deciding upon the medicines to be kept was opposed, as it had been before, and because it would open a door for the Medical Inspecting Officer to interfere in the treatment of cases from which he had wisely been shut out.

2142. A medical man, Dr. J. Guérin Menneville, objected to the alterations suggested, because the Indians were getting accustomed to the hospitals with visits twice a week, and they would desert them if they were only visited once a week; and because some of the planters had already declared that if the amendment passed and the doctor had only to pay one visit a week, they would reduce his emoluments.

These objections were read at the meeting of Council on the 8th January 1867, and further consideration of the second reading of the Ordinance adjourned on the motion of the Procureur-General; and it never appears to have been brought forward again: so that Ordinance No. 29 of 1865 remains the law which regulates the hospitals to this day.

Requirements of Ordinance No. 29 of 1865.

2143. We have seen what the requirements of the law are. That there shall be an hospital; and so there is on most estates, though Dr. Gouly, the Medical Inspector, reported the one at "Choisy," in Savanne, as "good," when it was not in existence! But, generally speaking, there is an hospital on all estates, varying from such as the one at "La Rosa," in Grand Port, up to the one at "Midlands," in Plaines Wilhems, which, at the time of our visits, we described as follows:—

"La Rosa."

> "The 'La Rosa' Hospital is situated at a short distance to the westward of the
> "camp, from which it is separated by the railway. It stands within a
> "compound enclosed by a low dry stone wall, about 4 feet high, and
> "consists of one building constructed of plank and roofed with shingle,
> "with floor of earth. It measures 38 feet by 16 feet; height to the eaves about
> "8 feet, and to the ridge-pole 18 feet. There is a verandah in front, the width of
> "which is 6 feet. There is sufficient ventilation by means of two doors and two
> "windows.
>
> "The building has apparently been injured or weakened by hurricanes, as it is
> "supported by strong props at the back. The floor, though kept clean, is never-
> "theless very uneven and requires levelling. The furniture consists of six beds
> "(charpoys), of which five are supplied with a coarse mattress and pillows formed
> "out of old sacks of bone-dust manure (as appeared from the stamp of the Company
> "who had supplied the same) stuffed with straw, and a blanket. Three chamber
> "utensils complete the furniture. There were three patients in the hospital at the
> "time of the Commissioners' visit, but none had passed the night there, and Mr.
> "Montille said it was their habit not to do so. Within the hospital compound
> "there are, further, a privy and a dead-house, both of which are well suited for
> "their respective purposes, except that the dead-house has no table in it; but neither
> "of them appear ever to be used. There is also a building, stated to be a kitchen,
> "but which has no fireplace in it, and which, when seen by the Commissioners, was
> "full of rubbish."

Appendix B. Visits to estates. "La Rosa." — Situation. — Construction. — Size. — Furniture. — Patients. — Privy, and dead-house. — Kitchen.

"Midlands." Superiority.

> "The 'Midlands' Hospital is decidedly superior in the way of
> "appointments to anything the Commissioners have yet seen in the
> "colony."

Appendix B. Visits to estates. "Midlands."

Requirements of Ordinance No. 29 of 1865.

Construction.

Bedding.

Washstands.

Shelves.

Dwellings of Attendants.

Dispensary.

Hospital Attendant.

"It is a large airy building of wood, with a wide verandah round it. The bed-
"steads are all of iron, and the bedding is clean and ample. Beside each bed there
"is a good small washstand, fitted with tin basin, jug, and cup; and at the head of
"the bed there is a small wooden shelf for the convenience of the patients—every
"part of the establishment having the advantage of being quite new and in high
"order. At a few paces from the hospital is the dwelling of the Attendant and the
"dispensary, the latter being provided with all requisite medicines, splints, and
"other appliances necessary for simple surgical operations. The Hospital Attendant
"was trained in the Civil Hospital at Port Louis, receives $25 per mensem and his
"food and lodging, and devotes his time exclusively to the hospital."

2144. Though we have taken "La Rosa" as the specimen of a bad hospital of light build, it might be well to instance another, perhaps even worse, but of solid masonry—the one at "Gros Cailloux," in Black River, as seen by us in June, 1872, and by the Assistant Protector of Immigrants in February 1873. We found it as follows:—

Appendix B. Visits to estates. "Gros Cailloux."

"Gros Cailloux."

Construction and size.

Situation.

Ventilation.

Verandah.

Floor.

No females' ward.

Furniture.

Bedding.

Utensils and vessels.

Bath-room.

"The hospital consists of a detached stone building, 57 feet 8 inches in length by
"26 feet 9 inches in width. Its height is 20 feet to the ridge-pole, and it is
"roofed with thatch in tolerable repair. The situation is convenient and the
"building substantial. The ventilation is good, the building having three doors
"and nine windows, closed with wooden shutters only. There is a verandah along
"the front, 12 feet in width, opening at the two extremities into the bath-room and
"the surgery. Rather more than half of the ward has a stucco floor, while on the
"remainder, as well as on the verandah, there is no made floor at all. There is no
"separate ward for females; and the Commissioners were informed that women
"never presented themselves at the hospital for medical treatment. The furniture
"consists of six stout wooden bedsteads, with boards, but neither ticking nor lacing;
"the number is quite sufficient to meet the requirements of the law; three small
"tables and three small wooden benches.

"The bedding consists of a mattress and a somewhat scanty pillow, but had
"neither sheets nor blankets. There were no chamber utensils of any sort nor
"night stools, and the only drinking-vessels were a few tin mugs and an earthen-
"ware jug.

"The room at one end of the verandah, shown to the Commissioners as the bath-
"room, does not appear to be frequently used for that purpose. It contains no
"bath; and the floor is littered with rubbish of various sorts,—for example, the
"remains of a broken chair, a broken window-frame, and what appeared to be
"some dead palm leaves. On being informed that a bath was brought there when
"required, the Commissioners requested to see the same, and eventually a
"moderate-sized wooden wash-tub was produced. This room, which is also used as
"a dead-house, communicates by a window with the lower end of the hospital ward.
"The surgery at the other end of the verandah contains nothing but a few shelves
"on which are placed the medicine bottles containing several of the medicines
"commonly required; but Mr. Mérandon stated that the proximity of the estate to
"Port Louis, about six miles, rendered any store of medicines unnecessary, as, in the
"case of serious illness, he would be provided with fresh medicine from the town.

Wash-tub for bath.

Dead-house.

Surgery.

No privy.

"There is no privy, and the only convenience that was shown to the Com-
"missioners is a pit in the corner of the hospital enclosure, about three feet square
"and three feet deep, lined with masonry, over which are the remains of a roof in
"the last stage of dilapidation, with two pieces of corrugated iron upon it, affording
"but an apology for shelter.

1 patient.

Dislike of hospital.

"There was but one man in hospital when the Commissioners arrived, and Mr.
"Mérandon informed them that he found extreme difficulty in prevailing upon the
"Indians to remain in the hospital when sick; a statement which they can readily
"believe; but that they prefer, after seeing the doctor and receiving their
"medicines, to return to their families in their own huts.

Nourishment given patients.

"This man, suffering from fever, had been in hospital some days, and that
"morning had received only a roll of bread for his rations, as he had the day
"before. The day previous having been Sunday, he was released from hospital and
"had his rations at home. Mr. Mérandon is, from what the Commissioners heard,
"indulgent in not allowing work on Sundays, except what is absolutely necessary,
"and the serving rations and sometimes paying wages."

The Assistant Protector's Report.

2145. The Acting Assistant Protector of Immigrants, eight months later, reports as follows:—

The complaint of Hossenbuccus.

"An Indian named Hossenbuccus, 3368, of the above-named estate, lodged a
"complaint at the 'Bambous' Police Office, to the effect that he does not get

Requirements of Ordinance No. 29 of 1865.

"Gros Cailloux." The Assistant Protector's Report.

"proper medical treatment from his employer, and that the Estate's Hospital is
"leaky, overrun with grass, and is not fit for a sick man to be kept in. I went
"this day (28th February) to inquire into his complaint, and found what he says
"with regard to the hospital to be perfectly correct. It is a very large building of
"stonework, with a straw roof full of large apertures; half the flooring is of
"plaster, the other of fresh mould, with here and there a small sprig of grass
"growing underneath the holes in the roof.

Bedding.

"The furniture consists of six wooden bedsteads of the commonest description,
"six mattresses of hay covered with gunny bags. These are in the very worst con-
"dition, one so bad from mildew just under a hole in the roof, that it would be
"impossible for any one to lie on it, another very nearly as bad. When I pointed
"this out to Mr. Mérandon he said, as he had only 176 men, there were sufficient
"beds, three per cent. being the quantity required by law.

"3 rough stools,
"1 old table,
"1 rough stand,
"1 old gargoulette for water,
"1 very small tin can,
"1 tin cup,
"1 tin plate.

"The verandah is rough earth and stones, with a large crop of weeds, the roof
"being all broken and letting in the rain. At each end of the verandah there is a
"small chamber—one has two shelves with a quantity of old medicine bottles,
"some salts, oil, and quinine. The roof is all broken; the supply of medicines
"very scanty. The chamber at the other end has no roof. In one corner of the
"yard there is a privy with some framework, but no covering; in another the
"cook-house, a very good building. The compound is quite overgrown with long
"rank grass, which, from its height and strength, could not have been cut for
"several months. On my arrival I found neither Manager, Accountant, nor Infir-
"marian, all these having gone to the Police Court. An employé told me the
"hospital book was perhaps in the office—he could not say; the dispensary was also
"locked, but was opened by Mr. Mérandon's arrival. When I got to the estate I
"I went at once to the hospital, and found

Visit of the Assistant Protector.

"Gazadhur, 5 days in hospital
"Dalloo 2 " "
"Agalloo 1 " "
"Mootien 1 " "
"Addum 15 " "

"They all said they had got medicine and salts, except Mootien and Agalloo, who
"came in this morning.

"Addum, who had been in hospital 15 days, seemed very weak and ill and is an
"old man. None of them slept there.

"The Infirmarian stops in camp. While waiting for Mr. Mérandon's return I
"visited the camp, which is the most wretched I have seen; the houses badly built,
"out of repair, and very straggling. I found Dr. Leguen making an autopsy of a
"woman (who had died from eating 'Pois d'Achery,' a kind of poisonous pea) in
"the open air, there being no dead-house on the estate. He told me he had taken
"medical charge of the estate since the 1st inst., and had called the attention of
"the Manager to the disgraceful state of the camp and hospital, but that he seemed
"very angry with him for speaking on the subject.

"When Mr. Mérandon came back, I went again with him to the hospital after a
"slight shower of rain, and found that the rain had penetrated. I asked him
"where the dead-house was; he said, There—pointing to the uncovered chamber at
"the end of the verandah. I asked him then why he had his hospital in such a
"state. His answer was that the men had been mending the camp after the
"hurricane (two months ago), and that it was not yet finished. On my visit to the
"camp, I found a Creole thatching a large-sized house in the centre of the camp;
"but from the furniture I should imagine it was his own. A few of the huts have
"a little bit of new straw on them.

"I now asked for the hospital book, which Mr. Mérandon said was in his
"office. From it I found that Dr. Chastellier had been medical adviser to the
"estate up to the 31st of January 1873, and that Dr. Leguen had taken it up from
"1st February, and had marked three visits up to that date. I found afterwards that
"he had made a visit to the hospital after his autopsy, but had gone without entering

Requirements of Ordinance No. 29 of 1865.

"Gros Caillou." Report of the Assistant Protector.

Necessity for dead-houses.

Ordinance No. 17 of 1871, Section 41.

"it in the book. Dr. Leguen must have known that Mr. Mérandon had returned, "and so he will not come back until next Friday, and he may very likely forget "some of the patients' names. Moreover, the hospital book should be kept in the "hospital. Dr. Chastellier made five visits in January last."

2146. We see here, though incidentally only, the necessity for having a dead-house on every estate. The law (Ordinance No. 17 of 1871, Article 41) requires,

"when any visible signs or marks of violence, or when other circumstances shall "give rise to suspicion that any death has not been natural, interment shall not take "place until an officer of the police, assisted by a duly qualified medical practitioner, "shall have drawn up a statement of the condition of the body and of the circum-"stances relative thereto."

The consequence is that, even if a man commits suicide by blowing his brains out or cutting his throat, the officer of police and duly qualified medical practitioner are apt to insist on an "autopsy," extending to the viscera and lower extremities. It is unnecessary to remark upon anything so savagely indecent as performing this duty in the open air of a camp on an estate.

2147. It is right to remark that Messrs. Mérandon were, on the 17th March, convicted of neglecting to keep up their hospital, and fined £5 and costs.

2148. The hospitals which we place as intermediate between these two extremes, being as good as we found on "Bénarés" in Savanne, are "Ferney" in Grand Port, "l'Union" in Flacq, "Trianon," "Beau Séjour," and "Stanley," in Plaines Wilhems; "Labourdonnais" and "Espérance" in Rivière du Rampart, as they now stand; and as "Cluny," "Mon Trésor," and "Riche-en-eau," in Grand Port, promise to be when finished.

While the hospital of "Riche-en-Eau," as it was when we saw it—an old stable—was as bad as it could be, that at "Rivière Dragon," is an old mill converted into an hospital, with the legs of the beds cut to different lengths to fit them to the irregularities of the floor, caused by the channels formerly used for carrying the cane juice and syrup from one part of the building to another not having been levelled.

"L'Union" and "La Laura" in Moka, converted from overseers' houses, were ill adapted for hospitals, though fulfilling all that the present Ordinance requires; and at "Plaisance" in Grand Port, and "Mont Choisy," in Pamplemousses—the former with room for 36 beds, where only 22 are required (apparently an old slave logia), and, the latter requiring room for 11 beds, but having space for 15 more (an old store house), falling into the opposite, and perhaps worse extreme, of having more room than is required, and consequently making a building that would have furnished two or three good and comfortable hospitals into a really gloomy and desolate abode.

Mr. Daly's description of hospitals.

2149. As regards the hospitals generally, we may describe them as they were described by Mr. Daly, the Stipendiary Magistrate of Savanne, in his report on them, as some old dwelling-house converted into one long room, with the front verandah cut short at each end by two small rooms, one usually a dispensary, the other the Infirmarian's abode, but in some cases an empty room intended for a dead-house.

Appendix D 3, p. 19.

Beds.

2150. So likewise, as regards beds or sleeping-places, the law requires that there should be sufficient accommodation and beds or other sleeping-places for three per cent. in proportion to the persons engaged, and never fewer than four beds; but in several cases we have found five and six beds where only four were required, and where the area of hospital was only adapted for four: or, as at "Côte d'Or," where there were 24 beds, three more than the law required and two more than the hospital should hold; but we did not find, as the Stipendiary Magistrate did at "Bel Ombre" in Savanne, patients in the last stage of disease sleeping on mats as sleeping-places, though the Manager *said* that he possessed bedsteads for them; but they preferred remaining on the floor.

Appendix B. Visits to estates.

Appendix D 3, p. 25.

"Bel Ombre."

This estate belonged then, as it does now, to Mr. de Belloguet, whom we examined, and who appeared then, as he does now, to think that by an excess of indulgence in one line, he can compensate for deficiencies in the observance of the law.

"Combo."

Nor did we find, as the same Magistrate did at his last visit, in March 1872, on the estate "Combo," belonging to the Ceylon Company, only one bed, and that a broken one, for an estate with 138 men.

Appendix D 3, p. 87.

Bedding.

2151. The law does not require that there should be any bedding on the beds; so that furnishing the most filthy-looking mattresses and pillows, as we found in some hospitals, even made of old horse-dust bags, as at "La Rosa," was a superfluity beyond the requirements of the law, as were the sheets of the same material in the otherwise well-cared-for hospital at "Beauchamp" in Flacq.

Metallic roofing.

2152. The Ordinance, however, does require, that if the roofing is of metal, the hospital shall have a ceiling; but this simple requirement is not observed, for in the grand stone

building at "Etoile," now called Hewetson, in Flacq, there is a metal roof but no ceiling. So likewise at "Surinam" in Savanne; and whether or not the law is observed at "La Gaieté," an otherwise excellent hospital, is doubtful, for the roof is of galvanized iron with no ceiling, but the metal laid on planks.

Requirements of Ordinance No. 29 of 1865.

Appendix B. Visits to estates.

2153. Beyond an hospital of a certain size, built of any material common to the country, except straw and sheet-iron, which are seen as dwellings in some camps; with sufficient accommodation, whatever that may mean, and not fewer than four beds or sleeping-places in it, the law requires no more. It might so happen that "sufficient accommodation" was meant to signify sufficient of what is generally received as the necessaries and requirements of an hospital, and that the regulations to be issued by the Board of Health, under Article 28, were to declare what this accommodation was to be; but they have not declared it, and when we have found anything in the hospital, or connected with it, such as kitchen, bath-room, dead-house, privy, and dispensary, or a table, chair, blankets, bedding, cup, basin, spittoon, night-chair or utensil, we must look upon even the smallest of them as superfluities among the requirements of the law; for the proprietors of the estate are not, by any provision of the law, bound to furnish them; and thus—though with one exception, the new hospital at "Midlands" (and perhaps the Government Estate, "Mon Repos" in Black River), we have found none that we can consider complete, and such as an hospital should be—it would be impossible to find one, even the worst among them, that had not gone beyond the rigorous requirements of the law; while many are excellent and costly buildings, requiring but little to make them complete.

General requirements of the law.

Even the worst hospital has gone beyond the requirements of the law.

Medicines.

2154. The hospital is to be suitably provided with medicines, to the satisfaction of the Stipendiary Magistrate, after receiving the Medical Attendant's report, and making such further inquiry as he may think necessary.

Question 5140.

This, Dr. Desjardins considers one of the most extraordinary provisions of the law; and it is inexplicable, unless the Legislature were determined if possible to make the Medical Inspector of no use; and so, instead of leaving him, as was proposed, to be satisfied as to what kinds, quantities, and qualities of medicine should be provided, they gave the duty to the Stipendiary Magistrate, who was very likely to be deceived; as Dr. Desjardins mentions one having been, when he asked a planter whether he had any quinine in store, and the planter putting his hand over the label of a bottle containing a pound of magnesia said:

Question 5141.

"Yes, I have a pound of quinine in store."

Nor must we be surprised at finding, as at "Mon Choix" in Pamplemousses, that there were no salts nor castor-oil, nor any quinine in store, but there was ipecacuanha, a lotion, balsam copaiba, and Le Roy; the last, "Le remedie Le Roy," a patent medicine easily adulterated, and rendered highly dangerous.

Appendix B. Visits to estates. Proceedings of Council, 21st May, 1861.

2155. The provision that every hospital shall have medicine on the premises is not always obeyed, for in the Inspector of Immigrants' Report, we find that the medicines for "California" were kept at "Grande Rosalie," two miles off.

Appendix Q. Captain Blunt's Report, page 64.

Hospital Attendants.

2156. In the next place the hospital is to be provided with Hospital Attendants duly qualified for the duty of attending the sick, certified by the Medical Attendant.

The Draft Ordinance required that his qualifications should be certified by the Inspecting Medical Officer; but that was overruled in Council, and his qualifications were to be certified by the Medical Attendant: whether for the reason given by the Chamber of Agriculture, mentioned above (paragraph 2521), or for any better reason, does not appear; nor is it necessary to make further inquiry, for there is hardly one Hospital Attendant properly qualified; nor can we find any Medical Attendant who had given a certificate to any Hospital Attendant in the colony; yet, so late as February 1870,

Appendix D 17.

the Procureur-General was under the delusion (whence derived it does not appear) that

"there is no estate upon which there is not a competent Hospital Attendant and "Dispenser attached to the hospital,"

and he argued how men should be properly dosed and medicated until the doctor made his weekly rounds.

Appendix D 18. Dr. Desjardins' Report, p. 5.

Dr. Desjardins' complaints.

2157. So early as September 1866 Dr. Desjardins says:

"La question des Infirmiers laisse toujours et généralement beaucoup à désirer, et "que, comme par le passé, on emploie le plus souvent à cet office des Indiens très "peu propres à le remplir."

And what else would he have expected when in his Report in June following he says:—

Requirements of Ordinance No. 29 of 1865. Hospital attendants.

Appendix D 18. Dr. Desjardin's Report, p. 12.

" La plus grande partie des Infirmiers se compose de simples laboureurs " auxquels on donne ce nom d'Infirmiers sans qu'ils le méritent en " aucune façon ;"

Dr. Desjardins' complaints.

and in his last Report for 1872 Dr. Desjardins continues the same complaint, for as the law has never been altered, no improvement can be expected to have taken place. Dr. Desjardins in his evidence says :

Question 5178.

" The Hospital Attendants have no qualifications, and of this I have always " complained."

There are, however, a few exceptions, but as a rule, they are unable to read or write, and are labourers without any qualifications. He instances two hospitals in his division where the attendant is properly qualified,—one at " Hermitage," in Moka, and the other at " Mont Choisy," in Pamplemousses. This last person we saw when on our visit to the estate, and found him intelligent, able to read and write, and ascertained that he had been an Hospital Orderly in India, which would not however give him much training, and that he had attended the sick on his voyage out.

Question 5182.

" Antoinette."

2158. The Hospital Attendant at " Antoinette," in Pamplemousses, had a certificate of qualification from Dr. Luciany, and appeared to deserve it, but it did not fulfil the requirement of the law, which is a certificate from the Medical Attendant of the estate.

Appendix B. Visits to estates. " Antoinette."

" Valetta."

We also found another case at " Valetta," in Moka, where Mr. Galeñ had got imposed upon him a scholar instead of a labourer, and being in want of an Hospital Attendant he made this man, who could read and write, but could not and would not work in the fields, look after the hospital.

" L'Etoile."

We must not forget to mention that the man at " L'Etoile " had no qualifications, but had great experience in the care of patients, and received $25 per mensem.

Question 5183.

2159. We have been assured that for the most part the planters replace this want of knowledge in the Hospital Attendant by their own personal intervention, and by that of the Accountant and sub-employés ; but even if we had found grounds for believing that this solicitude did really exist, except in isolated cases, still this is not what the law contemplated, for the Proprietor, the Manager, and the Accountant must all have other duties to perform quite incompatible with looking after the hospital, though Dr. Tyack thinks that the Book-keeper has ample time to attend to his duties as Accountant, as well as dispensing medicine, for the medicines are all labelled, and as all the book-keepers know how to weigh quantities, they have all the knowledge which is requisite, and they are perfectly qualified to act as Hospital Attendants.

Question 5187.

Questions 1336 to 1332.

2160. But, being Hospital Attendant with or without qualifications, and having other duties to perform is not restricted to the Accountant and Overseers, for we find from Dr. Desjardins' last Report that the Hospital Attendant at " La Laura," in Moka, who received $10 per mensem, informed him that he did not get that high pay as Hospital Attendant alone, but that he had furnished the estate with a band of men, and he had to look after them in the fields ; and so on other estates he found the *Infirmiers* employed in going on messages, and he consequently never met them. In his evidence too he told us that on half his visits, neither Hospital Attendant nor any one else in charge of the hospital is to be found, and he maintains the Hospital Attendant is the first to drive men from the hospital for as the Proprietor only requires his attendance at the hospital when there are sick there, he is the first to prevent their coming there.

Appendix D 19. 21st January, 1872, para. 4.

Questions 5316 to 5321.

Hospital attendants the first to drive men away from hospital.

Care and attention exceptional.

2161. The care and solicitude with which the proprietors and their families look after the labourers on their estates has also been quoted* as a compensation for defects in the hospitals and their arrangements ; but the number of persons, as we shall presently see, who had died in their huts, without any one knowing or apparently caring whether they were sick, precludes our looking upon the cases, in which we have found care and attention proved, as anything but exceptional, and the following case taken from Dr. Desjardins' Report is apposite, and shows that no more reliance is to be placed upon the care taken by the proprietors of their

Report, p. 16.

* We must acquit Dr. Desjardins of joining in this boast. In answer to question 5187,—

" How do planters make up for the want of knowledge in their hospital attendants ? "

He says :

" The planters often replace this want of knowledge in their hospital attendants by their personal " intervention. Many planters administer their medicines themselves ; and I know one who has " learnt a great deal of medical treatment, and who goes so far as to apply poultices. But I must say " on many estates this want in the knowledge of Hospital Attendants is replaced by nothing at all."

sick than on the qualification or even kindness which might be expected from labourers, who are made Hospital Attendants for no other apparent reason than that they have been found unfit for anything else.

Requirement of Ordinance No. 29 of 1865. Hospital Attendants.

The Vale.—" J'ai trouvé dans l'hôpital un malheureux enfant couvert de plaies " affreuses, sans pansement aucun. La soupiration qui s'en écoulait traversait la " paillasse pourrie sur laquelle il était couché, et tombait sur le plancher. " L'Infirmier vivement réprimandé par moi se refuse à le toucher de ses mains et " appelle un Indien pour soulever le gony infect qui le couvrait. L'enfant est mort " peu après, après plusieurs jours passés dans cet état sous les yeux de l'Infirmier. " Ce fait qui a eu lieu dans un des plus beaux hôpitaux du district, et chez un pro- " priétaire qui, j'en ai la conviction, ne néglige rien pour ses malades (excepté de " faire surveiller son Infirmier) ne démontre-t-il pas jusqu'à l'évidence la nécessité " d'établir une pénalité contre les Infirmiers afin de les contraindre à remplir con- " venablement leurs mandats ? Tout, en effet, dans un hôpital, répose sur l'Infirmier, " et nulle part, à peu près, on n'en trouve qui mérite la moindre confiance."

2162. We have found one case in which an Hospital Attendant has been punished for neglect of duty in allowing a man who had been severely wounded, and had been sent from the police station to the Estate's Hospital, to leave it and go to his own hut, or rather had allowed his friend to take him there.

Appendix D 20.

He was, however, brought back almost by force, and the Attendant sentenced to ten days' imprisonment with hard labour for neglect of work, the punishment to which he is subject as a labourer under the Order in Council, for the Ordinance inflicts no punishment upon the Hospital Attendant for neglect of his duty.

Want of qualified persons felt on all sides.

2163. Dr. Desjardins' opinion of the unfitness of the Hospital Attendants for their duty is borne out by all the medical men we have examined upon the subject, and Dr. Icery said that he has been looking for a properly-qualified Hospital Attendant for the last six months, and had not then succeeded in finding one, though he has since. And the probability is, that so long as the planters are allowed to employ as Hospital Attendants labourers on labourers' wages, the supply of qualified Hospital Attendants will be small, and immigrants will be liable, as Rumphol was at " St. Antoine," in Rivière du Rempart (11th April 1868), to have a solution of potassii administered to him instead of purgative de Le Roy (ordered by the Accountant), by the Hospital Attendant, who had been employed as such for fourteen years, and against whom there was no suspicion, although he poisoned this man.

Question 7371.

Appendix D 21.

2164. Withdraw all immigrants from those estates on which there are not qualified attendants (that is, attendants with specific qualifications), and in a few months, if Mauritius does not furnish them, they will be brought from India.

Hospital may be of one or more buildings.

2165. The hospital may consist of one or more separate buildings, which appears to have been rather a boon to the planters than as having any special advantages for the sick ; since it averted the necessity for building new hospitals when there were one or more buildings on the estate which might, without further expense, be made to serve as hospitals. Lastly, it must be reserved exclusively for the purposes of an hospital. The meaning of this was not very clearly understood at first, nor is it so altogether now, for Dr. Desjardins mentions that on some estates they closed the hospital and went away when there were no patients in it, and adds :

Hospitals closed when no patients.

Appendix D 18. Reports pp. 8–40.

" Un hôpital fermé n'est plus qu'un magasin contenant quelques meubles ; ce qui " constitue un hôpital c'est le service des soins médicaux, et non un bâtiment " contenant des lits, une table et quelques ustensiles rouillés,"

and in others they turned it into a vacoa-mat manufactory ; but this appears to have been a case of splitting straws between Dr. Desjardins and the Medical Attendant, for Dr. Desjardins admits that he himself, when he attended hospitals, used to employ the convalescents in light work in the hospital, and therefore that medically there was no objection to it ; but now, as he fancies, the law forbids it, he will not sanction it.

Questions 5207 to 5212.

Work given convalescents.

Object of the law as to work within hospitals.

The object of the law evidently is to prevent the hospital compound becoming a nuisance to the patient in hospital, not to prevent the patients if the Medical Attendant allowed it, from employing themselves.

2166. But, though we could not object to the convalescents being employed under the Medical Attendant's orders in light work in or about the hospitals, when the hospitals are made what they should be and properly looked after, we should object to their being converted, as Dr. Desjardins mentions in his reports they have been, into a manufactory of vacoa bags, because there were no sick there—into a guano store—a room for new mown oats—a tool-house—or, as Mr. de Charmoy informs us, a stable turned into an hospital, with sick

Hospitals diverted from their proper uses.

Appendix D 18. Reports, pp. 8, 30, 32, 40, 42.

Question 14,617.

Requirements of Ordinance No. 29 of 1862.

Indians at one end and mules at the other; or, conversely where, because the stable had been burnt, the hospital was turned into a stable for the mules, and another into a dog-kennel; or, as Dr. Desjardins mentions in his evidence, to its having been shut up for a long time previous to its being burnt down, and after it was rebuilt, on his visiting it, thirty or forty goats rushing out of it. Much less can we approve of the hospital on "L'Espoir," in Pamplemousses, where the doctor reports:

Question 5256.

Appendix D 18. Report, p. 16.

"Hôpital tellement abandonné que j'y trouve attaché à l'intérieur près "de la porte d'entrée un singe, qui me saute à la figure et pense me "déchirer."

Or, to the planter being so neglectful of the wants of the immigrants, as to receive a band so unexpectedly as that he was obliged to lodge them and all their belongings, goats included, in the hospital.

Question 5524.

Appeal to the General Board of Health.

2167. We have already seen that a certificate from the Inspecting Medical Officer is required as to the sufficiency of the hospital; but, in the event of his refusing it, the law provides an appeal to the General Board of Health. This was resorted to by Mr. Brue, of "Providence," who (instead of building a new and very excellent hospital, which he since has done) insisted, and got the General Board of Health to support him, in being allowed to convert an old distillery which he possessed near the railway, at a distance of about a mile from his camp, into an hospital. The case has been noticed in our visits to estates "Providence," in Flacq, and in Dr. Desjardins' reports and evidence, and need not here be further noticed than as a melancholy instance of misunderstanding, and that appeals from the decision of the head of a department ought not to lie to any but the Executive; and, therefore, that the Inspecting Medical Officer should either be a subordinate of the General Board of Health, or that appeals from his orders should not lie to them.

Mr. Brue's case at "Providence."

Appendix B. Visits to estates, "Providence."

Appendix D 18. Reports, p. 33, or Question 5102, &c.

Appeals to lie to Executive, not to General Board.

Section 6.

"Accommodation."

2168. Article 6 reserves all right to hospitals approved under Ordinance No. 6, of 1845, provided that the accommodation, beds, or other sleeping-places are on the scale provided by this Ordinance, which leads to the inference that "accommodation" means something substantial, and confirms the belief that the requisites of "accommodation" which are not detailed in the Ordinance ought to be detailed in regulations published under it.

Section 7.

Epidemics.

Article 7 requires that in case of epidemics or infectious diseases additional accommodation shall be built to the satisfaction of the Magistrate. Objection has been taken to this as superseding the Medical Inspector; but as we know of only two instances in which such hospitals have been built, one at "Stanley," in Plaines Wilhems, and the other where a stable was converted into an hospital at "Ferney," in Grand Port; it is hardly necessary to make any remark now, as we shall have again to refer to it, when considering the powers of the Medical Inspector.

Report, p. 9.

Section 8.

Penalties.

Article 8 enumerates the penalties incurred for non-observance of five of the previous articles:

1. Not having an hospital as required;
2. Not having it of the proper area;
3. Not having it fenced off and separate;
4. Not having sufficient accommodation and beds;
5. Not suitably provided with medicines;

which penalties are mere fines, instead of inability to make requisitions, or to receive more labourers, as was originally intended, although the following Article is maintained, but it has never been acted upon,—that it shall be a sufficient ground for breaking the engagement that the failure had continued during three calendar months after the Stipendiary Magistrate had given the master notice.

Section 10.

Compulsory resort to and stay in hospital.

Article 10, enacting that an employer, having an hospital as required by this law, shall be entitled to insist on any labourer when sick proceeding there and remaining until his recovery, was expected by the Procureur-General, if the powers it gave were duly exercised by the masters, to prevent any further instances of immigrants dying in their huts; but unfortunately, they can never have been duly exercised, for no stop has been put to immigrants dying in their huts; and it is the great complaint of Medical Attendants that they have no means of forcing men to proceed to and to remain in hospital.

Letter No. 223, dated 13th July, 1866.

2169. The Ordinance certainly has not been put into operation where it might have been, for at "Beau Fond," in Grand Port, we found a man suffering from syphilis, who came every morning for his medicine, but would not remain in hospital, though there

can be no doubt this was a case in which, had the Medical Attendant made a written requisition, the proprietor ought to have enforced the order.

Requirements of Ordinance No. 29 of 1862.

Compulsory resort to and stay in hospital.

Dr. Finnimore and Dr. Dorelle have ordered men to be locked in hospitals, but we were informed that the orders had not been carried out, and after the former had on the 25th of September last requested "de mettre une serrure sur la porte de "l'hôpital," and on the 26th ordered for Dilloo "mettre sous clef," we were informed that Dilloo disappeared the next day.

Appendix B. Visits to estates, "Riche-en-eau."

It is perhaps a fault on the right side that when the Medical Attendants pay but one, or at the most two visits a week, the patients should not have been confined in the hospital.

La Nicolière case.

2170. Soon after the Ordinance came into operation Dr. Verdalle complained of Mr. Renouf's having issued orders to the employé at "La Nicolière," in Pamplemousses, not to close the gate of the hospital enclosure. It appeared that a complaint had been made to Mr. Renouf by a band of labourers that they did not receive proper medical care and attendance, and that several of their comrades were locked up at night in the hospital. He sent a police sergeant to inquire into the case, who found six men at eight o'clock at night locked in the hospital without any attendant, and the keys of the hospital away in the camp with the Hospital Attendant. This led to much correspondence, but apparently to no result, as, though the men were suffering from what appears to have been the epidemic fever, and they therefore might have been, under paragraph 2 of Article 10 of the Ordinance, forced to remain in hospital, no orders were given as to what ought to be done under similar circumstances, and the subject dropped upon the doctor resigning his attendance on the estate.

Appendix D 22.

Difficulty of retaining Indians in Hospital.

Appendix D 18. Reports, p. 19 and p. 52.

2171. Dr. Desjardins made these complaints of men dying in their huts and not coming to a hospital so early as September 1867, and continued them down to July 1870, when he says:

"Il y a malheureusement un grand nombre d'entr'eux qui se soustraint à ces soins "avec une persistance qui désole souvent les planteurs. Il suffit de jeter un coup "d'œil sur le tableau qui accompagne mes Returns pour voir qu'un tiers des décès "a eu lieu parmi les hommes, en dehors des hôpitaux, c'est-à-dire très-souvent "après un manque absolu des soins, le malade ayant tout fait pour se soustraire à "l'Infirmier et se dérober aux recherches les plus actives,"

and he has still the same cause for complaint, though he admits that if the Indians are obliged to go to hospital, except those hospitals that he calls "perfect," it would be a punishment for them; it is evident, therefore, that even those he calls "good" require improvement, for when remaining in hospital is made compulsory, there must be everything that is necessary without an absolute uniformity; but he would not oblige those who are suffering only from slight indisposition to sleep in hospital; it would be an imprisonment so long as the Medical Attendant visits the estate only twice a week.

Questions 5332, 5338.

Question 5328.

Dr. Icery's views respecting hospitals.

2172. Dr. Icery is of opinion that the distaste for the hospital should be respected, without ceasing to give the patient the necessary care in his own hut when he is ill. The detaining him in hospital should be restricted solely to those cases where it is necessary in the interest of his health. It would evidently be more costly, but that in his opinion is quite a secondary question. And we firmly believe in the honourable doctor's opinion it is so, but it may not be so in the opinion of all the other members of the Legislature, nor in the opinion of many whose voices they are bound to consider.

Questions 7374, 7389, 7391, and 7392.

The hospital would have to be increased; the Medical Attendant's visits would have to be more numerous, for which they would require more pay; and a very large increase would be required in the furniture. He thinks, however, that the Hospital Attendants even at present are paid sufficiently, but then he appears here to judge of all by what he does himself, for his Hospital Attendant at "Midlands," who has nothing else to do, gets $25 per mensem, his food and lodging. And we may instance, as a proper salary of a qualified Hospital Attendant, the salary paid to the attendant in the gaol of Plaines Wilhems, who, in 1865, got $40 a month; while on the other hand, we know from Dr. Desjardins, and from the returns of the pay of Hospital Attendants, that they are mere common labourers, and that they do not, as a general rule, receive any increase to their wages.

Questions 7394–7395.

Questions 7297, 7396, 7421.

Minutes of Council, 1865, p. 224.

Appendix D 23. Questions 5183, 9581.

Mr. Wiehé's opinion.

2173. Mr. Wiehé, however, puts down the wages of an Hospital Attendant at from $10 to $20, while the returns before us show that out of the whole number of sugar estates in the colony, the Hospital Attendants on ten of them get $10; on ten more they get $12; on one he gets $13; on two $15 per mensem,

Appendix D 23.

Requirements of Ordinance No. 29 of 1865.

and $20, $30, and $40 on one estate each. So that the estates on which the Hospital Attendant's pay amounts to from $10 to $20 per mensem are infinitely small in number, and, as we have mentioned above, Dr. Desjardins in his last report says that:

Hospital Attendants, "La Laura."

> "L'Infirmier (à "la Laura") qui gagne $10 par mois, m'a avoué que ce n'est pas "précisément comme Infirmier qu'il reçoit cette somme assez élevée, mais bien "parce qu'il a fourni à l'Etablissement une bande d'hommes dont il a la surveillance, "et dont il va vérifier le travail dans les Champs."

Planter often the real doctor of his men.

In fact, as Mr. Wiehé says, the accountant does a great deal in prescribing medicines, in cases of illness between the visits of the doctor; though, when he was a planter, he always did that work himself; and such, Dr. Icery in his pamphlet also tells us, is the case upon all estates, that the proprietors, or their representatives, personally occupy themselves with the care of the sick, and have acquired a very great practical experience of ordinary diseases; so that the planter is often the real doctor of his men. But that is not what the law requires. There ought to be a properly qualified attendant in charge of the hospital; and to obtain that will entail an increased expenditure far greater than Dr. Icery imagines, as we are inclined to agree with Dr. Reid, that the cheapest they could get would be the third-class native apothecaries from India, and that would require an outlay of from $10 to $25 per mensem, at the least.

Question 9580.

Appendix D 25, p. 24.

Question, Vol. II. 880.

Hospitals not attractive.

2174. The inducements presented by the hospitals, we have already seen, are not sufficient to attract the labourers to them; and Dr. Desjardins tells us that the majority of Indians go voluntarily to hospital, and that he has at "Beauchamp," in Flacq, where there is a female ward and female attendant, seen men, women, and children sleeping in hospital; that it is his firm opinion that it is the managers of estates and Hospital Attendants who have a horror of the hospital, and do all they can to prevent the Indians coming there.

Questions 5293 and 5295.

Appendix D 18, Reports, p. 67.

Managers and attendants prevent Indians coming to hospital.

Dr. Verdalle's opinion of hospitals.

This is only an echo of what Dr. Verdalle stated in 1865, when he said:

> "L'Hôpital s'il est bien établi et tel qu'il en existe plusieurs dans l'Ile, n'excitera "pas des répulsions invincibles. Je regarde comme d'une exécution "très-praticable l'entrée et le séjour de l'Indien à l'hôpital, s'il y est "bien soigné comme je l'ai vu sur quelques établissements. Les femmes "et les enfants des malades seraient admis à les visiter tous les jours "aux heures des repas, sous les yeux des Infirmiers. Les malades, du reste, ne "seraient retenus à l'hôpital que pour des cas exigeant un traitement bien suivi."

Minutes of Council, 1865, p. 20, between pp. 376 and 377.

Refusal to go to hospital punishable as unlawful absence.

2175. But, independently of these inducements, if they existed, there is the punishment to which they are liable for refusal to go to hospital, the punishment of illegal absence, or the double cut (of which we have already reported).

The Chamber of Agriculture objected to the penalty, considering that it would not be just, and thought no planter would avail himself of it; and such was Dr. Icery's opinion when he wrote his pamphlet, for he says:

> "Most planters, for fear of discontenting their labourers, and thereby estranging "them from their estates, have abstained from exercising their right of considering "the refusal to be treated in hospital as a case of absence, punishable by law."

But, on the other hand, our experience is that they have, in almost every instance, availed themselves of it, as shown by the Pay-books which enter sick men as "absent," because they have not been in hospital to the day of their death; and it is only in extraordinary cases, such as at "St. Aubin," where the man Sudhoo appeared absent in the Carnet, that after his death the mistake had been rectified in the Pay-book, and the widow allowed the benefit of her husband's having been sick instead of illegally absent; though there is no doubt but that not having been in hospital, whether he had reported himself sick or not, he was in the eye of the law "illegally absent."

Appendix B. Visits to estates. "St. Aubin."

Resort to and stay in hospitals not compulsory.

2176. It is hardly necessary to notice that, even in cases where there is no doubt that the law contemplated the labourers being obliged to remain in hospital in the case of infectious diseases, the law is never put into force, or we should not have heard the complaints from Mr. Martin, at "Esperance," and Mr. Wiehé, at "Labourdonnais," in Rivière du Rempart, of the spread of syphilitic diseases; so that the fault lies not with the law, but with those who will not put it into force; the cause for which we find in the Hon. Mr. Antelme's evidence, where he tells us that it is impossible to establish any general rule for a community like Mauritius, where there are so many conflicting interests, and in Mr. Currie's evidence, where he tells us (corroborating what Dr. Icery says, page 24 of his pamphlet, above quoted) that on many points if he were strictly to enforce the law,

Appendix B. Visits to estates. "Esperance."

Question 6566.

Where fault lies.

Question 10,621.

he would lose every man on his estate,* an excuse which has been universally given us by planters, not for doing what is illegal, but for their not daring to avail themselves of all the law allows them; and herein we have the concurrent testimony of three of the leading planters of the Island, that fear of estranging the Indian labourers, where there are so many competing interests, prevents the law from being properly enforced.

Requirements of Ordinance No. 29 of 1865.

2177. Article 11 provides for Union Hospitals, but they do not exist, except where adjoining estates have fallen into the same hands, as at "Stanley" and "Ebène," where an hospital at "Stanley" serves for both camps, not quite three miles apart.

Article 11. Union hospitals.

2178. Article 12 requires the appointment of a duly-qualified Medical Attendant. No person is allowed to exercise the profession of physician or surgeon in the Island without a diploma, or other regular document of qualification, from one of the known Schools, Faculties, or Universities, either in the United Kingdom, France, or other foreign country; and this diploma or document, persons wishing to practice in the colony must present to the head of the Medical Department, who will report to Government and obtain the necessary approbation.

Medical Attendants.

Code Farquhar., No. 225, 10th May, 1817.

Diplomas.

The Medico-Charity Commission, appointed by Sir William Stevenson, as mentioned above, in 1858, suggested that instead of the vague words "or other foreign country," a certain number of colleges and universities should be named; and from that list Heidelberg is omitted, from which, we have been given to understand, a diploma may be procured even by persons not professing to have any claim to the title, except that they have paid for it; while Dr. Desjardins, who has a diploma from that university, does credit to it.

Commission appointed by Sir W. Stevenson.

Minutes of Council, 24th Feb. 1859.

2179. The employer is bound to notify the engagement to the Stipendiary Magistrate, under a penalty of £2, but there is no provision for the Stipendiary Magistrate's objecting to the Medical Attendant, even though he knew that he had no qualification whatever, beyond a diploma from Heidelberg, or lived at such a distance off that, in case of emergency, his attendance could not be obtained, and they would be obliged to send the patient to be attended to in the Poor Law Hospital, as in the case at "Constance," in Savanne, noticed in paragraph 2131.

No provision for Stipendiary Magistrate's objecting.

This provision of the law is not always observed. The owner of "Bon Courage" Estate, in Savanne, having, on the 19th February 1873, been fined £1 for not having procured a Medical Attendant for the labourers on his estate.

"Bon Courage."

Appendix D 30.

2180. Article 13 provides for the case of Medical Attendants engaged before the Ordinance came into operation, and 14 for the change in the Medical Attendants being notified, a provision in the law which is not more strictly observed than any other; for at the same time that the proprietor of "Bon Courage" was fined, as mentioned in the last paragraph, for not having procured medical attendance for his labourers, the owners of "Choisy," "Rivière des Anguilles," "Beauchamp," "Frédérica," and "Beau Bois," were fined in sums of 10*s.* or £1 each, for not having notified changes of their Medical Attendants.

Notification of change of attendants.

2181. Article 15, one of the most important in the Ordinance, requires the Medical Attendant to make two visits a week if there are more than 200 labourers on an estate, but if there are less than that number, one visit a week only.

Visits of attendant.

The original Draft was better; under 100, one visit; between 100 and 300, two visits a week; and above 300, three visits a week; and the Chamber of Agriculture, too, advocated a greater number of visits than are required by the law as it passed, and as Dr. Icery considers that for 250 men, or more, there should be at least three visits in a week, it is unnecessary to canvass the question further. As it is admitted that the visits are not sufficient, extending the number of visits according to the number of labourers on an estate would indicate that the number of men likely to be sick, and, therefore, to require medical attendance, was the ground on which the medical visits were to be regulated, as if the medical attendant had no other duty to perform but to visit the sick. But, in our opinion, the medical man ought to have the sole responsibility and care of the hospital; and here, as in some of the other, if not all the other colonies importing immigrants, he should visit the hospital every 48 hours at least. With a qualified Hospital Attendant, an hospital might be left one day unvisited, if there be no patient in it seriously ill; but if attendance in the hospital is to be enforced, it is necessary that the Medical Attendant should visit it every other day at least, and see that it is reserved exclusively for an hospital, and not turned into a prison, as Dr. Reid informs us was done by some planters when the Ordinance

Visits under Draft.

Question 7574.

Medical Attendant to be responsible for hospital.

Hospital to be visited every 48 hours.

* See, however, the letter to Mr. Secretary Davis, printed at the end of Mr. Currie's evidence (para. 5) in which he qualifies the answer and represents his conviction that he could only have used such expressions as those quoted in a sense different from that they now bear in the reading.

Requirements of Ordinance No. 29 of 1865. Medical Attendants.

Question 832, Vol. II.

of 1846 was in force. Moreover, a properly qualified Hospital Attendant might suffice to attend to the wants of a man with slight sickness for 24 or 36 hours; but if there are only 50 men on the estate, there can be no hospital discipline if a man, complaining of being only slightly ill, has to stay a week in hospital before he can see the doctor, or is to be declared sick by an incompetent attendant, or by a manager or accountant, or some person entrusted with those duties.

How law as to visits observed.

2182. But let us see how the law as it is has been observed with regard to the doctor's visits. Dr. Desjardins, in his Report for September 1867, though we might go further back, mentions "Auchendrayne," where there had been no visit paid for ten days; "Mon Choix," where only four visits were paid in three months; "St. Médard," where no visit was paid between 27th April and 5th July; "Ville Valio," where no visit was made between 7th January and 30th August. These, however, are cases that occurred long ago, though at the time of the great epidemic; but in January 1872 the Protector of Immigrants found the estate "L'Union," in Moka, on the high road between Moka and Grand River, S.E., with no hospital nor Medical Attendant. The sick in need of medical treatment were sent to see the doctor (Clarenc) five miles off, and those who required hospital treatment were sent to the Civil Hospital in Port Louis, about 15 miles off. The proprietor was not punished; he was allowed five weeks to have a proper hospital erected and to engage the services of a Medical Attendant.

"L'Union," in Moka.

Appendix D 26.

The hospital was easily erected, for when we visited the estate we found the Overseer's house had been turned into an hospital, and Dr. Cordouan, who visited the estate "Sebastopol," had been persuaded to come about four miles further, over an excellent road, to attend at "L'Union."

Appendix B. Visits to estates.

"Choisy."

On the 7th October, 1872, Dr. Bolton, who had undertaken, on the previous 1st of July, the medical attendance at "Choisy," when there were only 200 labourers on the estate, applied, in consequence of the number having increased to 213, requiring two visits a week, to be permitted to pay but one visit only, as the estate was 13 miles from his residence, with a chaussée (causeway) in bad condition, three miles of uninterrupted and unsettled metal on the road, and terminating in a creek, which he had to ford, and threatening, if this request was not complied with, which of course it could not be, to resign. The estate is one that Dr. Tyack had been engaged to attend, but near which he never went, and from which he never saw a patient; the hospital book being sent to him at "Bel Ombre," but the sick never leaving "Choisy."

Appendix D 27.

Appendix D 11.

On "Chamarel," Dr. Leguen made but 20 visits in the whole year 1872, though there were 356 labourers on the estate,—but we have already noticed that estate.

Complaints against the roads.

2183. Complaints of the state of the roads are, more or less, general throughout the Island. In the district of Grand Port all the doctors complain of the "vicinal roads," as they call them in contradistinction to the high roads; and as the high roads extend but a short distance north and north-west of Mahébourg, all the estates in that direction are obnoxious to that complaint. So in Savanne, and in parts of Pamplemousses, Rivière du Rempart, and Flacq; while in Moka, the greater number of estates are on the high road, or with good private roads from the high roads to them; and in Plaines Wilhems the only complaints made of the roads are against a quarter of a mile on the road to "Mill Vale," and the road which leads from "Henriette" to "Tamarin Falls;" but, of course, the facilities of approach are items that should be taken into consideration by the doctor when he makes his terms with the planter, and ought not to be urged as excuses for not obeying the law or for not fulfilling his engagement.

Hospital registers.

2184. Article 16 provides that there shall be a register kept in every hospital, in a particular form, giving:

The date and hour of visit,
The names of persons attended in hospital,
Persons attended out of hospital,

Age,	Treatment,
Sex,	Prescribed diet, wines, &c.,
Country,	Result,
Disease,	Remarks.

These entries were no more regularly or properly made than the visits to the hospital were. On some estates, and by some doctors, they were properly done, but on none with scrupulous exactness.

Indoor and outdoor patients.

2185. Dr. Desjardins' reports from the first teem with objections that he finds against the entries in the registers, which entirely prevent his deducing any statistical result from them. It appears with some of the doctors to be a matter of indifference whether a person is treated in or out of the hospital. Some enter all men as "*treated in hospital*,"

Requirements of Ordinance No. 29 of 1865.

because they were seen in the hospital; others enter all as treated "*out of hospital*," and considering what the hospital system is, it is a matter of indifference whether the patients are entered as treated *in* hospital or *out* of hospital. A man may be sent to the hospital, but he seldom remains there; and, until the whole system is reformed, it would be cruel to require him to do so. Sometimes men are sent with the hospital register to the doctor's house, sometimes they are seen at the mill, and sometimes even the entries have been made but the patients never seen at all. With all these irregularities, not to use a harsher expression, it is useless to try and form tables or draw conclusions from the returns of patients treated in or out of hospital. There is no such thing hardly as a patient really and truly treated in hospital, and it very seldom occurs that a patient is seen, or obtains any treatment, except at the hospital or mill. Some doctors omit from the register the age, sex, and country. The diseases are very generally entered, but the treatment is often written all along the page, and includes diet and wines, if any entry is made of them at all. Some omit the result altogether; others enter "sortie," but no date; and, if a man dies, it is entered in the column of remarks.

Registers so unreliable useless to make returns from them.

Careless way of making entries.

Registers valueless for statistics.

2186. The registers are simply valueless for purposes of statistics or evidence to show whether a man was in hospital or not on any day but the one on which the doctor's visit was paid; and it does not always show that; for, as we have mentioned above, the Medical Attendant was never seen at "Choisy" in Savanne, the register being sent to him at "Bel Ombre" to note up and sign, which accordingly he did, regardless however whether the persons whose names he entered therein had, or had not, any actual corporeal existence; but the sick were never sent there at all. Dr. Desjardins, moreover, tells us that on his visit to "L'Unité" in Flacq, on the 13th January last, the Hospital Attendant had gone with a sick man to see the doctor, and had taken the register with him, so that Dr. Desjardins had to pay the estate a second visit on the 18th. Fortunately, the Doctor adds, the illness was not much, but a walk under a burning sun might change a slight indisposition into a serious illness. The entry in the register, however, whatever it might have been, must have been incorrect, as it was not entered at the time of the Medical Attendant's visit to the estate, as required by the law.

"L'Unité."

Penalties.

2187. Article 17 imposes fines for the contravention of some of the provisions of the Ordinance; but as there are other penalties beside these, we will consider them all together hereafter.

Failing to keep books.

2188. Article 18 provides that a Medical Attendant failing to keep books for a fortnight or more, may be prohibited from attending the hospital for three calendar months, but we have never heard of this either being enforced or required;—and

Medical Attendant's fee a dead letter.

2189. Article 19 gives every medical man attending an estate remuneration at the rate of 4*s.* a head for every servant he is engaged to attend; the rate not being subject to modification or increase in respect to any alleged contract between the master and practitioner. This, however, has been entirely a dead letter.

Appendix D 28.

From returns we have received we find that,—with the exception of Dr. Bestel and the late Dr. Reilly, who received more than the sum allowed by the Ordinance, the former for attending two estates, by the paltry sum of $16, and the latter attending five, by $43 only, and Dr. Regnaud, who only attends one estate, and receives the exact amount allowed—every other Medical Attendant receives less than he is entitled to claim.

2190. The deficiency, however, is no paltry sum as regards the doctors, of whom there are twenty six attending estates.

Cutting a doctor's pay.

Of these, we find the three mentioned above have exactly what they are entitled to, or a little more. The remaining twenty-three under the Ordinance are entitled to $65,361 amongst them, but they receive only $51,273, or on an average nearly $612·50 each less than they are entitled to; but even of this sum they do not all receive what they engaged for, as Dr. Desjardins has told us that he knows a proprietor who retains from his Medical Attendant the amount of the visits he does not make, just as he does from his labourers the amount of their day's work when not performed.

Dr. Desjardins' evidence in answer to Mr. Guibert, after Question 5516.

2191. The reasons assigned by Dr. Desjardins for the Medical Attendants taking less than the law allows them was, that there were others who would do the work for less, and so many of them have undertaken the attendance upon estates for two or three, instead of four, shillings a head; the threat of getting a man by railroad from Port Louis being used to induce men to engage at the lower rate.

Questions 5466 and 5470.

These reasons are quite intelligible, but the reason Dr. Tyack gives for accepting $150 for attending "Choisy" in Savanne, when he was entitled to claim $200, certainly is not intelligible (because,

Question 1295.

Requirements of Ordinance No. 29 of 1865. Medical attendant's fee.

"it is reached by very bad roads, and there is an arm of the sea to cross besides, and "the rise of the waters often renders the passage impassable"),

Appendix D 4, p. 5.

except with the explanation given before the Stipendiary Magistrate, that he should only "visit the estate when able."

With the proviso that the proprietor should pay what he liked, and the doctor visit when he liked, it is easily understood why the medical men take less than they are entitled to for going long distances and on bad roads; and that also explains why the doctor paid only twenty visits in a year to "Chamarel," as mentioned above, and received $100 per annum less than he was entitled to.

Medical care for wives and children of immigrants.

2192. The next Article, 20, declares the rate, four shillings a head for each servant he is engaged to attend, shall include attendance upon the wives and families of the servant.

The Procureur-General's opinion.

We have seen that the Chamber of Agriculture offered no objection to this clause, as it had always been what they fancied the practice; but though it might have been always the practice, it early gave rise to a question as to how the Medical Attendant should attend

Appendix D 18, p. 6.

upon them, and the Procureur-General gave it as his opinion that the women and children are not bound to become inmates of the hospital, but they are entitled to receive medical care on their proceeding, when able, to some convenient and suitable place for that purpose, and that the Medical Practitioner is bound to attend upon them in that place, but that he is not obliged to go from hut to hut for the purpose of attending on them.

But, however long it might have been the practice for the Medical Attendant to prescribe for the wives and families of the labourers, their attendance at hospital has not

Appendix D 18, Reports, p. 5.

yet become general; for though, as Dr. Desjardins tells us, women and children do on some estates, "Beauchamp" in Flacq, for instance, come and stay in hospital, it would be utterly impossible for them to do it in most hospitals, as there are no separate wards for them.

Enforcement of payment of Medical Attendant's fees.

2193. Article 21, that payment of the Medical Attendants' remuneration might be enforced by imprisonment, has given rise to more suits, as we shall hereafter see, than any other article in this Ordinance. It early gave rise to a difficulty, from a Medical Attendant

Appendix D 1. Magistrate, Black River, July 18th, 1867.

failing at the end of the quarter to give notice, as required by paragraph 2 of the Article, of the names of those who were in arrears, when the Magistrate very properly refused to institute proceedings ex-officio for the recovery of those arrears.

Fees a privileged claim.

2194. Article 22 gives the Medical Attendant a priority of claim next after the labourers for the recovery of his remuneration.

2195. We now come to Chapter IV.

Medical Inspectors.

The appointment of Inspecting Medical Officers, which was the bone of contention when the Ordinance was first introduced, has been objected to ever since, and which the Legislature has at length abolished (Ordinance No. 34 of 1871, section 8) when next the appointment becomes vacant.

Medical Inspectors are also Assistant-General Sanitary Inspectors.

2196. The Inspecting Medical Officers were appointed for the purpose of carrying out the provisions of this Ordinance. They are also Assistant General Sanitary Inspectors under Ordinance No. 18 of 1860, and have a right, without warrant, to visit any place except the master's dwelling-house, in which any servants shall be lodged, and to inspect all hospitals for the accommodation of servants, and all registers; but they must not interfere with the treatment, in a medical point of view, of any labourer. They have also to certify to the size and construction of the hospital and to the fencing of it from the camp.

Duties under Regulations of 5th January, 1866.

They are also, under the regulations of the 5th January 1866, required to make four visits to each estate in the year, and to send a report of their inspections and an annual report to the Governor; but they have power to do nothing but withhold their certificates, and from that, as we have already mentioned, there is an appeal to the General Board of Health.

Inspections by Stipendiary Magistrates.

2197. In October 1864 the Stipendiary Magistrates had been required by the Governor to visit the estates in their districts twice a year; but on the appointment of Medical Inspectors, instead of the Stipendiary Magistrates being directed to discontinue their visits, they were informed that it would in future be unnecessary for them to do more than make such a half-yearly inspection as would enable them to report generally whether the hospitals in their districts were in a satisfactory state.

2198. Dr. Gouly made his appointment a sinecure, or worse, until he was compelled to resign it. Dr. Desjardins, on the other hand, as we have seen throughout, and shall see further, entered zealously and loyally, if not always discreetly, upon the duties of his office; and happy would it have been for the Island if all had been as honest.

The way in which the registers have been kept from the first has been a cause of

Requirements of Ordinance No. 29 of 1865. Medical Inspectors.

trouble to him, and a matter of dispute between him and the Medical Attendants on the estates; but it was not until early in 1870 that he and the District Magistrate began

Appendix D 17.

disputing as to the Magistrate's right to make entries in the register, and whether the name of every labourer on the estate, who upon roll call may be found to be ill, ought to be entered in the register or not. Mr. Gautier, the Magistrate, having however left the Government service before the question was decided, and the question having become more personal than it ought to have been, it was allowed to drop.

Difference of opinion between Dr. Desjardins and Mr. Brue as to a hospital at "Providence." Want of authority to Medical Inspector.

2199. A question arose between Dr. Desjardins and Mr. Brue regarding the hospital

Appendix D 18, Reports, pp. 29-23. Quest. 5125.

at "Providence," in Flacq, before noticed, in paragraph 2167. It is also mentioned in his reports and in his examination before us, and we are led to think that Dr. Desjardins was right in the view he took of the case, and that the Board of Health ought not to have interfered with his decision; but as there is now a good hospital built at "Providence," there is nothing left but to regret that when a man of mature years is appointed to report upon estates, authority should not be given to him to carry out his views without appeal to another authority with apparently no better qualifications for forming a sound judgment than he has.

Difficulties with police.

2200. In the same way Dr. Desjardins encountered difficulties from the police in

Question 5088.

carrying out the provisions of the Ordinance. He had no power to direct a

Appendix D 18, Reports, p. 31.

prosecution or enforce his order, and so the police had power to thwart him. This, as we find from his reports, happened in the latter part of 1868.

"Valton" reported to Dr. Desjardins. Dr. Desjardins unreasonable.

Though it is much to be regretted, still it is hardly unnatural, that when informed by the Stipendiary Magistrate on the 25th September, that the hospital at "Valton" was not in a fit state, the yard full of weeds and not enclosed, the steward absent and the hospital full of oats, he should not have taken any further notice of it. But it is unreasonable when, on the 21st May following, the Stipendiary Magistrate mentioned estates unfit to receive labourers on account of the dirty state they were in, and others in which the doctor's visits were irregular, and invited him to concert measures so they might act conjointly in order that the hospital laws might be better observed and the Medical Attendant's visits more regularly paid (as he was afraid the proprietors, managers, and medical men were rather negligent of the hospital laws, and that one or two energetic steps would put everything right), that he should have taken no notice whatever of it, nor of the following letter written to him on the 14th April, 1871:—

Mr. Renouf reports "Belle Vue" and other estates.

"On visiting yesterday the hospital of Mr. N. Harel, of 'Belle Vue' Estate, I "found it in a filthy state, and was informed that dogs had been kept in it last "night. Some of the beds wanted planks, the mattresses were torn up, and the "flooring dug up in different places; as I informed you before, I cannot be judge "and party in the same case, and in finding out a contravention of this nature, I am "obliged to report it to you, in order that the parties may be brought up before me "for judgment on your taking up the contravention.

"I am certain that an example would be sufficient to prevent the recurrence of "such abuses, and I submit the case to you, in order that the laws on hospitals be for "the future more strictly observed in the district.

"I am sorry to state that some hospitals in this district are not altogether kept in "a proper condition to receive patients, and I trust that, with your co-operation and "that of the Inspector of Police of this district, we shall succeed in obtaining that "the hospitals in Pamplemousses be kept in a more proper manner, in order to avoid "an official report or blame from His Excellency the Governor, should these "contraventions reach his knowledge and remain unpunished."

"You will oblige me by an early answer to this."

Impossible to acquit Dr. Desjardins of all blame in miscarriage of the Ordinance. Mr. Renouf anxious to see the law carried out.

It is impossible after this to acquit Dr. Desjardins of all blame in the miscarriage of this Ordinance, which, from the way it was maimed in Council, and opposed by the planters, medical men, and police, could hardly have been expected to fulfil all that was required

Appendix D, No. 2, pp. 6 to 13.

of it; though, in justice to Mr. Renouf, the Magistrate of Pamplemousses, it must be admitted that he showed himself anxious not only in the above, but in other cases, to see the law carried out.

Impediments to the Medical Inspector in prosecuting breaches of the law.

2201. During his examination, Dr. Desjardins informed us that on the first occasion

Questions 580, 590.

when he called upon the Inspector of Police to prosecute a contravention of the Ordinance, at "Mon Loisir" Estate, in Rivière du Rempart, that officer referred his request to the head of the Police Department, and Dr. Desjardins was called upon by the Assistant Colonial Secretary to attend at his office, where he was informed that he had issued a sort of proclamation to the police; he then showed he had the authority of the Governor for calling upon the Inspectors of Police in the districts to prosecute such cases; but that authority was taken away, and he was informed that in

Requirements of Ordinance No. 29 of 1865. Medical Inspectors. Interposition of the police.

future he should apply to the Inspector-General of Police for authority to call upon his subordinates to prosecute.

The order to which Dr. Desjardins refers, is as follows:—

"No. 93, 16th January 1868.

"The Ordinance contemplated that the Medical Inspector, on becoming cognisant "of contraventions, should himself prosecute before the Stipendiary Magistrate; "but as this is not specially provided, and so much ill-feeling exists in Dr. Desjardins' "districts, it will be better to cause the Inspector of Police to appear as prosecutor, "whenever duly called by the Medical Inspector, if after proceeding to the spot the "charge appears to him well founded";—

and the Inspector-General of Police was directed to give instructions to his Inspectors to prosecute whenever called upon by the Sanitary Inspectors, provided that, on inquiry made by the Inspectors of Police, the charges appeared to be well founded.

Means of procrastination.

2202. It is hardly necessary to point out how certain this provision is to defeat the object of the law. The Medical Inspector having ascertained that a *contravention*, as it is called, existed on a particular estate, could not himself order its removal, but he must report it to the Inspector-General of Police, who would direct the Inspector of the district to prosecute the contravention, if it appeared *to him* well founded, the contravention, apparently, being in abeyance until the Inspector of Police had confirmed the report of the Medical Inspector. But, as we have remarked before, and cannot too often repeat, the manager or proprietor of the estate would, of course, as soon as he saw the contravention (which might have existed for three months before) had attracted the Medical Inspector's notice, cause its removal; and when the Inspector of Police, supposing he took the trouble to do so, came thither, two or three days afterwards, to "constater" the contravention, as they call it, he would find it had already been removed, and that there were no grounds for prosecution. Though, as soon as the Inspector's back should be turned, the contravention might be repeated for the next three months with impunity.

While doctors are servants of the planters, necessity for inspections.

2203. So long as the Medical Attendants are the servants appointed and removable by the planters, it is very evident that a Medical Inspector is indispensably required. We have seen that planters not only evade the payment of the remuneration required by law, but that in doing so they enter into compacts with their medical men that they, on their part, need not do what the law requires of them, except at their own discretion. It surely, therefore, is necessary that there should be some authority to see that both the planters and the Medical Attendants perform their duty.

It has always been urged that the Stipendiary Magistrate is the proper person to do this, and if they had all done their duty, and those who were inclined to do their duty had been supported, there is little doubt but that we should have heard many complaints against them and of laymen being incapable of doing the work; but, as we have already seen, and shall see hereafter, that those who were inclined to do their duty have not been supported, and that others have not done their work, we have heard no complaints against them. If the law, however, is no longer to be a dead letter, it is necessary for us to see how it can best be carried out.

2204. The Medical Inspecting Officers were three: one the General Sanitary Inspector, who was originally Medical Inspecting Officer for Port Louis, Black River, and Moka; and the other two—Dr. Gouly, Medical Inspecting Officer for Grand Port, Savanne, and Plaines Wilhems, and Dr. Desjardins for Pamplemousses, Rivière du Rempart, and Flacq.

The two last-mentioned were made Assistant General Sanitary Inspectors under Ordinance 18 of 1860; though what their duties are is not defined; and there is no such Officer as Assistant General Sanitary Inspector contemplated in that Ordinance.

Ordinance No. 34 of 1871.

Ordinance 34 of 1871, however, abolishes the office of Inspecting Medical Officer, of whom only one now remains—Dr. Desjardins—Dr. Edwards's place not having been filled up on his departure for England; the district of Moka being given over to Dr. Desjardins, and Black River to Dr. Gouly, who was allowed, in the early part of 1872, to resign the appointment, of which he had from the first made a sinecure, and no successor having been appointed, Dr. Desjardins alone remains, and as the Inspectors of Immigrants are in no way under the control or direction of the General Board of Health, it is to be presumed that the appointment of Assistant General Sanitary Inspector has been done away with in the case of the two others.

Dr. Gouly allowed to resign.

Appendix D, No. 9.

Objection to Inspectors personal to Dr. Desjardins.

2205. It would have been impossible to imagine what objection there could have been to the appointment of Medical Inspectors, if we had not been informed by Mr. Naz that the objection was personal. They knew that Dr. Desjardins

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would be one of the Inspectors, and all concerned objected to him.* There is, however, one obvious objection to the appointment, and that is that the Inspectors had no power, and could do nothing.

Requirments of Ordinance No. 29 of 1865.

They might refuse a certificate for an hospital, and they might enter upon and inspect all hospitals, but, after they had inspected the hospitals and found everything as it ought not to be, they had no power to require things to be set right. Nor were they required by law, though the regulations provided that they should, report to the Governor what they had seen; and even then the Governor had no power to order anything to be done or to enforce any order.

Inspectors had no power, and could do nothing.

Views of the Chamber of Agriculture.

It is easy to understand that the objection might be raised to the appointment because it would fail to secure the desired object; but why the Chamber of Agriculture should object to it because it creates new functions which would prejudice all the "interested parties" (parties interested), it is difficult to understand. The Chamber look to the Magistrates and the Protector of Immigrants to see that the law will neither be evaded nor left inoperative nor remain unexecuted. We have seen how the Magistrates failed and what dependence could be placed upon the Protector.

Minutes of Council, 1865, p. 4, between pp. 376 and 377.

The Chamber of Agriculture proposed, however, that the Protector should be empowered to refer to the Chief Medical Officer all questions connected with hospitals and Medical Attendants, and that the Chief Medical Officer, or a delegate appointed by him, might ascertain whether the laws were properly executed. But they think that the important duty of securing to the agricultural labourers proper hospitals and the best procurable medical attendance could not be entrusted to better hands than those of the Protector of Immigrants.

Fortunately this advice was not taken, and some good has been done by Dr. Desjardins' visits. Dr. Gouly's appointment was an entire failure, as his resignation of it shows, and Ordinance 29 of 1865 requires radical amendment.

Appendix D 34.

Appeal from Magistrates' decisions.

2206. By Article 27 an appeal is allowed to the Supreme Court from every Magistrate's decision, both in law and fact, for any amount exceeding £10 (ten pounds), and by Article 28 the Board of Health have power to frame regulations for carrying out the object of this Ordinance, a copy of which is given in the Appendix.

Board of Health may frame regulations.

Hospitals in Port Louis, and Job Contractors' hospitals.

2207. There remain three subjects connected with the hospitals and inspections which we have not touched upon: the inspection of the Road Department and Government Establishments generally, the establishments in Port Louis, and the Job Contractors' Hospitals.

"Prison hospitals."

2208. Four of the hospitals, known by the name of "Prison Hospitals," belong to the Road Department, namely, those at Mahébourg, Moka, Flacq, and Plaines Wilhems. The prisoners treated in these are treated on sufferance. Elsewhere men of the Road Department are always sent by the Government Medical Officer to the Poor Law Hospital at the expense of the department. When a man gets a slight wound on the road, it is bandaged in the camp, and he stops there and gets full pay. When his wound is bad he is sent to the Poor Law Hospital or Prison Hospital, and loses his pay. There is no Medical Officer for the Road Department in Savanne.

Men employed by the Surveyor-General

April 1867.

Complaints of the Surveyor-General against the Medical Officer of Moka.

2209. On the 5th April 1867 the Surveyor-General reported to Government that he had found a Sirdar in a camp on the Moka Road suffering very much from fever, and, on inquiry, he had been informed that the Medical Officer had not attended the men at that place since about 8 A.M. on the 31st of the previous month.

The Sirdar having been taken ill on the 27th, and the register of the doctor's attendance on the 31st bearing the entry "No Patients," the doctor was called upon to explain.

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* Their objections to him have shown themselves in various ways.

Despatch No. 38, 2nd September, 1871.

The case mentioned by Sir Arthur Gordon in his letter to the Secretary of State, of the Medical Attendant whose prescription was

"Une douzaine de huîtres tous les jours à son déjeuner. Arrosez les huîtres avec du Chablis vieux.
"Filet de bœuf et une aile de volaille rôtie à son dîner. Bordeaux Julien à dose tonique,"

appears to us to be given rather as in derision of Dr. Desjardins than in contempt or mockery of the Indians.

Question 5115, Question 5256.

The case also which Dr. Desjardins mentions of a monkey having leaped upon him from a hospital door, and bitten the top of his nose, and that of the thirty or forty goats which rushed out of the hospital when he opened the door, belong to the same category.

Question 5442 *et seq.*

But the case mentioned by him, in which they sought to entrap him into a quarrel, and, more recently, the case mentioned in his Report for the First Quarter of 1873, in which one of the proprietors of a limekiln at Roche Noire threatened Dr. Desjardins that, if he complained against him, he would get Dr. Desjardins into trouble, are certainly far more serious, and show that a person holding what is considered in this colony the invidious position of a Medical Inspector requires the utmost support from Government.

Requirements of Ordinance No. 29 of 1865.
Medical care of men employed by the Surveyor-General.

He showed that at 8 A.M., the time when he was reported to have visited the hospital he was seven or eight miles off; that it was about one or two in the afternoon when he visited the camp, and, having then inquired for the Sirdar, was informed he had gone for firewood; and that, having been assured there were no patients, he had sent for the register and made the entry. He returned two or three hours afterwards, and again stopped near the camp to change carriages; but the Sirdar did not appear. He added that it was not until the 3rd, when he again visited the camp, that he was informed the man was sick, and when he accordingly ordered him to the hospital at the sixth mile stone. The book not being there, he could not enter his visit.

July 1867.

Complaint of the Surveyor-General against the Medical Officers of Plaines Wilhems and Black River.

2210. Again, on the 11th July 1867, the Surveyor-General complained that Dr. Hugon had not visited any of the camps of the road labourers in Plaines Wilhems during the month of June, except the one at Rose Hill, which he had visited once; and that Dr. Leguen, in charge of the district of Black River, had never visited the camps at Bambous and Case Noyale once during that month, and the one at Tamarin Bay only once.

Explanation of the Medical Officer of Plaines Wilhems.

In explanation of this, the Assistant Colonial Secretary reported that the Medical Officers were bound to visit all camps within six miles weekly, and beyond six miles, monthly.

Explanation of the Medical Officer of Black River.

2211. In reply to the statement of the Surveyor-General, Dr. Reid reported that Dr. Hugon stated, in explanation of his neglect, that he had been very much occupied during the epidemic and had himself been ill; that there had been no serious sickness reported to him at these distant camps; but that, if there had been, he would have taken care that attendance and medicines were furnished.

2212. Dr. Leguen handed up a long explanation, setting forth the unsatisfactory state of nearly all the so-called camps of road labourers, and the want of hospital accommodation, of beds, utensils, and of hospital servants to administer the medicines; and brought a counter-charge against the Surveyor-General's Department, urging that he had applied to the officers of the Road Department for the improvements he required, but that none had been effected except at Petite Rivière; and pointing out that, without the means of rendering the medical service upon the labourers really effective and useful, medical attendance and treatment were useless.

No further notice appears to have been taken of this subject. The letters were filed, and the subject dropped.

July 1868.

Complaint of the Surveyor-General against the Medical Officer of Plaines Wilhems.

2213. Again, on the 21st July 1868, the Surveyor-General complained that, in a case where two road labourers had been attacked by some parties and seriously wounded on the 3rd January, when an Overseer of Roads went with them to the Police Office, in the absence of a medical certificate, no warrant for the arrest of the accused parties could be issued: that, on the 3rd and 4th, officers of the Surveyor's Department wrote to Dr. Hugon to visit the wounded labourers, but neither did the Doctor come himself, nor send any directions upon the subject; and it was not until the 8th that they obtained a medical certificate; and on the 11th the men died of lockjaw.

Explanation of the Medical Officer of Plaines Wilhems.

2214. Dr. Hugon explained that, on the 3rd of January, at eleven o'clock, he received a letter from the Surveyor of Roads requesting him to visit at the hospital at Rose Hill two men who had been beaten, in order to give him a certificate; that it was blowing a hurricane at the time, and that he told the bearer of the letter that he would proceed to the hospital as soon as the weather permitted. Next day he went to the hospital, and found both men with one hand each much swollen and so painful that they would not allow a complete examination. He advised the men to use cold water, and to wait till their hands should be less swollen, when they could be examined again, and dressed if necessary. On Monday he went again to the hospital, and discovered a fracture of the finger on one of them, and the other had his hand still much swollen with an insignificant cut in the skin. He and Dr. Sauzier, who accompanied him, ordered poultices, as they feared that an abscess would result. Dr. Hugon did not visit the hospital after that day, but Dr. Sauzier regularly visited for him; and on the 9th, the third day after Dr. Hugon had given up attending, the first symptoms of tetanus had set in.

The Governor found there was some discrepancy in the accounts, but saw very little ground for complaint, and said the subject might drop.

Bad examples set by Government Medical Officers.

2215. With these examples before them, we need not be surprised at finding that the Medical Attendants upon estates are liable to neglect their duties.

The gardeners at Government House not provided with hospital accommodation.

2216. The gardeners working at Government House, Reduit, are under the control of the Surveyor-General, and in the Appendix will be found a report upon the case of one Kristnaraion, who had been ill for fourteen days, and received no medical care, but had his pay cut for the time he was not working. The Surveyor-

Appendix D 35.

Requirements of Ordinance No. 29 of 1865.

General has promised that similar cases shall not occur again: but these are sufficient to show how utterly regardless that department is of the requirements of the labourers employed by it.

Inspection of establishments in Port Louis, and Job Contractors' hospitals.
Establishments in Port Louis.

2217. Hitherto the establishments in Port Louis, except for the Medical Inspector's visits, have, apparently, been left entirely to themselves.

The Stipendiary Magistrate in Port Louis was unable to give the Inspector any information regarding the number of men engaged by the different employers in the district of Port Louis, though the General Board of Health appear, from the 13th Regulation they published, to expect that much information might be obtained from Stipendiary Magistrates; but it was not until 1869 that the Medical Inspector discovered that in Port Louis the Magistrate could furnish none.

Statistics.

Most of the establishments in Port Louis send their sick to the Civil Hospital, though a few have small hospitals for the treatment of the more trifling cases. There were in 1866 twelve establishments in Port Louis, employing 1824 men; and at the end of 1871 there were ten establishments, exclusive of the railway, employing 1950 men. As all serious cases, if the labourers are willing, are sent to the Civil Hospital, there is not much to remark upon with regard to these hospitals; the statistical information is better than that furnished from the districts, but, relating only to 2000 men, is not of much value, with a population of nearly 100,000.

Job Contractors' hospitals.

2218. As regards the Job Contractors. Article 3 of Ordinance No. 29 of 1865 requires every Job Contractor employing 30 servants, or more, either to have an hospital on the premises belonging to or hired by him, or to make an arrangement with the owner or lessee of the estate on which his men work, to have sufficient accommodation in the Estate's Hospital for them, and to notify it to the Stipendiary Magistrate.

Appendix D 18. Report, pp. 49-66.

On the 3rd July 1869, Dr. Desjardins noticed in his Report that two Job Contractors, Yapermal and Alcide Fabre, had had neither hospital nor register for six months; but it is hardly necessary to go into further details, since in his Report for January 1872 he complains:

Dr. Desjardins' opinions.

"Les entrepreneurs augmentent tous les jours, et leurs hommes (sauf quelques "exceptions) ne reçoivent pas de soins médicaux; cela est sur-abondamment "prouvé par le note qui revient si souvent dans nos Returns (No sick during the "quarter). Il se fait une convention entre ces entrepreneurs et les médecins pour "la signature de leurs Registres d'Hôpitaux, à l'hôpital de l'Etablissement où ils "sont employés. Mais il arrive que les entrepreneurs changent d'Etablissement, "emmènent leurs hommes ailleurs et que le Registre reste toujours à la disposition "de leur médecin, qui les vise au même hôpital, et sans savoir où sont les hommes. "J'ai constaté le 4 courant que les Registres d'Hôpitaux, des entrepreneurs L. "Lieutier et Legras employés à 'Beau Vallon,' No. 45 de Flacq, étaient visés sur "cet établissement jusqu'au 28 Décembre, quoique ces entrepreneurs l'eussent "quitté depuis le 20 Novembre. Le Dr. Cordouan, leur médecin, n'a été ici que la "dupe de ces entrepreneurs, et n'a rien inscrit d'ailleurs sur leurs Registres "d'Hôpitaux que les mots habituels 'Pas de Malades,' ce qui l'exonère complète- "ment. Mais ces entrepreneurs qui sont allés travailler sur une autre propriété, "et qui n'ont fait aucun arrangement avec le médecin de cette propriété, ni avec "l'Administrateur pour faire soigner leurs malades à son hôpital, sont par le fait restés "un mois et demi en dehors des recommandations de l'Ord. sur les soins médicaux.

Case at "Beau Vallon."

"Ces faits ne sont pas rares, mais je ne puis, par malheur, en avoir connaissance "que lors de mes tournées et quelquefois trois ou quatre mois après.

"Les entrepreneurs devraient être astreints chaque fois qu'ils changent d'Etablisse- "ment à en informer l'Inspecteur Médical, afin que celui-ci puisse s'assurer s'ils "remplissent les formalités voulues par la loi.

"Il arrive tous les jours que les Magistrats Stipendiaires, usurpant des droits qu'ils "n'ont pas, autorisent les entrepreneurs à loger à peu près indistinctement leurs "malades à l'Hôpital de l'Etablissement sur lequel ils travaillent, et *violent* aussi "ouvertement la loi qu'ils croient *applicable dans tous les cas*. Il en résulte que les "entrepreneurs font très-peu des cas de l'Inspecteur Médical et le narguent à leur "aise. L'Ordonnance No. 29 de 1865, dit pourtant bien formellement que "l'Inspecteur Médical est l'Officier chargé de l'exécution de cette Ordonnance. "Cette Ordonnance a fixé les dimensions que doivent avoir les hôpitaux suivant le "nombre d'hommes employés sur chaque propriété, et ne permet pas qu'on mette "dans ces hôpitaux plus de lits, soit de malades, qu'il n'y a de place à raison de 60 "pieds carrés pour chaque lit. Or, il arrive le plus souvent que les Magistrats "Stipendiaires acceptent, sans y regarder, la déclaration des propriétaires qui "emploient des entrepreneurs, et qui leur accordent place dans leurs hôpitaux pour

Requirements of Ordinance No. 29 of 1865. Job Contractors' hospitals. Dr. Desjardins' opinions.

" 50 et 100 hommes de plus que ne leur permet la dimension de ces hôpitaux. Les " Magistrats Stipendiaires se rendent coupables dans ces cas d'une usurpation des " fonctions et d'une véritable violation des dispositions de l'Ord. No. 29 de 1865. " L'Inspecteur Médical seul a le droit d'autoriser un entrepreneur à loger ses " malades dans tel hôpital, parce que lui seul connaît les dimensions de tous les " hôpitaux qu'il a été chargé de mesurer et de cuber, et ce n'est que quand " l'Inspecteur Médical a certifié que tel hôpital a assez de place pour tant " d'hommes, *en sus de ceux de l'Etablissement lui-même*, que le Magistrat Stipendiaire " peut considérer que l'entrepreneur est en règle et a un hôpital à sa disposition. En " dehors de ce qui précède il n'y a que subterfuge et confusion.

" Si j'excepte quelques Grands Entrepreneurs qui donnent des soins consciencieux " à leurs hommes, je dois dire qu'entre les petits entrepreneurs et leurs hommes il " y a une sorte d'entente au sujet des journées de maladie, qui a pour résultat de " laisser l'Indien complétement libre de ne pas se déclarer malade, afin de le " considérer comme illégalement *absent* de son travail, et de profiter du bénéfice de " la loi pour lui couper deux jours de paye, au lieu d'un seul qu'on a le droit de lui " retrancher *quand il s'est déclaré malade*. L'Indien s'inquiète peu de perdre " quelque chose de son argent, ce qu'il aime par-dessus tout, c'est de jouir d'une " certaine liberté et de disposer d'une partie de son temps comme il l'entend et " quand le caprice lui en prend. Qu'il se soit promené ou qu'il ait été réellement " malade, il ne songe nullement à se plaindre, si à la fin du mois, il touche la " moitié de son argent. Voilà l'explication de cette absence presque complète de " malades mentionnée sur mes Returns, à l'endroit des entrepreneurs en général, et de " cette phrase si souvent répétée

" 'No sick during the Quarter.'

" Indépendamment de cette sorte de convention entre le petit entrepreneur et ses " hommes, on conçoit que l'Indien Ancien (Old immigrant) se soucie peu de faire " acte de présence dans un hôpital qui lui est tout-à-fait étranger et qui se trouve le " plus souvent très-éloigné de la case où il est obligé de laisser sa femme, ses enfants " et ses animaux. Il est naturel qu'il aime mieux s'y faire soigner par eux, que " d'aller dans un hôpital se mettre entre les mains d'un infirmier qui souvent est " d'une caste antipathique à la sienne. Ainsi donc l'autorisation accordée par " l'Ordonnance aux entrepreneurs de faire soigner leurs hommes dans les Hôpitaux " des Etablissements où ils travaillent, n'a d'autre effet que de faire échapper ces " hommes à l'assistance médicale. C'est une raison pour que les Magistrats " Stipendiaires n'accordent pas légèrement aux entrepreneurs la facilité de loger " leurs malades dans tous les hôpitaux ; la question d'hôpital devrait être la pierre " d'achoppement des entrepreneurs et c'est au contraire celle sur laquelle on passe " le plus facilement."

Stricter enforcement of the law needed.

Which shows, if anything further were necessary, that the law of hospitals, as regards Job Contractors, must be made more strict and be more strictly observed; though, as regards the returns of "No sick" and "No sick during the quarter," it must be borne in mind that Job Contractors' men are generally picked men, and that the weak and sickly are not often found on their establishments.

State of hospitals since Ordinance No. 29 of 1865.

2219. We have already seen, from the Magistrates' Reports, the state in which the hospitals were prior to Ordinance 29 of 1865 coming into operation; that is, before 1866; let us now see what they have been since, according to the same Reports.

Black River.

In Black River the hospitals had not been completed on the Magistrate's visit in July 1866, but the planters showed good-will to conform to the new law. In January following, he reports the hospitals in general very satisfactory, but excepts "Mon Desir" as little better than a common hovel. In February 1868 the hospital at "Black River" Estate is instanced as an exception to the general good state of them.

Appendix D, No. 1.

The hospital books, however, are mostly badly kept, and the Medical Attendant, who, he has reason to believe, does not in *bonâ fide* pay all the visits he enters in the books, has not paid more than 50 per cent. of those legally due. In one case, "Chamarel," only five visits were paid where 52 were due, but the doctor had all the work of the district, except visiting one estate; and that work included Government dispensary, Government vaccination, the prison, the police, road labourers, as well as the duties of Government Medical Officer, holding inquests, or, as it is called here, making the autopsy.

In July 1869 the state of the hospitals fell off; the reason assigned was that the Indians did not like being attended in hospital; and so at "Chamarel," the stables having been blown down by the hurricane in March 1868, the hospital was required for the stables,

and the estate was left without an hospital. In January 1870 the hospitals were reported in general good, with the exception of "Gros Cailloux," with the roof out of order and damp, and "Albion," said to be very bad and very small. We found them much in the same state when we visited them two years later. In July of the same year, they are reported generally good, though some might be better, but they were generally untenanted, the Indians having probably discovered that they were not to be improved, and the planters that, so long as they remained in their present state, the Indians were not likely to use them. So, in January 1871, they were reported generally good or tolerable. In July they were reported not so good as they ought to be, and in January last year that they might be better kept, but the

State of hospitals since Ordinance No. 29 of 1865.

" hospitals in most cases are only kept to satisfy the requirements of the law."

Pamplemousses.

2220. In Pamplemousses the hospitals had not been completed in January 1867; and in July 1868 most of them had been blown down, unroofed, or greatly damaged by the hurricane, and, of course, the repair of the hospitals was postponed till the repairs of mills, camp, and sugar-houses. "Ville Valio" was found dirty, and the yard full of weeds. At "Rouge Terre," four men were residing in one of the rooms of the hospital. At "Antoinette," convalescents were splitting aloe leaves, which the Magistrate forbade. At "Beau Plan," the hospital was used to lodge a band of Indians. At "St. Médard," the hospital was closed, and at "California," the doctor's visits were written on fly-sheets.

Appendix D, No. 2.

So, in July following, the irregularity of the doctor's visits called forth the Magistrate's remarks, as did the very dirty state of "Ville Valio" and "Agrément," to such an extent, that Mr. Renouf next day sent the Police Inspector to "constater" them (as it is called) as he had himself gone the year before with the Police Inspector to constater "Beau Plan," but on all three occasions everything was found, as might be expected, correct. In January 1869 the beds were reported insufficient at "l'Amitié;" at "Nicolière" there was no wardman; "Ville Valio" still wanted repairs; at "Sottise" there was only one bed, the rest in the sugar-house; at a Job Contractor's hospital the medicines were locked up, and the Hospital Attendant had gone with a sick man and the hospital register to the doctor's house; at "Mon Espoir" there was no medicine, but when the Police Inspector went to "constater" the fact the medicines had been furnished.

There was evident improvement in January 1870; but in August of the same year the hospital at "St. Médard" was still found closed, and "Ville Valio" in want of repair, and the hospital book not written up from 1st January to 5th May; and the same complaint was made in January 1871, when the hospital at "California" was found full of vetivert; and these are the last reports he made.

2221. From Rivière du Rempart and Flacq we have no general reports.

Rivière du Rempart and Flacq.

In January 1868 Dr. Finnimore excuses himself to the Magistrate for the irregular attendance on the score of the great influx of sick and convalescents into that part of the Island, and the difficulty he has in making visits to out-of-the-way estates and estates to which there are bad roads, which we have touched upon before, but which we shall have to consider further, when treating of the required reforms.

Appendix D, No. 2, pp. 18, 19.

Plaines Wilhems.

2222. We have found no information regarding Plaines Wilhems until March 1868, when Mr. Martindale makes the following Report as to the manner in which the medical service is performed on the estates in that district:

Mr. Martindale's Report in 1868.

" I have much pleasure in stating that I have found the hospitals on the estates " in the district of Plaines Wilhems well provided with medical comforts for the sick, " and kept up, with one or two exceptions, in a satisfactory manner. I ascertained " that the visits of the Medical Attendants had been duly and regularly made on the " premises. I questioned the Hospital Attendants, and gathered from them, as well " as from other sources, that the sick had been well provided for, and every care " bestowed upon them; and I could not discover a single instance where a patient " had been sent to the house of the doctor for medical treatment.

" It is true that on some estates I had to find fault with the manner in which the " hospital was kept, but found the managers or proprietors ready to execute any " direction which I considered it necessary to give in respect thereto.

" For instance, I found on 'Beau Songes' Estate the hospital in a very filthy " state and the bedding inferior, although there was a good supply of medicines on " hand, and the medical attendance regularly given. The hospital has since been " put on a satisfactory footing.

" On 'Good End' Estate, the hospital was not provided with an attendant; at " least, a Sirdar was appointed to look after the sick in the morning, and made to " work in the fields afterwards. I pointed out to Mr. Bonnefin, the proprietor, that

State of hospitals since Ordinance No. 29 of 1868.

Plaines Wilhems.

Mr. Martindale's Report in 1868.

"the Sirdar's sole occupation should be to attend upon the sick, and I have reason "to believe that Mr. Bonnefin has adopted the course pointed out by me.

"On 'Richelieu' Estate, I found the hospital closed, and no attendant. I "pointed out to the manager that the hospital should be kept open, and an "attendant provided, whose sole occupation should be to look after the sick. The "manager promised to attend to my instructions, and I will ascertain if he has done "so when I next visit that estate.

"As regards the Job Contractors, the men in their employ are all provided with "medical care, and have access to the hospitals on the estates on which they are "employed, with the exception of Mr. Marquay's. That gentleman has entered into "an agreement with the Sisters of Charity of Plaines Wilhems to provide for his "sick servants, and sends them to the hospital attached to the convent, where there "is ample accommodation for them, and they are most tenderly cared for. Mr. "Gallet likewise avails himself of this establishment for the treatment of his "men.

"On the occasion of my visit to 'Alexandra' Estate, I found the hospital com-"pletely destroyed by fire and a temporary hospital erected for the accommodation "of the sick. The hospital was an excellent one, and a new one, on a large scale, "is being put up.

"In the case of 'Villa Franca' Estate, I found several Indians suffering from "fever; four persons having died previous to the day I visited the estate.

"I regret to have to state that upon inquiry I ascertained that the dead, as well "as the survivors, had not been attended to by a medical practitioner, although "they had received medicines from Mr. Perrier, their employer, through a Sirdar.

"Mr. Perrier was suffering from fever, and prevented in consequence from visiting "his sick servants. I proceeded to Mr. Perrier's premises, and although I could "not compel him to put up an hospital, the number of men in his service being "under 30, still I insisted upon his engaging the services of a medical practitioner "to attend his servants, which he complied with, and the sanitary state of his "camp has since improved, and continues to be satisfactory."

Moka.

2223. We find but one Report from Moka, and that so early as July 1866, in which Mr. Gautier reports that the state of the hospitals in general, watched by the Medical Inspector, has improved remarkably, and that he is able to assert positively that the patients on the estates, either because they consider it an obligation or from other cause, no longer object to go to the hospitals.

Savanne.

2224. The only district that remains for us to consider is Savanne.

In July 1868, Sir Gabriel Fropier pointed out that "other sleeping-places," as used in the Ordinance, did not prevent Mr. de Belloguet, at "Bel Ombre," furnishing "mats" only for the patients in the hospital, as we have mentioned before. But since that he and his successors have not made any remarks worth noticing on the state of the hospitals in Savanne, until in March 1872, Mr. Daly, recently appointed Stipendiary Magistrate, made a most searching visitation of the estates, and his Report is given in the Appendix; but, what he says about the state of the hospitals generally is so applicable to the whole Island, that we are induced to give that part in extenso:

Appendix D, No. 3, p. 18 *et seq.*

Mr. Daly's remarks upon Hospitals in Savanne in 1872.

"The outer and general features of nearly all the hospitals in this district are "the same. I may except those at 'Surinam' (a large stone building), 'St. Felix' "(an extensive range of buildings), 'Bel Ombre' (a series of wards and chambers, "with one large sick-room), 'Bénarés' and 'Savannah' (lofty, airy, and extensive "buildings).

"The average hospital is some old dwelling-house converted into one long room, "and the front verandah being cut short at each end by two small rooms, one "usually a dispensary, the other an Infirmarian's abode, but in some cases an "empty room intended as a receptacle for the dead. I certainly cannot complain "for the want of space that any of these buildings afforded, because they were "generally speaking empty when I visited them. The condition of the hospital "at 'Frédérica' Estate was inexcusable; a house of some five rooms was filled "with the families of labourers, and in the centre of the building a small chamber, "about 12 feet by 8 feet was opened, and shown to me as the hospital.

"It contained but one broken wooden settle, and the medicines were all kept at "the manager's house.

"Except at 'Bel Ombre,' I have not seen any attempt for the care of women in "hospital.

"I do not wish to comment on matters which certainly strike me forcibly as

State of hospitals since Ordinance No. 29 of 1865.

Mr. Daly's report upon Savanne in 1872.

"being altogether wrong, without quoting, as I have always done, the opinions and "argumentson the other side, which are usually given in answer to inquiries.

"It is said that the women will not on any consideration repair to hospital, that "it is contrary to their creed, caste, honour, and inclination.

"As to this point I have no means of deciding. It certainly is impossible for "women to be treated in the hospital of this district.

"With a few exceptions I found the hospitals empty. At 'Choisy' there was "no hospital. At 'Frédérica' there was one deserted room in a crowded building, "called a hospital, three or four families occupying the chief rooms, and one "small apartment and a broken wooden stretcher left untenanted to represent "the hospital. At 'Combo,' the property of the Ceylon Company, there were "no beds.

"The practice is to retain in hospital none but the very serious cases. The sufferers "from passing ills receive their dose in the morning, are marked as sick in the books, "and go to their homes.

"The record of all this is so very imperfectly kept, that there is no possibility of "tracing the distinctions between those treated in and those treated out of the "hospital.

Is there any kitchen? Any latrines? Any hospital dress? What are the beds, and how many?

"The series of inquiries I have noted in the margin relate to physical facts, which "I endeavoured accurately to ascertain, and have noted in the special tabular report "respecting each estate. I may, however, state generally that the beds are of "various kinds, and are not all fit for the use of sick persons. They have no "form. On one estate I found neat iron bedsteads,—this was at 'St. Felix;' the "freshness and cleanliness which their appearance evidenced were greatly in con-"trast with the majority of dingy wooden frames, which, with dirty sacks of cane-"straw for bedding, constitute the furniture of most hospitals.

"The attendants, on most occasions of my visits, had to be summoned to produce "the key and admit me to the hospital. It is evident that these functionaries have "no very great interest in retaining the sick in hospital or keeping them under "their care.

"None of the hospitals seem to have a regular dietary scale, such as is usually "provided under the regulations of public hospitals.

"The ordinary rations are sought and obtained by the patients themselves at the "distribution of rations. I found great uncertainty existing on this point. In "general, even the inmate of the hospital had to betake himself with all the other "labourers to the place where they are distributed to get his rations, but on many "estates only half his usual allowance. There are many entered on the books as "sick, and not remaining in hospital, who are admitted as quasi-invalids because "they have asked for and merited a day of rest.

"There are many others who pretend to be sick who are not really so, but whom "the manager is unwilling to dismiss as sound and well.

"To discourage such as these, the practice of only giving half rations had been "adopted.

"However, in respect of any immigrant marked as sick, and treated as such, "the diminution of rations is illegal. It is a custom almost universally adopted, "but I can find no authority for it.

"In the more serious cases the doctor's prescriptions are usually carried out, "and on many estates great care and tenderness is bestowed in cases of danger. "On some estates the Infirmarian cooks the food of the patients; but I should think "generally the families of the sick performed that duty. In fact, the hospitals are "very little used, except in very severe surgical cases or where the patient has no "family to attend on him. In almost all other cases the sick remain in their "huts. Upon this point there is much to be desired in the way of amendment "of the law. The doctor often contends that he is not bound to visit the sick "except in hospital. Yet there are no means for actually compelling residence in "the hospital.

"As to the doctor's entries in the hospital books on this subject, they are perfectly "illusory. These books contain a column for the entry of those 'treated out of "'hospital,' and yet one never finds an entry of any kind in that column. As a fact "I know that many of both sexes are so treated: and yet, if entered at all, they "are named as having been treated in the hospital. This is too vast a subject for "me to deal with in the limits of this Report. It will soon be under a skilful "investigation.

State of hospitals since Ordinance No. 29 of 1865. Savanne.

"The hospital system at present is the greatest difficulty in the management of "estates.

"In certain recent trials of medical men in this district, which have already been "reported on to His Excellency, there was some evidence of this; but had it been "intended to carry out with full rigour all that might have been brought up as a "matter of prosecution, on that occasion there would have been much more irregu- "larity brought to light than at present appears.

"There were other estates on which the same irregularities had occurred, and "there were other cases of neglect which might have been noticed.

"The hospitals, like the camps, are usually supplied by the river or canals, or "from reservoirs close at hand."

Results of Ordinance No. 29 of 1865. Notification of names of Medical Attendants.

2225. We will now see the results of this law, as shown by the number of complaints made to the Magistrates, and the way in which they have disposed of them.

For the six years the law has been in operation, four planters have been accused of not notifying the names of their Medical Attendants, and three have been punished. Seven have been accused of not notifying the change of their Medical Attendant, and six have been punished.

Suits for fees due to attendants.

Two Medical Attendants were summoned for not paying the stipulated number of visits, but were not punished; and 102 complaints were lodged by Medical Attendants against planters for the recovery of their remuneration, and 91 were decided in the doctors' favour, and 11 dismissed.

2226. Let us now see what information we get upon the subject from the Mortuary Returns, which supply the place here of the Coroner's inquests; and, though they do not establish every fact they assert, and cannot be accepted as positive proof of all things contained in them, are of great value as showing what happened and the opinion that was formed at the time of the occurrence—in fact, good exponents of public opinion.

Before Ordinance No. 29 of 1865 came into operation—that is, during the last half of that year—we find the following cases, among others, of persons who had died in consequence of the defective state of the hospital system:—

Post mortem returns, Pamplemousses. No. 11 of 1865.

Bhuguth.—2nd July 1865.

This man, a labourer on the "Mount" Estate, had been ill for several months past with venereal disease, and had not come near the hospital for several days when he was discovered hanging in his hut.

It is supposed that, being disgusted with his life, he destroyed himself.

No. 27 of 1865.

Doobree.—26th October 1865.

This man was found hanging in his hut, in the camp of "Belle Vue" Estate The autopsy proved him to have been suffering from acute inflammation of the bowels, which doubtless urged him on to commit suicide. He was very infirm and unable to work, and lived by charity; no suspicion of crime.

No. 44 of 1865.

Gheedarry.—27th December 1865.

This man, a labourer on "Sottise" Estate, reported himself ill at roll-call in the morning, but was told to go to work, instead of which he went out and got drunk; and on his return to the estate went to his hut and hanged himself to the rafters. He was discovered still alive, and was immediately cut down, but died some hours afterwards.

Rivière du Rempart. No. 13 of 1865.

Jugroop.—20th September 1865.

Deceased was found hanging in a shed on "Mapou" Estate. Mr. Beline states that deceased had been in hospital and ailing for some time: but the nature of his disease being unknown, Dr. Reilly was of opinion that deceased merely assumed sickness in order to be excused from work.

Deceased had always been eating his rice with a good appetite, and was in hospital the night previous to his suicide.

Grand Port. No. 6 of 1865.

Antony.—13th August 1865.

Deceased, a cook, was a great drunkard, and subject to fits of derangement, during one of which he hanged himself in the stable of Mr. Clarke, and was discovered and cut down almost immediately; but no doctor could be obtained.

No. 13 of 1865.

Lachoomanen.—15th August 1865.

Deceased worked as a carter in the employ of Samoogum, a Job Contractor, on "Beau Fond" Estate, and at the latter end of July fell from his cart, and broke his knee; and, no medical attendance having been sent for, he died from that cause.

Savanne. No. 1 of 1865.

Khodayarkhan.—2nd June 1865.

It appears that deceased, who was a labourer on "Fontenelle" Estate, had been

sick for some days and unable to work. He was suffering from fever, and had been beaten by a Sirdar named Anasamy. He became despondent and hanged himself by his capra to a beam projecting from the back of the stable. His feet were touching the ground.

Post mortem returns. Savanne.

Mardhan.—25th October 1865.

No. 14 of 1865.

Deceased was burnt in his hut on "St. Felix" Estate. It seems the camp, consisting of fourteen straw huts, was entirely destroyed by fire, in the embers of which Mardhan's body was found. He was a New immigrant, and had been sick on the 24th instant, and was sent to his hut. On the same day his hut was observed to be in flames. It is supposed the accident occurred while cooking, and that, being too weak to make his escape, he perished in the flames.

Ahwandee.—12th December 1865.

No. 16 of 1865.

Deceased was a labourer on "Bel Ombre" Estate, and was found suspended from a rail in front of the Estate's Hospital. It seems deceased was a newly-arrived immigrant, and had been an inmate of the hospital from the time of his arrival on the estate. He was in a very advanced state of dysentery, which caused him to commit suicide, it is supposed.

2227. These cases are sufficient to show the state in which the hospitals were previous to the passing of Ordinance No. 29 of 1865, and we do not find that things have improved since. Here are men dying in their huts, after long periods of sickness, without seeing a doctor, or being apparently inquired for; and men who go to hospital, who hang themselves during the absence of the attendant; and a man who breaks his knee, and dies a fortnight after, because no Medical Attendant was sent for.

2228. So likewise, since the Ordinance came into operation, we find:—

Pamplemousses. No. 46 of 1866.

Bhowsagur.—4th January 1866.

This case was reported as one of sudden death; but, from the inquiry, it appears that the man, a labourer on "Belle Vue" Estate, had been suffering in his hut, but had not complained to the manager, and consequently no medical assistance had been given to him. No suspicion of crime.

No. 51 of 1866.

Hosseinbuccus.—28th January 1866.

The deceased, an immigrant, who had only arrived on "Triolet" Estate, on the 6th January. From that date to the 25th he did no work, and appeared to be in very low spirits. He disappeared on the 25th, and was not again seen till the body was found hanging on the 29th. The autopsy disclosed that the deceased had been for some time previous to his death suffering from acute inflammation of the intestines, which doubtless urged him on to commit suicide.

No. 65 of 1866.

Gopaul.—3rd April 1866.

This man, a labourer employed by Mr. Bertrand Bianca, had complained early on the morning of his death that he did not feel very well. He was told to remain at home that day, and, at about 7 o'clock, he was seen in a sitting posture before his door, apparently satisfying a want of nature, when he fell backward and expired a few minutes afterwards.

No. 113 of 1867.

Munsaram.—27th January 1867.

Deceased, who was a labourer on "Beau Plan" Estate, stated that on the 21st and 22nd instant he had fever. He then left the estate, and was not found until the 26th. The body was in a very decomposed state. He had fastened a cord round his neck, and attached it to a tree.

No. 154 of 1867.

Halmonta.—30th November 1867.

Deceased was a labourer on "Grande Garde" Estate, and had been unwell some time previous to his death, and his body was found in a cane-field shortly after he was missed. From the autopsy it appears that he died from inflammation of the intestines.

No. 159 of 1867.

Geindenee.—3rd December 1867.

Deceased was a labourer employed on "Constance" Estate. He had been suffering for some time previous to his death from inflammation of the intestines, and was found dead in the camp of the estate.

No. 340 of 1869.

Mungroo.—26th December 1869.

The deceased, a labourer on "Belle Vue" Estate, had been suffering from fever for some days past, but refused to go to hospital, preferring to remain in the hut of his father, "Gunputh," a labourer on the same estate.

Finding deceased no better, he (Gunputh) advised him to go to hospital; but deceased still declined, and in the morning was found dead in his hut.

No. 466 of 1871.

Mulliab.—17th March 1871.

Deceased, a labourer on "Mon Rocher" Estate, had been suffering from dysentery

Post-mortem returns.

and fever, and had been discharged from hospital this morning about 9 A.M., and was found hanged in his hut some time afterwards. Deceased committed suicide while under the effects of dysentery and fever.

Rivière du Rempart. No. 41 of 1866.

Poorun.—21st July 1866.

Deceased was found dead in his hut on "Mon Triomphe" Estate. He always was a good workman, and had been complaining of a pain in his chest a few days previous to his death.

No. 45 of 1866.

Poonaye.—19th August 1866.

Deceased, a labourer engaged to Ayasamy, a Job Contractor on "Beau Séjour" Estate, had been ailing for some time past, and was found dead in his hut, about 2 o'clock this day. No suspicion of crime.

No. 50 of 1866.

Khodabuccus.—15th September 1866.

It appears that deceased, a labourer on "Réunion" Estate, had been ailing for some time past, but always did his work until the 12th instant; about 5 o'clock in the afternoon (15th instant), when the hospital guardian, making his rounds, found deceased lying in his hut quite dead.

Death from natural causes.

No. 57 of 1866.

Persaud.—17th October 1866.

Deceased had been sick in hospital on "Mapou" Estate, from which he was missing on the night of the 16th instant, and was found the next morning by the night-guardian hanging to a beam in a shed. No reason can be assigned for his committing suicide.

No. 173 of 1869.

Danhoo.—14th July 1869.

Deceased, aged 51, a labourer on "St. Antoine" Estate, was found hanging in his hut.

It appears, from inquiry made, that he committed suicide while in a despondin state of mind, caused by illness, inability to work from the same cause, and the infirmities of age.

2229. We find but one case in Flacq; but that, strange to say, occurs in one of the best conducted hospitals in the island:—

Flacq. Case at Beauchamp in 1870.

Varathan.—9th May 1870.

A labourer on "Beauchamp" Estate; had for the last four months been an inmate of the hospital, continually suffering from fever and dysentery. This morning, when the doors of the hospital were opened, the deceased was seen hanging from a tree by his capra. Meelany, a Creole, in charge of the hospital, says the deceased went to bed with the other patients the night previous, and on their rising the following morning, he was found hanging by the neck to a tree in the hospital yard.

Grand Port. No. 99 of 1866.

Rughoobur.—18th September 1866.

Deceased, a labourer on "Eau Bleue" Estate, had been suffering from dysentery for about a month previous.

His wife left him for a few moments to fetch water, and on her return found him suspended by the neck to a rafter. She gave the alarm, and when Mr. Numa André came, was still warm, but to all appearance dead. They did not cut him down, but left him in the same position till the police came.

No. 171 of 1867.

Peonien.—24th August 1867.

Deceased, who had been in a delicate state for some time, died whilst cutting canes. His death was reported by Sinegum-Radachey, Job Contractor of "Sauve "Terre."

No. 206 of 1868.

Madoo.—20th January 1868.

Deceased, a labourer on "Les Marres" Estate, had been ill for some time; got better and resumed his work, until the 20th instant, when he died suddenly.

No. 286 of 1869.

Byra.—9th April 1869.

It appears that deceased, a labourer on "Union Vale" Estate, had been suffering for some time previously; and, on account of neglect and want of medical treatment, grew worse, and was sent to the hospital by Mr. Pipon on the 7th instant, where he died a few hours afterwards.

No. 315 of 1870.

Bhugowath.—4th January 1870.

For some time past the deceased had been suffering from rheumatism. Emile, a Creole, on the estate "New Grove," saw him yesterday at the hospital. He was offered some medicine, but would not have it. He then went to his hut, which is a little apart from the others. He was not seen again until this morning, when he was found hanging dead from one of the rafters of his hut.

Post-mortem returns. Grand Port. No. 318 of 1870.

Apparoo.—27th January 1870.

Deceased, a labourer on "Astræa" Estate, had a quarrel with a Bombay Indian on the morning of the 27th, and complained to the manager that he had been beaten; the manager told him to go to his hut, and that he would inquire into his case. At half-past 2 P.M. the same day he was found dead, hanging in his hut. There were no marks of struggling in the hut, so it led to the belief that he committed suicide.

The Government Medical Officer gave it as his opinion, that long-standing disease had brought on a depression of spirits, which, added to the irritation caused by the quarrel, induced him to put an end to his life.

No. 363 of 1871.

Seetohul.—12th July 1871.

Deceased was a patient in the hospital of "Marc d'Albert" Estate with fever. About eight days ago he deserted from the estate, and on returning was placed in hospital, being sick. During the past night he hanged himself, while the guardians were asleep. He is supposed to have committed suicide "on account of deserting, which seemed to prey upon his mind."

Black River, No. 16 of 1866.

Arjoon Sabajee.—8th February 1866.

Deceased, a labourer on "Yemen" Estate, had been suffering from illness and bodily infirmities for some time, and was unable to earn his living as a labourer. He became despondent, and committed suicide by hanging himself in his hut.

No. 101 of 1868.

Nunnoo.—11th April 1868.

Deceased was found in an abandoned hut on "Yemen" Estate in a very advanced state of decomposition, and is supposed to have died from want of proper medical care.

He belonged to the band of Pyandee, a Job Contractor, who had worked on the estate; but when the band left, remained behind, being sick with fever, and his time nearly up, and he lived with one of his friends at "Yemen."

No. 133 of 1870.

Mooniapah.—27th June 1870.

Deceased, a labourer on "Médine" Estate, had been suffering from fever some days, without its being known to the book-keeper.

Savanne. No. 19 of 1866.

Madeena-Sahib.—12th January 1866.

Deceased, a labourer at "Chamouny" Estate, died on the 12th January; and Mr. Constantine, the proprietor, having reported the death, got a permit of burial.

The widow, Saidoo, said that her late husband had been severely beaten and kicked by the Sirdar Brehia on the 30th December, and that she believed it was the cause of his death. The burial was stopped, and the Government Medical Officer made an examination, and found abrasions on his skin, not sufficient to cause death, but that deceased had died of typhus fever. Mr. Deenah, the book-keeper, said that Madeena-Sahib had been ailing since the 29th December; that he came to him for treatment. He saw abrasions on his skin, and, he thinks, on his breast, which Madeena-Sahib said had been caused by his falling among rocks. Gadiah, a labourer, however corroborated Saidoo's statement, and Brehia was arrested and taken before the District Court for assault, and was condemned and fined £1 (one).

No. 23 of 1866.

Dursun.—23rd February 1866.

Deceased, a labourer on "Beauchamp" Estate, had been sick and was sent to hospital, but went away on the 19th, and was not again seen till found lying dead in a cane-field.

From the autopsy performed by Dr. Tyack, it is supposed that he died from natural causes, as there were no marks of violence, and he had been suffering previously.

No. 183 of 1870.

Murday.—19th October 1870.

Deceased, a labourer on "Savannah" Estate, had been ailing for some time before his death; and the illness not having been reported to his employer, suspicions were aroused as to the nature of his disease, and a post-mortem considered necessary, the result of which proved that death was caused by disease of the lungs.

No. 194 of 1870.

Lauloo.—25th October 1870.

Deceased, a labourer on "Savannah" Estate, had been sick for some time, unknown to his employer.

The autopsy proved that he died of old age and natural causes.

No. 242 of 1871.

Polthanah.—29th October 1871.

It appears that deceased, a labourer on "Bel Ombre" Estate, had been in

Post mortem returns. Savanne.

hospital for two months, suffering from dysentery; and during the absence of the hospital guardian, between six and seven o'clock in the morning, hanged himself to the bar of one of the windows.

There is no doubt that despondency, caused by his long illness, induced him to commit suicide.

No. 252 of 1872.

Pudaruth.—18th March 1872.

Deceased, a labourer at "St. Avold" Estate, had been illegally absent from his work since October last, and during that period had been most of the time sick in his hut, unknown to the manager of the estate.

The autopsy proved that he had died from dysentery, accelerated by want.

Evidence of the post mortem returns.

2230. It therefore appears very clear that the new law made no change in the practice under the old law, when, eight years ago, as mentioned in the early part of this chapter, the Chamber of Agriculture recorded that persons under contract of service on the estates of this colony have never failed to have the advantage of medical attendance, and that the planters have always had at heart to give their men the best medical care which could be obtained in their districts and the best sick attendants they could procure; but still the sick are allowed to commit suicide, and, as in the last case, a man is left sick in his hut for more then four months, and the manager is content to mark him "illegally absent." Do not all these cases show that there is an entire failure to prove what Dr. Icery asserts, that "the planters have made "these hospitals more effective;" and do not the hospitals and the medical treatment of the immigrants require reform now just as much as they did in 1865? Though we must in justice remark that the case of Rughoobur, who was found hanging in his hut and warm, and was left hanging until the police came, is, we believe, strictly in accordance with the law and practice of Mauritius, that no person should interfere with, or touch a corpse, or what might be a corpse, until the police came to make a "procès-verbal."

Appendix D 25. Report, p. 24.

Regina v. Dr. Cordouan.

2231. It would, perhaps, be difficult to find a single case showing so many of the defects of the immigration system in this colony as that of Regina *v.* Dr. Cordouan, who was tried before the Stipendiary Court at Grand Port on the 28th March 1873, on a charge of making and signing a false entry in the Hospital Register at "Belle Rive," in Grand Port.

Appendix D 31.

The entry in the Register was—

"*Parahoo*: menengite. Treatment: compresses froides sur le crane. Mort le 28.
"A. C., Dm."

Mr. Jenner's evidence.

Mr. Jenner deposed to having met Dr. Cordouan at "Belle Rive" on the 10th January, when the Doctor said he understood Mr. Jenner wanted information regarding the death of Parahoo, and added,

"I tell you frankly, that on my visit on the 27th, I forgot to enter the name, and I "entered it on my subsequent visit on the 31st."

Dr. Finnimore's evidence.

Dr. Finnimore deposed to having been called upon to make a post-mortem examination on the 29th December, and asked to see the Hospital Register, as he understood the person whose corpse he was about to examine had been visited by the Medical Attendant; but he could not find the name of Parahoo in the Register, nor any entry respecting him.

Mr. Rousselin's evidence.

2232. Mr. Rousselin, the book-keeper, deposed to having been at the hospital at "Belle Rive" with the doctor about ten or half-past ten in the morning of the 27th December, when Parahoo was brought there by Adjoodha, when the doctor examined him, and desired the Hospital Attendant to throw some water on his face, which he did badly, and Dr. Cordouan himself did it; and then Parahoo said, "Enough, I feel better." Did not hear Dr. Cordouan give any other orders respecting Parahoo, and is quite sure the doctor did not enter Parahoo's name in the Hospital Register. Mr. Rousselin, as book-keeper, keeps the Roll-call Book, and Parahoo was marked "absent" the day witness saw him in the hospital; and also on the 28th, the day he died in the Estate's Hospital. He did not think Parahoo was sick, he thought he had been smoking "gandia."

Mr. Margeot's evidence.

Mr. Margeot, the manager of "Belle Rive," did not examine the hospital book on the 27th December, but did on the 29th, when he went to see the cause of Parahoo's death, but could not find his name.

Soodhye's evidence.

2233. Soodhye, the Hospital Attendant, had heard on the 27th of Parahoo being ill, and went to his hut; and as Parahoo said he could not walk, he desired Ajoodha to carry him to the hospital. He received no orders from the doctor about treating him. On Saturday the 28th, witness took him to the store with the other sick, to see the book-keeper.

Regina v. Cordouan. Soodhye's evidence.

"Parahoo went to Mr. Margeot, the manager. He returned to hospital alone, "about 10 o'clock in the morning. He told me he was hungry, and was going to "eat, and went away. As he did not return, I went about 7 o'clock in the "evening and found him in the hut of Jittoo. An Indian named Mudhoo told me "he was there. He was saying that Jattah had made him sick, and he would "not remain any longer. He was speaking in a loud voice. Adjoodha, Hermuth, "Nabceboccus, and I carried him to the Estate's Hospital. He was not able to "walk to the hospital. He was not in his senses. He was excited. I considered "him seriously ill. He was like a fool. I gave him no medicine or remedy. I "did not inform anyone of the state he was in. He died about 8 o'clock, about "an hour after I brought him to the hospital. Six months previously he was in "the hospital. This is the second year that I have been Hospital Attendant.

"Dr. Cordouan writes in a book, and Mr. Rousselin gives me the medicine for "the patients. Mr. Rousselin gave me no medicine for Parahoo during the time "Parahoo was in hospital. Between 7 and 8 o'clock he complained of his chest, "and that 'Jattoo faire moi Jaddoo.'"

Adjoodha's evidence.

2234. Adjoodha, Assistant Hospital Attendant, carried Parahoo on his back to the hospital on the 27th October; Parahoo left the hospital several times during the day; he remained during the night, but was constantly walking about and crying out, lying down and getting up; he said Jattoo had done him some harm; he did not complain of any part of his body suffering; on Saturday morning he went to the roll-call with Soodhye, but did not return; about 7 o'clock witness saw Parahoo sitting in front of Jattoo's house; three other Indians assisted witness to carry Parahoo to the hospital, where he died about an hour afterwards.

Unnecessary evidence.

2235. This evidence ought to have been fully sufficient to establish the charge, that Dr. Cordouan had made and signed a false entry in the hospital register, for it proved, that he had ordered no treatment, and that the entry was not made until the third day after the man's death; but two more witnesses were called to prove that Parahoo and another immigrant had been fighting in the camp, as if that had anything to do with the doctor's making an entry in the hospital register. Dr. Finnimore was recalled, because he had attributed Parahoo's death to some other cause than "Meningite;" and, for the defence, three doctors were called to prove that Dr. Cordouan was right in his opinion of the case, and Dr. Finnimore wrong; as if it signified in the least what the disease was, since the doctor had never directed any treatment, though he had entered treatment in the register and was on his trial for having made that false entry.

Dr. Finnimore recalled, and scientific evidence taken unnecessarily.

2236. The case was commenced on the 28th March and continued on the 29th March, and on the 8th and the 12th of April, when the Magistrate gave the following judgment:—

"The Court considers that every Medical Practitioner must be allowed to have an "opinion on the disease of a patient; almost every Medical Practitioner may even "have a different mode of treatment.

"But it is evident from the evidence produced that the entry made by the defendant "in the hospital register was not made as alleged by the date, on 27th day of Decem-"ber 1872, but on the 31st day of December 1872; and it is further proved, that the "alleged treatment, viz.; 'Compresses froides sur la crane,' was not prescribed by the "defendant.

"The Court therefore condemns the defendant to pay a fine of six pounds sterling, "and all costs of prosecution, in virtue of Ordinance No. 29 of 1865, Art. 17.

(Signed) E. S. Messiter,
Stipendiary Magistrate.

Conclusions from the case.

2237. We see in this case that a man so seriously ill that he cannot walk to the hospital is taken there to see the doctor, that the doctor prescribes for him or not, as it may happen; does not always enter his name in the register, does not give the Accountant or the Hospital Attendant any instructions about him; that the Book-keeper, who was at the hospital, and saw the deceased there, had marked him "*absent*," though he really was sick; that next day he returned to the hospital, and said he was hungry and going to eat, and until 7 o'clock in the evening no inquiry was made about him, and the Hospital Attendant then brought him back to the hospital and thought him seriously ill, but no doctor was sent for (the doctor lives about five miles off), and Parahoo died about an hour after.

2238. We see in this case proof of what we have often observed, the readiness with which all people ascribe the worst causes to the deaths of immigrants. Here Mr. Vitry, Mr. Rousselin, and Mr. Margeot, when they saw Parahoo, attributed his appearance to the use of gandia, or some narcotic; and Dr. Reid palliates Dr. Cordouan's neglect by the opinion expressed by the employés, and the idea that Parahoo was shamming, or, at

Regina v. Cordouan.

Conclusions from the case.

the most, under the parting effects of drink, the real cause never appears to have struck them. But because he was an Indian, he must, if suffering, have been the cause of it himself.

2239. Dr. Cordouan has the charge of 15 estates, two only at any considerable distance from his residence, one being 9, and the other 10, miles off; and the chief medical officer of Mauritius, Dr. Reid, gives him a high character as being very charitable and attentive to the poorer classes and kindly to the sick; but adds, that he gives only as much time and care to their management as his too extensive estates' practice over a large district will admit.

2240. The case is therefore in every respect as fair a case as can be found as an example of the treatment the sick Indians receive in this colony.

It moreover shows us what the medical care is, which would not be improved by the doctors being appointed by Government,

Question 11,179. "because the planter or manager might be led to cease to occupy himself "about the sick, and to leave the exclusive responsibility with the Govern-"ment nominee."

It therefore only remains to give an instance of the manner in which proprietors act towards their nominees.

2241. The case occurred at the beginning of 1873, on "Beau Vallon" Estate, in Grand Port, belonging to Mr. Dauban.

Dr. Finnimore, the very energetic Medical Attendant on this estate, on the 14th of January 1873 made the following entry in the Hospital Register:—

"L'hôpital n'est plus serviable, il coule partout. Ce ne peut pas servir pour le "logement des hommes, encore moins des malades. La route devient de plus mauvais "en plus mauvais. (Intd.) J. A. F."

On his next visit he found the following commentary by Mr. Dauban, entered in the register:—

"Par suite du coup de vent, dont le Docteur ne tient pas compte, l'hôpital coule, "préparez des fougères pour recouvrir à nouveau; quand à la route des plus prati-"cables pour voitures, piétons ou cavaliers. Beau Vallon, le 15 Janvier 1873. "(Vd.) A. Dauban, vi."

On the 22nd Dr. Finnimore paid his usual visit, but on the 24th, the register appears signed by Dr. Vitry. On our inquiring regarding this change of Medical Attendants, we were informed by Mr. Dauban that, fearing lest Dr. Finnimore should become "plus gouvernemental que le gouvernement," he had dispensed with his further services, and had engaged Dr. Vitry.

Chapter XXI.—*Mortality and Sanitary.*

Dr. Icery's statement.

2242. The condition of Estates Hospitals being such as we described in the preceding chapter, and such the incompleteness of the information supplied by the Registers, it will be well shortly to examine how far the following statements in Dr. Icery's pamphlet are borne out by facts:—

Statistics from the Blue-book for 1870.

Dr. Icery's Report, pp. 24 & 25. Appendix D 25. "As to the general and practical results of the manner in which "immigrants are medically cared for in Mauritius, the following Table "of Mortality, taken from the Blue Book, indicates it sufficiently:—

[Blue-book for 1870, p. 5.]

Year.	Proportion per 1000.	
	General Population.	Indian Population.
1862	40	41
1863	26	39
1864	24	39
1865	29	35
1866	27	34
1867	138	110
1868	53	58
1869	29	33
1870	22	22

"In the preceding table we established the death-rate of the Indian population "taken altogether; but if, always on the strength of official information, we

"separate this population into two portions, namely, the Indians on sugar estates "and the Indians not on sugar estates, the figures will have quite a different "significance, and will conclusively prove how far superior the condition of Indians "on estates is, compared, not alone to that of Indians not on sugar estates, but even "to that of the general population."

[As per Census of 1871.]

Years.	Proportion in 1000 Deaths.		
	General Population.	Indians not on Estates.	Indians on Estates.
1867	138	129	61
1868	53	73·8	45·1
1869	29	50·1	30·2
1870	22	26·9	18·9

2243. This comparison, we hold, involves a very serious fallacy, the result of which is to make the death-rate among Indians *not on* estates far higher relatively to those *on* estates than is in truth the case, for under the head of "Indians not on Estates" is included the mortality of Port Louis, the most populous district in the Island, consisting, as it does, almost exclusively of the capital and its suburbs; a district notoriously unhealthy, and one, moreover, in which there are no sugar estates at all. We therefore maintain that, in order to make the comparison instituted by Dr. Icery just, Port Louis should be excluded from the calculation, in which case the result will be shown by the table on the next page, assuming, with Dr. Icery, that in 1867 the Indian population of the town amounted to 35,207.

Fallacy in Dr. Icery's comparison.

Port Louis not to be included in calculations.

Question 8390.

2244. The first question which arises upon this aspect of the question is whether or not it is fair to eliminate Port Louis from the calculation. Mr. Currie, Mr. Naz, and Dr. Reid contend that it is not, at any rate in 1867: for that, on the outbreak of the great epidemic, when the Municipality opened in Port Louis hospitals and dispensaries in which relief was given gratuitously to patients every day, several thousand Indians suffering from fever flocked into the town, in order to participate in that relief, and thereby contributed to diminish the death-rate of the country districts at the expense of that of Port Louis, and that numbers who died in the town had in fact been struck by the pestilence in the country, and succeeded in reaching Port Louis only to die.

Question 11,172. Vol. II. Question 136. Question 840. See also Appendix to Dr. Reid's evidence.

Arguments against including Port Louis.

Influx of Indians to Port Louis in 1867.

2245. On the other hand Dr. Icery, in giving his reasons why the Indian population of Port Louis ought to be reckoned at a higher figure than 27,000 (the number at which we at first had placed it), tell us that when the epidemic fell upon Port Louis, an exodus took place, the result of which was the rise of the village or town of Curepipe, and which included a considerable proportion of the Indian population.

Question 8389.

Exodus from Port Louis.

Sir H. Barkly to the Duke of Buckingham, Despatch No. 299 of 16. 8. 1867.

2246. This is further corroborated by Sir Henry Barkly, who, writing on the 16th August of that year, says:—

Paragraph 5.

"The excessive mortality in Port Louis may doubtless be accounted for in some "degree by the numerous hospitals opened there by the Government "and the Municipality, and the consequent influx of the sick and "destitute from the surrounding neighbourhood; but, on the other hand, it must "be borne in mind that a large section both of the upper and lower classes of "society went at an early period of the epidemic to reside in the country districts, "either to avoid its influence in the elevated parts of the interior or on the wind-"ward coast, or with a view to recovery from its attacks.

Sir Henry Barkly's statements.

Paragraph 6.

"This circumstance deprives the statement indeed of some portion of its com-"parative interest as respects the different districts, but the tenacity "with which the fever clung to the leeward side of the island, the "slowness with which it crept round the level shores of the north end, and the "effectual barrier presented by the mountain chain which separates Grand Port "from Flacq, are all clearly discernible. In fact, notwithstanding the disturbing "influence of the numerous deaths at Grand Port and Savanne of those who took "refuge there, the mortality during the seven months was in the first of those "districts 32, and in the second 184, less than in the similar period of 1866, and

A.

TABLE showing approximately the TOTAL INDIAN POPULATION of MAURITIUS, of PORT LOUIS, of the COUNTRY DISTRICTS, RESIDENT and NON-RESIDENT on ESTATES, and the RESPECTIVE RATES of MORTALITY for the YEARS 1867 to 1870.

Years.	Total Indian Population.			Indian Population of Port Louis.			Indian Population Resident on Estates.			Indian Population Non-Resident on Estates, exclusive of Port Louis.			Millesimal Rate of Mortality.			
	Total Indian Population.	Total Mortality.	Total Millesimal Ratio of Deaths.	Number of Indians.	Actual Mortality.	Millesimal Rate.	Number of Indians.	Actual Mortality.	Millesimal Rate.	Number of Indians.	Actual Mortality.	Millesimal Rate.	On Total of Indian Population.	Indians Resident on Estates.	Indians Non-Resident on Dealers, Exclusive of Port Louis.	Indians Resident in Port Louis.
1867	235,470	24,177	102·675	35,207	11,215	319·396	112,500	7040	62·577	87,763	5892	67·135	102·675	62·577	67·135	319·396
1868	211,796	12,186	57·536	27,000	3,503	129·740	112,200	5099	45·445	72,596	3584	49·369	57·536	45·445	49·369	129·740
1869	207,835	7,926	38·136	27,000	1,641	60·777	121,150	3701	30·548	59,685	2584	43·294	38·136	30·548	43·294	60·777
1870	208,703	4,768	22·845	27,000	925	34·630	120,257	2352	19·558	66,446	1481	24·102	22·845	19·558	24·102	34·630

* This is Dr. Icery's calculation, Question 6480.

" even in Flacq, the only windward district affected, the excess did not begin till " March, and amounted to only 321, or 25 per cent." Arguments for including Port Louis. Sir Henry Barkly's statements.

And again, in his Blue-book Report of that year, he says:—

Report transmitted with Blue-book, 1867. Paragraph 22.

" A great many persons attacked by the disease in Port Louis and " Pamplemousses migrated to the higher regions or to the opposite " coast, and, if they happened to die, reduced the death-rates of the " former at the expense of the latter districts."

And on the 8th January 1868 we find Dr. Finnimore at Mahébourg, when called upon by Dr. Finnimore's statements.

Appendix D 2, p. 18. the Stipendiary Magistrate for explanations respecting deficient visits rendered by him to certain sugar estates during the second half of 1867, pleading that, during the earlier portion of that period,

" specially exceptional circumstances were in operation. There was a large " influx of sick and convalescents from all parts of the island into this district, and, " as the large majority of these cases were those of persons in indigent circum- " stances, I was called upon, as Government Medical Officer, to attend the principal " portion of them. The frightfully crowded state of the so-called Poor Relief " Hospital was, and is, notorious."

2247. But a further difficulty has arisen in the way of forming anything like an accurate or reliable opinion upon this point—a difficulty which, until after the examination of Dr. Icery before us, does not appear to have occurred to any one, viz., that the numbers given in the Blue-book of 246,049 for the total Indian population, and of 112,500 given by Mr. Beyts as the number of the Indian population on sugar estates, and which form the basis of the whole calculation, are wholly inaccurate. Statistics inaccurate.

2248. Up to that time they had been quoted, both by the Fever Inquiry Commission and by Dr. Icery himself, as authoritative on the subject. It was, therefore, Vol. II. Question 135. with not a little surprise that we learned from the Honourable Mr. Naz that these figures were as little to be relied upon as are apparently so many of the statistics in the colony; that while 246,049 was too high a figure for the total Indian population, 112,500 was too low for that on the sugar estates, Mr. Beyts having miscalculated the proportion of children thereon, and that, instead of 112,500, it should really be 122,449, and that an

" inquiry instituted into the working of the Civil Status Department disclosed the " fact that the registration of *births and deaths* had been proceeding on *erroneous* " *principles*, and that the returns issued by that department were incorrect."

2249. With respect, therefore, to all years previous to 1869, when Mr. Beyts announced that the population of estates had Before 1869 no accurate estimate can be found.

Mr. Beyts's Report for 1869, inserted in Vol. II. Question 135. " been reported with greater precision, and that statistical " deductions would become more reliable,"

considering the utterly unreliable character of the figures and the conflicting evidence, we do not think that anything approaching to an accurate estimate can be formed.

2250. In 1871, however, we stand upon surer ground, having the assistance of the census returns taken in that year. From these we obtain the following result (see Table B on page 396), which shows the mortality to be 3·958 per 1000 in favour of the sugar Questions 8392, 8393, 8394. See table marked C. estates; but if we consider that the proportion of aged persons resident in the country districts off the estates is nearly *double that of those on the* Vol. II. Question 823. estates, a fact doubted by Dr. Icery and questioned by Dr. Reid, upon the usual ground that Census of 1871. View in favour of estates. View equal to both sides.

" it is the common character of statistics in this colony to be erroneous,"

the difference between the condition of the two classes dwindles down to one not easy to appreciate.

2251. Finally, considering that no statement, based upon the strength of official information, has any guarantee of accuracy, but rather that all the statistics in Mauritius are equally unreliable, and considering the system, or more correctly the want of system, which we have found to exist in the vast majority of the Estates' Hospitals, we are not satisfied of the conclusiveness of the *proof so confidently* advanced by Dr. Icery of Commissioners not satisfied with view taken by Dr. Icery.

" how far superior the condition of Indians on estates is, compared, not alone to " that of Indians not on sugar estates, but even to that of the general population."

2252. With the object, however, of still further ascertaining the relative conditions of Indians resident *on* and *not on* sugar estates, we applied to the Registrar-General for a Return from the Registrar-General.

Appendix U 8. detailed return showing the death-rate among these classes at different times of life, which will be found appended.

B.

TABLE showing approximately the TOTAL INDIAN POPULATION of MAURITIUS, of PORT LOUIS, of the COUNTRY DISTRICTS, RESIDENT and NON-RESIDENT on ESTATES, and the respective RATES of MORTALITY, for the YEAR 1871.

YEAR.	Total Indian Population.			Indian Population Resident on Estates.			Indian Population Non-Resident on Estates, exclusive of Port Louis.			Indian Population of Port Louis.			Millesimal Rate of Mortality.			
	Total Indian Population.	Total Mortality.	Total Millesimal Ratio of Deaths.	Number of Indians.	Actual Mortality.	Millesimal Rate.	Number of Indians.	Actual Mortality.	Millesimal Rate.	Number of Indians.	Actual Mortality.	Millesimal Rate.	On Total of Indian Population.	Indians Resident on Estates.	Indians Non-Resident on Estates, exclusive of Port Louis.	Indians Resident in Port Louis.
1871	21,6258 Census Report, Appendix 5.	5451 Blue-book 1871.	25·206	116,137 Census Report, Appendix 8.	2547 Mr. Boyts' Report, Table I'.	21·931	73,234 Census Report, Appendix 7.	1896	25·889	26,887 Census Report, Appendix 7.	1008 Blue-book, 1871.	34·630	25·206	21·931	25·889	37·49

C.

TABLE showing the MILLESIMAL PROPORTION of INDIANS above 60 YEARS, also of INDIAN CHILDREN under 10 YEARS of AGE, to the TOTAL NUMBER of the INDIAN POPULATION of PORT LOUIS and the COUNTRY DISTRICTS (RESIDENT respectively ON and OFF the SUGAR ESTATES), as taken from the CENSUS RETURNS for the YEAR 1871.

AGE.	INDIAN POPULATION.																	
	PORT LOUIS.						COUNTRY DISTRICTS.											
							Off Estates.						On Estates.					
	Adults of 60 Years and upwards.			Children.			Adults.			Children.			Adults.			Children.		
	Male.	Female.	Total.	Male.	Female.	Total.	Male.	Female.	Total.	Male.	Female.	Total.	Male.	Female.	Total.	Male.	Female.	Total.
Under 1 year	..	..	..	320	317	637	..	..	..	960	1010	1,970	..	..	..	1,533	1,514	3047
1 to 4 years	..	..	..	592	615	1207	..	..	..	2923	2981	5,904	..	..	..	5,239	5,025	10,264
5 „ 9 „	..	..	..	1056	1069	2125	..	..	..	3685	3572	7,257	..	..	..	6,718	5,589	12,307
60 „ 64 „	209	78	287	..	..	..	516	235	751	..	..	..	463	317	780	..	..	..
65 „ 69 „	53	29	82	..	..	..	160	88	248	..	..	..	109	73	182	..	..	..
70 „ 74 „	29	18	47	..	..	..	89	79	168	..	..	..	62	45	107	..	..	..
75 „ 79 „	5	6	11	..	..	..	36	23	59	..	..	..	11	7	18	..	..	..
80 „ 84 „	6	4	10	..	..	..	15	30	45	..	..	..	5	4	9	..	..	..
85 „ 89 „	..	..	..	..	..	..	3	..	3	..	..	..	5	1	6	..	..	..
90 „ 94 „	1	..	1	..	..	..	2	2	4	..	..	..	1	1	2	..	..	..
95 „ 99 „	2	..	2	..	..	..	2	1	3	..	..	..	..	..	..	..	..	..
100 and upwards	..	..	..	..	..	..	1	2	3	..	..	..	..	..	..	..	..	..
Total	305	135	440	1968	2001	3969	824	460	1284	7568	7563	15,131	656	448	1104	13,490	12,128	25,618

Indian Population .. .. { Port Louis, 26,877 / Off Estates, 73,231 / On „ 116,137 }

Total 216,258

Millesimal proportion of persons above 60 years of age .. .. { Port Louis, 16·36 / Off Estates, 17·53 / On „ 9·50 } Average on the Total Population, 13·07.

Children under 10 years of age { Port Louis, 147·61 / Off Estates, 206·61 / On „ 220·58 }

Children under 10 years.

2253. This table shows that among children under 10 years of age the death-rate is very considerably higher *upon* estates than *off* them, the annual average being 19·64 per thousand off estates and 27·19 per thousand on estates.

From 10 to 50 years.

From 10 to 50 years of age the rate is in the aggregate as near as possible the same on both, namely, 125·73 for Indians not on the estates, and 127·06 for those on.

Under 50 years in favour of, off estates.

2254. Up to 50 years of age, therefore, the condition of Indians *not on* the estates appears to be more favourable to life than that of those *on* estates.

From 50 to 75 in favour of estates.

After the age of 50, however, the conditions are reversed and the proportion is continually in favour of the residents upon sugar estates until the age of 75; and from 75 to 85 the proportion is again in favour of the non-residents on the estates.

From 75 to 80 in favour of off estates.

2255. It, therefore, is evident, that not only is the proportion of aged persons much higher among the Indians *off* estates than *on* them, but further, that conditions must exist more unfavourable to their life than exist upon the estates.

Aged persons.

Statistics for only one year.

2256. It must be remembered, however, that we here have the statistics of only one year; but if it can be taken as proving anything, it would seem to refute Dr. Icery's denial of the fact that more robust and healthy men are to be found among the labourers on the estates than elsewhere, though he admitted that in theory he should expect to find it so, as one might assume that the planter would engage only those who are able to work.

Question 8302.

Conclusions arrived at regarding old people.

2257. If, however, this table is of any value at all, it shows that precisely at that age at which the vigour of manhood, and consequently the efficiency of the individual for the purposes of labour, is declining, the conditions appear to become more unfavourable to the lives of those *off* the estates, while we have already stated that the proportion of them is nearly double to what it is *on* estates; and therefore it appears that not only are there fewer old people on the estates, but further, that such old people as there are must be generally constitutionally stronger and robuster than those not on.

Sanitary improvements of late years.

2258. Before taking leave of this subject it may be proper very shortly to point out what steps have been taken in recent years to improve the sanitary condition generally of the Island, and of Port Louis in particular, which was the focus of the pestilence of 1867, to which the attention of the colony was called in so terrible a manner by that epidemic.

Cleansing the Mer Rouge.

2259. First and foremost must be mentioned the work of cleansing the "Mer Rouge," an extensive lagoon of about 300 acres, situated on the north side of the harbour of Port Louis, from which it was shut off by a causeway. It was, Dr. Reid tells us, originally of considerable depth, and its waters tolerably clean; it had, however, become polluted by having received from time immemorial the drainage and filth of the eastern parts of the town conveyed to it by three rivulets, which were so many open sewers; and the evil was still further increased by the in-drainings of the slaughter-house and of three inodore (nightsoil) establishments, and thus it had become a body of water tainted with organic matters, and

Vol. II. Question 800.

> "having masses of mud, filthy foreshores, and extensive sewage banks and mud
> "flats. These, exposed to the sun, gave rise to a malaria which sapped the health,
> "aggravated the fever, and probably contained its efficient cause."

The remedy for this dangerous nuisance was recommended by a Commission to which the subject was referred, and since 1870 works have been vigorously pushed forward, and the Mer Rouge may now be considered as cleansed.

The Caudan creek.

2260. Further, nearly 200,000 tons of fetid mud have been removed by dredgers from the Caudan Creek, on the south-west of the town, and thrown far out to sea. This mud, which covered nearly three acres, was formed of the deposits during many years from the sewer-rivulets (Tonniers, Pouce, and Créole), and used at low water to be exposed to the sun, and the emanations of it contributed greatly to the unhealthiness of the town.

Much yet to be done.

2261. These, no doubt, are very important improvements, but "very much," Dr. Reid thinks,

Vol. II. Question 800.

> "still remains to be done."

Bazalgette's system of draining Port Louis.

2262. In 1869 a plan was prepared, at the desire of Earl Granville, by Mr. Bazalgette, for an improved system of underground drainage for Port Louis, based upon sections and plans taken by his son, Mr. Edward Bazalgette, during a sojourn of four months in the island for that purpose. This plan, however, has been abandoned, on account of the opposition it met with from a large number of persons in the colony.

Vol. II. Question 802.

Vol. II. Question 891.

The principal objections to it were alleged to be: that it had been based upon insufficient local experience and data; that it relied upon currents to carry the sewage out to sea, where the existence of such currents was at least doubtful; that it had been projected in forgetfulness of the great danger of breaking up the earth

and forming deep drains in impregnated soil, and of the risk to health in the tropics from faults and obstructions in the drains, as also the escape of sewer-pans, and because it did not provide for the rain and storm-waters.

Inodore system suggested by the Local Board of Health.

2263. The Local Board of Health being called upon to suggest a substitute, proposed an improvement in the inodore service and of the street-gutters and house-drains in connection with these; also the walling and paving of the town streams and an extensive system of surface drainage to provide for the storm-waters, and prevent the frequent flooding of various parts of the town.

Want of funds.

2264. Of these works, however, very little has yet been accomplished on a large scale, the great obstacle having been the want of funds available for carrying them out at the disposal of the Local and General Board of Health.

Vol. II. Question 802, *et seq.*

Things done.

The paving of the sewer-streams (Pucelles and Créole) has been begun, and gutters have been put down in several of the principal streets. For the rest, our own observation fully corroborates Dr. Reid's statement that, with these exceptions,

Vol. II. Question 804.

> "the gutters of Port Louis are in a disgraceful state, permitting soakage
> "of the soil by organic matters to an enormous extent."

Things undone.

The truth of this must be apparent to anyone passing through Port Louis after sunset from the offensive smells perceptible in almost all parts of the town; and we cannot but fear that should another epidemic of fever or cholera unhappily fall upon the colony, it will be attended with the same fatal results as have marked similar visitations in times gone by.

Chapter XXII.—*Sugar Estates and Staff.*

Impossible to decide how many estates there are in Mauritius.

2265. It is almost impossible to decide how many sugar estates there are in the Island of Mauritius. The 'Mauritius Almanack,' purporting to quote from the Protector of Immigrants' Reports, gives 203. The Protector's Report for 1870 (there is no list of estates in his Report for 1871) gives 211. The returns of the exports of sugar received from the Collector of Customs show 218; or, reckoning five estates in the possession of one proprietor, Mr. Hewetson, as one estate, 223; while the books of the Conservators of Mortgages show 209 estates.

Cause of confusion.

2266. The confusion arises from two or more estates being included as one when held by the same proprietor, and from their not having been divided again when one of the estates had been alienated.

Custom-house returns. Quantity of sugar consumed in the colony.

2267. Taking 223—the remainder shown by the returns of the Collector of Customs—they produced for export in 1871, 246,489,731 lbs. of sugar, French weight, to which we must add 18,200,000 lbs. annually consumed in the Island, as we learn from a Report for 1868.

"Mon Espoir." "Bel Ombre," 5156 acres. The 5000 acres are not in cultivation. Only 900 acres are cultivated.

2268. The estates vary in extent from the smallest, "Mon Espoir" in Pamplemousses, containing 129 acres, and producing, in 1871, about 100,240 lbs of sugar for export, to "Bel Ombre" in Savanne, containing 5156 acres, and producing in 1871, 919,716 lbs. of sugar for export. It must not be supposed that the whole 5000 acres are in cultivation, or that "Bel Ombre" has the largest cultivation in the Island, for the Protector of Immigrants' Return, if it can be relied upon, shows that only 900 acres are cultivated, while other estates have as many as 1600 acres actually under cultivation.

19 estates, of which all the proprietors are permanently or temporarily absent.

2269. The majority of these estates are held by resident proprietors; there are but nineteen of which all the proprietors are either permanently or temporarily absent; some few belong to mercantile firms, amongst which may be reckoned the Ceylon Company. This, however, as the Company have a permanent manager of the firm resident in the Island, who looks after the estates, we have not counted amongst the absentees.

Very few estates are held by one proprietor.

2270. Very few of the estates are held by one sole proprietor, the French law requiring the estate to be divided upon the death of the parent amongst all the heirs; and, consequently, it seldom happens that all of the proprietors are absent at the same time.

Estates have debts upon them.

2271. The office of the Conservator of Mortgages and Receiver of Registration Dues enables us to ascertain that there are 34 estates which are supposed to have no real debt; at least, none inscribed in his office; and though the books show that the other estates have debts upon them, it must not be concluded from that that all the estates are involved, as it has been very common for proprietors who have mortgages on their estates to neglect having the mortgages when paid cancelled in the books of the Mortgage Office, either through carelessness or to avoid paying the notarial fees; the inscription being allowed to lapse in due course; but when a loan is required, or a sale is to be effected,

Practice of allowing mortgages to stand though extinguished by payment.

Mortgage allowed to stand though paid.

the apparent debt is generally reduced to its proper figure. Sometimes, also, they prefer not to have partial payments written off, but to have the inscription cancelled when the whole amount of the mortgage has been paid off.

Ordinance 19 of 1868. Clause 215.

2272. Under clause 218 of Ordinance 19 of 1868, however, since the 2nd November in that year, it is incumbent upon every notary, under penalty, to insert in every deed of acquittance, and in any privileged or mortgaged claim inscribed in the books of the Conservator of Mortgages, a clause giving, to the extent of the amount paid, *mainlevée* of the inscription,* and also within twenty days to cause the inscription to be erased in the books of the Conservator of Mortgages.

It therefore is not safe to conclude with precision from the inscriptions in the mortgage books, the amount of incumbrances upon the estates.

Money raised upon bills of lading.

2273. On the other hand, the inscriptions in the lists before us,† taken to secure the payment of any balance which might be due on credit, against consignment of the produce of growing crops, and which can hardly be considered as real debts, have not been included. These advances are generally made to planters at the rate of 12*s.* to 13*s.* upon every 100 lbs. of the estimated crops.

Money raised by bills.

2274. Mortgage security is principally taken by the financial companies; but in most cases the necessary money is raised without any mortgage, on bills endorsed by a third party, usually the planter's agent.

These bills are discounted by the banks or by private capitalists.

Information supplied by Mr. Finniss.

2275. For the information we have thus obtained we are indebted to Mr. Finniss, the Receiver of Registration Dues and Conservator of Mortgages; but he informed us that his statements must not be accepted as absolutely correct, though he has spared no pains to make them as correct as possible, and that much of the information was not procurable in his office, and the return has been the work of much labour.

Treatment of labourers.

2276. We had expected that this return might have enabled us to ascertain whether the treatment of labourers upon estates, and the management of the estates generally, depended in any degree upon the absence of debt, or the presence of the proprietor on his estate: but we find that the treatment is not influenced by either of these accidents,

The treatment of Indians on estates not influenced either by the absence of debt or the presence of the owner.

for amongst the worst-managed estates in the Island we find three, *two* of them with resident proprietors, and *one* without a farthing of debt in the possession of an absentee proprietor, so that the good or bad management of estates depends entirely upon the personal character of the proprietor or his manager, though it still varies very often according to the absence or presence of the proprietor. Mr. Jenner, in his report upon "Stanley" Estate, mentions, at the particular request of the proprietor, Mr. Antelme, that in the year 1870, when the wages were five, four, and three months in arrears, he was himself absent from the colony; but that, although the wages were kept in arrear, those who wished for their wages always received them.

Division of property.

2277. The French law, to which we have referred above, compelling the subdivision of all property among all the heirs, tends much to forcing the sale of estates upon the death of the original proprietor, and thus the property in sugar estates throughout the Island becomes almost exclusively commercial. There still are, however, the remains of old families possessing their paternal estates, and the traces are still left of old aristocratic and patriarchal tenure, but few of the estates are kept up in their original wealth and appearance: most of them betray the features, not of refined luxury, but of a merely commercial sugar estate.

Appearance of sugar estates.

The Majority of estates have resident proprietors.

2278. We have already shown that the majority of estates have resident proprietors; yet, even if the resident proprietor knows anything of the subject of managing an estate, he generally has a man under the title of "chef employé" to do the hard work as manager, while he himself guides him in the way the work should be done.

Question 9515.

The Manager head man on an estate.

2279. The Manager, then, is the head man on the estate; generally speaking the subordinates receive their orders from him rather than from the proprietor.

Questions 9515, 9516, 9517.

Accountant excepted.

An exception must, however, be made as regards the Accountant or book-keeper, who having no outdoor work to do, can hardly be considered an "employé," and comes more under the direct management of the proprietor when he occupies his time with the management of an estate.

* *Inscription.*—Inscribed creditors are those whose mortgaged or privileged rights have been made public by enrolment upon the Registers of the Conservator of Mortgages.—"Explanations of Terms used in Ordinance No. 19 of 1868."

† These lists we have retained as documents which ought not to be made public, though the public have a right to obtain from the office of the Conservator of Mortgages the information contained in them, if required for any individual estate.

Manager invariably a Créole Frenchman.

2280. When the estate is left to the Manager, who in this colony is almost invariably a Créole Frenchman, he has general control over the working of his assistants and labourers, and decides what work is to be done. The gangs are generally distributed in his presence in the morning before they leave for the fields, and when they are gone, the Manager looks after the sugar-house, the yard, and the hospital; after that the Manager, or if the proprietor manages the estate himself, the proprietor, visits the fields during the "entre coupe" twice a day. During the "coupe" his time is more entirely devoted to the mill, and then he seldom visits the fields more than once a day. This, in the case of a managing proprietor, gives the men an opportunity of personal contact with him; and a further opportunity is afforded them after the work is over of speaking to the proprietors, who generally sit under their verandahs, or within the premises outside the house.

Question 9520. Question 9526.

Manager's control.

Proprietors visit the fields. Opportunity afforded to the labourers of conversing with him.

Vol. II. Question 1305. Vol. II. Question 1398.

2281. Mr. Naz is aware that these applications are frequently attended to, not only on his own estate at "Bénarés," but on other estates likewise.

The custom is not general.

2282. We cannot say that we have found this custom to be very general, though we are aware of other estates besides "Bénarés" on which it is pursued. We may mention "Ferney" Estate as one of them, though the case of Coopooswamie, mentioned above (Chapter XVII., paragraph 1807), shows that the proprietor sitting in the verandah of his house and conversing with his Sirdars does not always tend to the advantage of the Sirdar or the labourer.

Appendix F 13.

Manager is present generally on pay-day.

2283. The Manager is generally present at the pay-table on pay-day, and ought to pay the men himself; but this is observed only on well-managed estates; and we find that on one estate, with a resident proprietor, an amount of money was handed over to the Manager less than the total of pay due.

The Manager consequently made deductions in the best way he could, sometimes making up the difference by his own means, at other times giving the men a little more rice, if there was a large supply in store, giving them sometimes 16 lbs. or 17 lbs. of rice a week, instead of the usual ration of 12¼ lbs.

Questions 9420 to 9422.

Regular payment of wages on estates indebted to the Ceylon Company.

2284. But on those estates upon which the Ceylon Company have made heavy advances, the Company take care to see that the wages are paid, though they take no further management of the estate than by the sending their inspectors on to the estates on pay-day; on others, the money is simply handed over to the proprietor, who is supposed to pay the wages; the object of this arrangement being that, when estates are heavily indebted to the Company, they may be sure that the men's wages have been paid, and that there can be no claim for them upon the Company.

Question 9490. Question 9496.

Delivery of money to labourers.

2285. Besides the Accountant, the Manager, generally speaking, calls up the employés to attend at the pay-table, and also a certain number of Sirdars to stand round and see what is going on.

They are not supposed to have anything to do with the delivery of the pay, as the theory is that it is given directly into the men's hands.

Questions 9617, 9618.

2286. In fact, the whole management of the estate and the whole success of the estate depend upon the Manager. If he does not manage it properly, the estate, of course, suffers; and it is very difficult to decide whether the cause be that the estate is badly managed or the men badly directed.

Mr. Wiehé's opinion.

2287. Mr. Wiehé, to whom we are indebted for much of this information, attributes the seemingly bad management, as evinced in the number of absentees in many places, more to the locality than to the management.

A want of wood and water in the neighbourhood he has found to be the cause of much absenteeism; but, at the same time, he has found, notwithstanding his own humane treatment and favourable locality, absenteeism to have existed for reasons he could not divine.

Question 9540.

The Accountant.

2288. Next to the Manager comes the Accountant. He, during crop-time, has a general ...ervision of the sugar-house, being able from his desk, in the part of the mill assigned ...m for an office, to see all that goes on in the mill itself.

...is duties generally are to note down the men at work or absent in the Pay-book, ...h he ought to do daily from the Marker's "Carnet." This the Marker carries with ... when he walks about among the labourers, and marks off the names of the men.

... Accountant has to distribute the provisions, to keep an account of all the deliveries. ...l of all things taken into and out of store. For this purpose the Accountant keeps a ...y-book, Cash-book, and a Ledger, in which an account is opened for every article as comes in and goes out of the store.

On some estates he keeps a rough journal of everything that passes through his hands.

9690

The Accountant.

He, moreover, has to keep a Sugar-book, and to make out weekly reports; but Mr. Questions 9595, 9596. Wiché informs us that never in his experience did he see or keep a book which showed a regular account-current between the planter and his Question 9576. labourers. And, generally speaking, the Accountant has to look after the Hospital Attendant, and very often to attend to the distributions of medicines to the men.

Question 9574. Another of his duties is, when authorised, to appear before the Magistrate to prosecute labourers for offences, and to make and cancel engagements.

2289. For all these duties, the Accountant's wages differ on different estates. On Question 9608. some he receives but $15 a month, on others from $50 to $60. He, Questions 9612, 9613. however, receives a bag of rice a month, and some few other articles which may be in store. If he goes to the Stipendiary Court on business for the estate, he has the use of the mules.

The Head Overseer, or "Chef Employé."

2290. Next to the Accountant ranks the Head Overseer, if he happens to be nothing more than the Overseer; but on those estates where the proprietor is his own manager, the Manager of the estate is called the "Chef Employé," or Head Overseer. This Question 9519. Overseer, or "Chef Employé," is, generally speaking, a Créole or European. His duties are to see the men distributed at roll-call in the morning, to see the number of men reporting themselves sick, to look in at the hospital, and, after visiting the stables and the men working in the yard, to go and overlook the work in the fields. These rounds are performed twice a day. In fact, his duties are similar to those of the Manager; and when an estate is managed by the resident proprietor himself, or when the resident proprietor has transferred the estate from his own to his wife's name, and can no longer call himself the proprietor, but becomes Manager, then the Chief Overseer, under the name of "Chef Employé," performs the hard work of the Manager.

Overseers.

2291. His wages are, under the circumstances, generally handsome; he receives from $100 to $250 per month; but places at the latter rate are not very numerous.

The wages of an Overseer, where there is a regular Manager, seldom amount to even the smallest of the above-mentioned sums, and in one case we know of, he only received $20. He has, generally, one or two servants, paid by the estate. Some have one and Questions 9609 to 9611. others two bags of rice a month, and other small perquisites from the store; they have the use of the mules on the estate, and generally a carriage.

Employés.

2292. The employment of Sub-Overseers is not universal, their duties being generally Questions 9614 to 9615. performed by the Sirdars; and on those estates on which Sub-Overseers are appointed, their duties are very similar to those of the Sirdars, of whom we shall treat more at large hereafter.

2293. Besides these "employés," the head man of the stables, the Blacksmiths, the Head Carpenter, and the Head Carter, are generally considered "employés." They, in addition to their wages, generally get a bag of rice each as a perquisite. Their duties require no further notice.

2294. The harness-maker was also at one time considered an "employé," but latterly Question 9616. the planters have found Indians sufficiently apt to do this work, and harness-making is entrusted to them.

Hospital Attendant.

2295. An Indian is never called an "employé," consequently, the Hospital Attendant is seldom considered an "employé," though the men employed as Hospital Attendants are almost universally Indians. Of their duties and inadequate wages we have already treated in the chapter upon Hospitals (paragraphs 2156 to 2164.)

The Engineer.

2296. The Engineers on a sugar estate are generally Créoles, or Indians brought up on the estate, who look after the machinery, and having risen from labourers and assistants to the Engine-driver, have themselves become capable of driving an engine. On some few estates, there are regular Engineers to make the repairs, but these are few. These Engineers are labourers of intelligence, but not generally very strong men. They are not considered "employés," being Indians.

2297. It now only remains for us to consider the other influential men on the est though they are not "employés"—the Sirdars.

Chapter XXIII.—*Sirdars.*

Sirdars do no work. How they become Sirdars.

2298. The Sirdars do no work, though merely labourers on the estate. They become Sirdars either by bringing a band of men and getting them engaged on the estate, and themselves paid with higher wages and double rations, or they are elected by the band and receive the higher wages and allowances in consequence.

2299. It will be remembered (Chapter VI., paragraph 241) that Mr. Rawson's Committee on the 19th February 1845, in the third resolution which they recommended for the adoption of the Council, denounced the employment of Sirdars, and again in the fifteenth paragraph of their second report of the 15th August following (paragraph 247) they recurred to the subject.

Petition in 1847 relative to Sirdars.

2300. In 1847 a petition was presented to the Governor upon the subject of the Sirdar influence on estates and its baneful effects. The Governor, however, thought it inexpedient to legislate upon the subject, being of opinion that it must rest with the Despatch No. 246, 9th December 1847. employers themselves to overcome or reduce any illegitimate influence these Sirdars might exercise, an opinion in which the Secretary of State concurred.

No action on petition.

Mr. Antelme in favour of the system. Sirdars do no manual labour. Often intelligent and useful. Does not believe in Indians being robbed by Sirdars. Reason why Sirdars stipulate for two rations.

2301. Of the witnesses who have appeared before us, we have found but one, Mr. Antelme, who declares himself to be in favour of the system. He admits that Question 6529. Sirdars do no manual labour, but there are many of them very intelligent and very useful, whom he would not exchange for any Créole overseer. He thinks it a mistake to believe that the Indians are always robbed by the Sirdars, but rather that it is very often the latter who suffer. He informs us that the reason why Sirdars stipulate for two rations is, that absentees who lose their wages and their rations Question 6624. go to the Sirdar and get their food from him. The men frequently spend the Question 6623. earnings of eight or ten years in order to form a gang of twenty men and become their Sirdar. He believes that Sirdars, in order to keep their men in the gang and obtain their re-engagement, lend them money without charging any interest, and that they are the real sufferers by the delay in the payment of wages.

What men spend to become Sirdars. What Sirdars suffer to get their men to re-engage.

Indians like monthly payments, Sirdars do not.

2302. Mr. Caldwell, Acting Inspector of Immigrants, in his report upon "Providence" Mr. Caldwell's Inspections. "Providence." Appendix Q 141. Estate, 20th June 1872, informs us that when asking whether the Indians preferred monthly payments, he was then told by an Indian they did, but that it is the Sirdars who dislike it, as they cannot now rob so much.

Questions 6624, 6625. 2303. Mr. Antelme informs us that that never occurred on his estate, and that nothing of the kind ever came under his notice.

Opponents to system: Dr. Icery. Mr. Martin. Mr. Rouillard. Mr. Genève. Mr. Wilson.

2304. On the other hand we have the evidence of Dr. Icery, Mr. Martin, and Mr. Rouillard, and the statements of Mr. Genève, of "Choisy," and Mr. Wilson, of "Tamarin Falls," all opposed to the system.

Sirdar system an agricultural plague. Benefit to planter and Indian to abolish the system.

2305. Dr. Icery considers the Sirdar system an "agricultural plague." He thinks it Question 8397. originated with the recruiters; but many of the Sirdars are picked men, Question 8889. and extremely useful on the estates; though he believes it would be a benefit to the Indians, as well as a comfort to the planter, were the system abolished.

Influence of system against planter and Indian. Usurious interest demanded by Sirdars from Indians. 25 per cent., 75 per cent. Impossibility to get on without Sirdars. The system an institution.

2306. Mr. Martin is of opinion that the Sirdars unfortunately exercise a great deal of influence against the interests of both the planter and the immigrant. He does not make the men work as well and properly as they might, and he takes back from the Indian, month by month, in the shape of usurious interest, which is seldom so low as 25, and sometimes goes as high as 75, per cent., the money which had been given them Questions 14,250 to 14,253. as a bonus at the time of their engagement. He does not think it facilitates the proper treating with the Indians, because the Indians prefer treating directly with the planters, in whom they have more confidence than in the Sirdar. He does not, however, see how the Sirdars can be got rid of, as without them it is almost impossible to get men, the Sirdar taking such a hold over the minds of the Indians of his band, and making them consider him necessary as a protector.

2307. The planter could do nothing better in his opinion than get rid of the Sirdar Questions 14,250 to 14,259. altogether; but it is a system which has become an institution, and could not easily be dispensed with.

There are Sirdars who are useful.

2308. He admits, however, that there are Sirdars who are useful; but they should not be allowed to have bands. He considers that those planters, many of whom have a contrary opinion to his, have not been in direct contact with the Indians for so many years as he has.

Influence of Sirdars keeps men from re-engaging.

2309. The influence of Sirdars also, in Mr. Martin's opinion, causes difficulty at times in getting men to engage; for instance, when Sirdars are indisposed to remain on the estate, or when men are deprived of their Sirdars; sometimes from men trying to induce others to leave that they might become Sirdars over them, and by their preventing men from treating directly with the planter.

Mr. Rouillard has tried to get rid of the system.

2310. Mr. Rouillard is not at all in favour of the Sirdar system, and has tried to get rid of it, but thinks that there is no means of doing so, unless there be a general move for the purpose. He considers that the Sirdars live in a great measure upon the Indians; that they lend them money and charge them an usurious rate of interest for it. He does not know how much of his own knowledge, but, from what he has heard, he believes it amounts to as much as 100 per cent.; and not content with that, they take all kinds of things as pledges. They take the men's cows, and if the money lent be not repaid at a certain time, they keep the cows.

Sirdars live upon the Indian.

Usurious interest, 100 per cent.

Mr. Rouillard's opportunities.

2311. Mr. Rouillard had formerly practised as a barrister before the district courts, and had then opportunities of observing cases in which these abuses occurred. They were difficult, however, to prove, from the actions in the generality of cases being disguised.

Sirdar does no work. Never reports absentees. Only sent to the fields so that they shall not remain in camp. Planters employ others than Sirdars to look after labourers. Cannot depend upon Sirdars.

2312. These transactions with the Sirdars embarrass the labourers. They become disgusted, indifferent to their work, and abscond; while the Sirdar himself does no work, but simply goes to the fields; never reports where absentees are, although he knows their whereabouts. Mr. Rouillard adds that no reliance can be placed upon them, and the only object in sending them to the fields is for the purpose of not allowing them to remain in the camp. There are other men employed to look after the labourers in whom the planters have more confidence than the Sirdar, for he would not consider a man reported absent as being so if they had only to depend upon the word of the Sirdar for it. In fact Mr. Rouillard considers them the main cause of disorder on estates.

Ramjee's case, "Choisy" Estate, useless as Sirdar.

Appendix B. Visits to "Choisy" at Savanne, and "Tamarin Falls," Plaines Wilhems.

2313. On our visits to the estates "Choisy" and "Tamarin Falls," at the former Mr. Genève spoke with great dislike of the Sirdar system, and mentioned a case in which he had been a sufferer. Ramjee, a Sirdar on the estate, whom he declared to be utterly useless for any employment, had been chosen Sirdar by his band, and he was therefore compelled to give him $9 a month and 30 lbs. of rice a week as Sirdar; but in consequence of Mr. Genève having upbraided him for his incapacity, he persuaded the whole band to lay a vexatious complaint against him before the Magistrate.

Mr. Wilson's statement. Instances known of Indians defrauding Sirdars. No knowledge of Sirdars charging interest.

2314. Mr. Wilson, of "Tamarin Falls," though he complained of the evils of the Sirdar system, mentioned that he knew many instances of the Sirdars being defrauded by the Indians of money lent to them, though he did not know any instances of the Sirdars having charged interest for such loans.

Mr. Hardy's evidence. Influence of Sirdars less now than formerly. Reasons. Sirdars liberally paid.

2315. Mr. Hardy, who has been all his life a planter, manager of an estate for ten years, and after that owner of "Belle Rose" Estate, in Flacq, and now for the last eleven years owner of "Minissy" Estate, Moka, is of opinion that the influence of Sirdars is less now than it was formerly, and that the Indians have at present a better knowledge of estates and masters, and when they find themselves well off they will not leave an estate, so that the custom which existed formerly of job contractors and Sirdars enticing men away has been put a stop to. On the other hand he does not think that men would remain on those estates where they were ill-treated, unless great influence was used by the Sirdars, and for that purpose they must be liberally paid in order to induce them to remain, for the Indians are just as able to look after their own interests as their masters.

Questions 14,207, 14,208.

Mr. Wiehé's evidence.

Sirdars have not great influence.

Men get money from the Sirdars.

2316. Mr. Wiehé, another planter of great experience, having commenced as a sugar-planter in 1843, and continued as manager or proprietor of estates till 1866, when he became sub-manager of the Ceylon Company, is of opinion that, generally speaking, the Sirdars have not the influence over their men that one might think. He says, it is supposed that Sirdars cheat the men, and to a certain extent that is true; but he believes the men also manage to get money out of the Sirdars, as he knows many cases where the men of a gang have borrowed money from the Sirdar; not that they were in actual want of it, but for their amusement, and to spend it for their women; and Sirdars have frequently complained to him that these men have gone off without repaying them.

Question 9728

Mr. Daly's Report.

2317. Mr. Daly in his report, dated 26th March 1871, informs us that, although there is no direct influence by shop-keepers at the time of pay for the collection of their money, there does exist a large amount of pressure by Sirdars on

Appendix D 3, p. 4.

Pressure by Sirdars at pay-table.

such occasions, instances having been reported to him where the Sirdar, standing without the place when the pay is going on, will take from the hands of the men, after receiving their money, by force if necessary, the amount they require to have paid to them, and sometimes the whole amount that may be due. He thinks it a common practice, and is inclined to believe there is a most extensive oppression exercised by Sirdars over ordinary labourers.

Dependence of men on Sirdars on account of loans.

Hold obtained by loans.

Sirdar receiving amount due to his men.

2318. Mr. Daly goes on to say:

"The very system by which labourers are engaged makes it a primary object with "the Sirdar, or the cunning labourer with a few earnings who desires to become a "Sirdar, to reduce to dependence upon him by means of loans and advances, as "many men as possible; the hold being thus obtained over a certain number of "men, the Sirdar is able to make his terms with the proprietor as to their engage-"ment, and he can usually do so on terms very comfortable to himself. That hold "which he thus obtains he finds it necessary to keep up, and he has a direct object "in maintaining his influence over each labourer, whilst he is also anxious to avoid "the loss of his money lent. Therefore at each pay he endeavours to intervene to "obtain some control over the sum his debtor receives, that he may at least deduct "some portion for his repayment. I have known this practice to be carried so far "that the Sirdar himself has received the amount actually coming to his men, and "has deducted what he pleased and tendered the rest to the men, who declined to "receive it, and brought a complaint for their wages in full."

Advisable to control the operations of Sirdars.

Sirdar inseparable from Indian habits.

All engagements to be made directly with the proprietor.

2319. Further on, page 15, Mr. Daly suggests that it would be very desirable to control in some way the operations of Sirdars, who actually enslave their men by means of their loans and advances. He suggests that all arrangements between proprietors and Sirdars for bands of men should be prohibited. He says it is a startling proposition, but one that he has advocated; for though the Sirdar is perhaps inseparable from the Indian's habits and feelings, yet his employment and capacity on sugar estates, and his mode of being employed, might be very much controlled, and he suggests that all engagements of men should be made individually and directly by the proprietor; that no Sirdars should be engaged as such, but that should a number of men require one, certain pay should be allotted to the individual whom they might choose to be their Sirdar.

2320. Under such circumstances we do not see what the use of the Sirdar would be, because however necessary his appointment might be to meet the habits and prejudices of the Indians, it is essential that he should come to the estate possessed of the requisite influence over the men of his band, and that he should not be merely an overseer appointed as it were by common suffrage, and we think that in practice a tacit election would take place before any of them came for engagement.

Influence of Sirdars.

Case at Black River, in which Sirdar asked for the cancellation of the contract of his band of men because five months' wages were due.

2321. We have seen how Mr. D'Emmerez disposed of a case in which some of the men belonging to a band having their wages five months in arrear, had cancelled their engagements, and how he, when the Sirdar of the gang applied a week afterwards to have the contracts of the rest of his gang cancelled, refused to do it, as he thought it would be the ruin of the estate. So, likewise when some men wished to have their engagements cancelled, because the Sirdar had misbehaved and been degraded, on his discovering that the Sirdar's engagement was dependent upon that of the men, and that the proprietors had promised the Sirdar that, when he had obtained a certain number of men they would make him Sirdar, he ordered the master, we know not on what authority, to reinstate him, and told the men that their complaint fell to the ground, because he had ordered the Sirdar to be reinstated.

Sirdar to get increased pay for increased number of men.

Sirdar to be fined if the men work less than a certain number of days in the month.

Indians consider the system an advantage.

Case of Cassee.

2322. We have also seen some contracts in which the Sirdar not only covenants for increased pay in the event of his getting an increased number of men, but also to be fined 2*s.* a head for every one of his band absent, in some cases a month, in others six, ten, or fifteen days, a covenant the legality of which might be doubtful, but the benefit of which to the planter is evident. We have not been able to ascertain whether by these covenants the planter has succeeded in diminishing the number of absentees.

2323. The Indians evidently consider that there is some advantage in the Sirdar system; for on the 8th September 1868, we find an application from the Surveyor-General to Government, requesting authority to issue rations to a woman, named "Cassee," widow of a Sirdar of a band of men whom the Sirdar had recruited in India and brought to Mauritius.

2324. The eight survivors of these men engaged in the Road Department allowed 1*s.* each per month out of their pay to the widow, but that not being sufficient for her support, she begged to be allowed rations the same as were supplied to her by the

planters. Her request was not complied with, and she was allowed the option of applying for a passage back to India, or to apply to the Poor Law Commission for relief. The case is only quoted as illustrative of the connection between the Sirdar and his band.

Case of Balloo, employed in the Road Department.

2325. Some slight intimation was given of the conduct of the Sirdars, among those employed in the Surveyor-General's Department in April 1869, by a petition presented to the Governor by a Sirdar, Apagee. He had been employed in the Road Branch since June 1861, and until about the time of his petition his conduct was believed to be very fair. On the 17th of February he was re-engaged as a labourer for nine months and twenty-eight days, but was employed as Head Sirdar until the 28th April, when he was reduced to a road labourer, and hence his petition, on the 30th April 1869, to Government. On inquiry, it appeared that, in March, a band of labourers under a Sub-Sirdar, named Balloo, were transferred for employment under the Head Sirdar Apagee.

2326. Balloo, soon after his removal, without having obtained leave, one day, after working hours, left his station, went to the quarters of the Chief Surveyor of Roads, and there made statements to the Chief Surveyor regarding the Sirdar squeezing the labourers, and the Surveyor of Roads squeezing the Sirdars. He also stated that Apagee was in the habit of taking money from the labourers to buy rum during his working hours, and that he demanded $5 from Balloo, and on Balloo's refusal to give it, threatened him with imprisonment. On the 9th or 10th of April, Balloo was taken by Sirdar Apagee and Road-Surveyor Godley before the Stipendiary Magistrate on a charge of insolence and contempt, with threats to the Surveyor of Roads, and for telling wilful lies and for leaving his work and men, without leave, on several occasions; Mr. Godley solemnly declaring that Sub-Sirdar Balloo had never given him a civil answer since he had been in the Department, although Godley had in his reports, for the three previous months, reported Sub-Sirdar Balloo's

"conduct good, fair scholar, and fair workman."

Moreover, Godley had allowed Balloo to occupy a hut upon his own property, the camp in which they had been working being rather crowded. This is not likely to have been allowed, if Balloo's conduct had been as bad as Godley represented it to the Magistrate. Moreover, it was only after Balloo's visit to the Chief Surveyor that any fault was found with him, either by Apagee or Godley. Apagee's petition was accordingly dismissed.

2327. Mr. Douglas, the Acting Colonial Secretary, however, minuted on the petition:

"I fear there is a regular system at work in some of the districts, by which the "Surveyor and Head Sirdar combine to sweat the labourers on pay-day.

"The charge against petitioner appears to have been fully substantiated, and his "reduction to the ranks to have been richly deserved."

But we do not find that Government, notwithstanding the fear expressed by the Assistant Colonial Secretary, took any pains to ascertain the truth or otherwise of the suspicions thus entertained, for we find no further information on the subject, and Mr. Godley, against whom the Acting Colonial Secretary says,

"the case is again one of very strong suspicion against Godley;"

who, we find, had a fine, which was inflicted on him by the Stipendiary Magistrate, paid for him, as we have seen (Chapter XVII., paragraph 1799), out of the fine-fund of the Road Department, and is still in Government employ as a Surveyor of Roads in Grand Port.

Mr. Bowdler's Report on the extortion practised by Sirdars in Pamplemousses and Moka.

2328. In the year previous Mr. Bowdler, the Acting Surveyor-General, wrote, in reporting on a petition from one Beeharree, to be reinstated as Sirdar of road labourers:

"The road labourers employed in the districts of Pamplemousses and Moka have, "for a long time past, been very dissatisfied, and numerous complaints having been "brought to my notice by the Chief Surveyor of Roads and the labourers themselves, I have used my utmost endeavours to ascertain the cause of any of those "complaints, and, from information I have obtained, a system of extortion to a "frightful extent appears to have been carried on by the Sirdars in the above-named "districts, and the petitioner, as Head Sirdar, was one of the worst.

"The Head Sirdar, in the Moka District, Luximon, appears to have squeezed "from 30 to 40 rupees a month out of the Sub-Sirdar and men under his direction. "He was reduced to a labourer some time ago, but not being under engagement at "the time, he left the Department and has since returned to India, taking a large "sum of money with him."

Mr. Bowdler suggested that the petition should not be complied with, and further added that since the two Head Sirdars referred to were reduced and some of the Sub-Sirdars fined, he had not heard a single complaint from the men of those districts. The Governor accordingly declined to interfere.

Mr. Hugon's letter complaining of Sirdars, and the request to have the system put down.

Letter from Mr. Hugon, 5th August 1855.

2329. So long ago as 1855, Mr. Hugon, the then Protector, mentioned that the planters (Report 5th August 1855) complained of the institution of Sirdars, and desired Government to put it down—they themselves upholding it, as they found it less expensive to submit to the exactions of one or two men, than to do justice to the whole.

System upheld by the planters.

Mr. Rochecouste's case.

2330. This opinion was called forth in consequence of a band of immigrants having been delivered to Mr. Rochecouste, of Grand Port, who fixed the pay of the Sirdars at the rate given by the other planters. Mr. Garrand, however, made the Sirdars higher offers, and the band refused to engage. Upon reference to Mr. Hugon, Mr. Rochecouste was told that the men could not be forced, but that the influence of the Sirdars would disappear if he treated directly with the men themselves, and that a few rupees given to each man, as a present, would set aside the Sirdars. This suggestion was not attended to.

Mr. Beyts gave no information.

Questions 3311, 3312.

Question 1886.

2331. Mr. Beyts gave us no information upon this subject, except that there was no police on the estate but Sirdars, watchmen, and overseers, whom he did not consider as police, and that the immigrants had no means of knowing the hours when their labours ceased, otherwise than being informed of them by the Sirdar of the gang.

Sirdars inform men when to leave off.

Easy to know the hour from the position of the sun.

2332. From this we conclude that Mr. Beyts means that the hours are so uncertain, that the Sirdar alone knows at what time work should cease; for in a country lying so near the equinoctial line as Mauritius, it is difficult to imagine how even a European who has been in the Island a twelvemonth can fail to know within a quarter of an hour what the time of day is from the sun's position; and we are very certain that every immigrant in the colony knows the time of day exactly, though he may not be able to say what o'clock it is.

System entirely consonant with the customs of the Indians.

2333. Notwithstanding the many objections that there are, both theoretically and in practice, to the Sirdar system, it is one so entirely consonant with the habits and customs of the natives of India, that we fear there would be great difficulty in breaking through it. Any person acquainted with India must be aware that every village is ruled by its "Patel" or head man, and that every trade and craft has either a "Punchayet" (or guild), or head man (Mookudum), to rule them, and that even the labourers have their "Mookudum," to whom they refer or appeal on all occasions; and, although the immigrants are neither of one village, one caste, nor of one trade, they still naturally seek to find a head man or mentor to whom they should refer when in need.

Complaint from "Poudre d'Or" Estate.

2334. On a late occasion 134 immigrants from the estate "Poudre d'Or," in Rivière du Rempart, came, accompanied with their Sirdars, five in number, to complain to us of ill-treatment on that estate.

2335. Neither the Sirdars nor the labourers could give us any specific instances of ill-treatment. They all declared, in Créole, that they suffered "beaucoup misère;" while the only instance they could specify was, that they got less food from Mr. De Chazal, who had purchased the estate and come into possession less than a month before, than they did from his predecessor, Mr. Baudot.

2336. On showing the Sirdars the course they ought to pursue in order to obtain redress, by going with specific charges to the Magistrates, instead of coming with sweeping complaints to us, they informed us they only accompanied the labourers in consequence of threats made to them by the gangs of being assaulted or murdered in the event of their not coming.

2337. We directed the Sirdars to go back to the estate and said that we would come in a day or two and hear their complaints, and see if they had any cause of grievance. They, however, refused to return to the estate, and we, therefore, called in the police and gave the Sirdars in charge of them, together with two of the more obstreperous of the labourers.

2338. This happened on Monday. On the Thursday following we went to "Poudre "d'Or," but then found only one of the complainants and fourteen other labourers present on the estate, the rest having gone with the manager and all the employés to the Stipendiary Magistrate's office. On questioning the single complainant who remained on the estate as to the reason why he had not accompanied the others, he informed us that he was not a married man; that he had charge of the mules, and so did not like to leave his work; besides that, being alone, the food he received was sufficient for his wants, and that the great injury the other men complained of was from the present proprietor, who, when the measure of rice was full, struck it with a stick, so as to knock off all that was superfluous and above the edge of the measure; whereas the previous proprietor had delivered the rice in a piled measure.

2339. The case appeared to us one that could easily have been settled either by the

Complaint from "Poudre d'Or" estate.

manager or the Protector of Immigrants, without the intervention of the Magistrate, by examining the labourers' contracts, showing what amount of rations had been covenanted for in their agreement, in presence of the labourers, of the measure in which the ration was served, and subsequently weighing it, to ascertain whether it was full weight; a course which, we are certain, would at once have satisfied the labourers, by showing either that they had their full allowance, or by showing the manager that the allowance ought to be increased.

2340. The case, however, being pending before the Magistrate, we could proceed no further; but since have learned that the Sirdars were sentenced to fourteen days' imprisonment and had their contracts cancelled, and that subsequently two of them applied to the Protector for Old immigrants' tickets, and that the body of the men have, apparently without their Sirdars, returned to their work. At first they worked unwillingly; but we have since heard from the Protector that they now nearly accomplish a full day's work.

Chapter XXIV.—*Job Contractors.*

The job contractor's connection with the planters.

2341. We come now to consider the job contractor. He is not a part of the planter's establishment or staff, nor is he employed on every estate. Indeed, there are very many estates on which a job contractor is never seen; and even where planters find themselves compelled to have recourse to job contractors, Dr. Icery informs us (Appendix D 25, Pamphlet, p. 18.) "they have to pay extremely dear for the work generally badly executed." Still, there are many planters who employ them as auxiliaries, and find it to their advantage to make use of them.

The subject first mooted by Mr. Hollier Griffiths.

2342. The subject of job contractors appears to have been first brought officially to the notice of the Government by Mr. Hollier Griffiths, the Magistrate of Rivière du Rempart, in a letter on the 8th April 1855, in which he pointed out that Article 2 of Ordinance 27 of 1845 for revising and consolidating the law of licences, exempted every planter, or other person engaged in the cultivation of the soil, or any other agricultural pursuit, from the obligation of taking out a licence, and that, under that law, the job contractors were considered to be exempt from the tax; though, in his opinion, the industry of the job contractor was not of that description which it was the intention of the Legislature to favour. That industry appeared to him to be simply a trade in the labour of others, of which they disposed to the planters at a higher rate than the marketable value, while, on the other hand, they sometimes omitted to pay for it themselves; and thus, both by their direct dealings with the planters and their competition in the labour market, they increased the cost of the labour the planter was compelled to employ. He, therefore, recommended that every job contractor should take out an annual licence, subject to a stamp-duty of at least £30, but he would have preferred £50, as they got hold of the best hands, being Old immigrants, to the prejudice of the planter, and escaped the payment of any stamp-duty for them.

View of Mr. Hollier Griffiths regarding job contractors.

Mr. Griffiths's recommendations.

2343. This measure, he urged, would certainly tend to augment the cost of the labour supplied through the medium of the job contractor; but its general tendency, he maintained, would be to do away with their competition, and thereby diminish the marketable value of labour.

2344. This scheme was transmitted to Mr. Hugon, Protector of Immigrants, and to the Chamber of Agriculture for their report.

Mr. Hugon on Mr. Griffiths's scheme.

2345. Mr. Hugon pointed out that the proposed tax could easily be eluded by the job contractors, many of whom were already planters as well as job contractors. Those who were not planters would become so, in name, if not in reality, with the connivance of the planters themselves. He thought that the only good that could be done at that time would be to require the job contractor to furnish security for the wages of the men he engaged, which he thought would make many act more prudently, and check the offer of wages higher than could be afforded under the then present circumstances.

(Appendix J 2, Report, 24th April 1855.)

The opinion of the Chamber of Agriculture upon Mr. Griffiths's scheme.

2346. The President of the Chamber of Agriculture reported that the unanimous opinion of the members appeared to be that the system of job-work, as at present existing, was prejudicial to the agriculture of the Island in general, and to the labourer himself.

(Appendix J 3, Report, 10th May 1855.)

2347. It was prejudicial to the planter, because it was frequently a cause of disorder on his estate, from the well-known fact that the same discipline was not maintained in the camp of a job contractor as on a well-conducted sugar property, and that the force of example had a most prejudicial influence upon the labourers of the planters, more especially in what they considered a most serious evil—the matter of absenteeism.

Opinion of the Chamber of Agriculture upon Mr. Griffiths' scheme.

Absenteeism not so prejudicial to job contractors as to planters.

2348. The evil of absenteeism was not looked upon in the same light by the job contractor as it was by the planter. The job contractor only paid his men for the work they actually did, and was not a loser to a serious extent by what they might leave undone. He, consequently, often speculated upon absenteeism as a matter of profit to himself, from his being enabled to deduct two days' pay for every day's absence.

Unfair competition in the labour market.

2349. They further urged that it was injurious to agriculture, as it created an unfair competition in the labour market, the job contractor not being subjected to the expenses of medical attendance and hospital accommodation, &c., as the planter was; and he being allowed to remove his men from one district to another, while the planter who had two properties in the same district could not even remove his men from one estate to another.

Job contractors engage Old immigrants to whose introduction they had not contributed.

2350. The job contractor was also able to engage Old immigrants without having contributed anything, as the planters collectively do, to the expense of introduction; thereby enjoying the advantage of the apprenticeship which the labourer had obtained from service with former masters, who were deprived of those services when they became skilful workmen.

Demoralising effect of job-work upon labourers.

2351. They also held the system of job-work to be prejudicial to the labourer himself, as he was often induced through fallacious promises to abandon safe and regular wages for earnings in many cases not to be depended upon, besides acquiring habits which rendered regular work for ever after distasteful to him.

Their view of the proposed licence.

2352. With regard to the proposal to subject the job contractor to a licence, the Chamber concurred with the Protector of Immigrants in thinking that the cost of the licence proposed would be an additional charge upon those planters who, in cases of extreme need, had recourse to job contractors; and the Chamber declared itself reluctant to recommend the adoption of any measure which would tend to legalise the position of job contractors, which they could not but consider as somewhat in opposition to the law which regulated the relations between labourer and employer.

Job contractors a nuisance.

Security to be furnished.

2353. The Chamber, however, suggested, without adopting Mr. Griffiths' proposition, that the Stipendiary Magistrates should be instructed to require from job contractors the same obligations with respect to engagements to which the planters were liable. They also strongly recommended that every job contractor who was not a landed proprietor should be obliged to furnish good and real security, to the satisfaction of the Magistrate, for the wages of the men he employed.

The Procureur-General upon furnishing security. His opinion that no law required security from job contractors.

2354. The question of requiring security being referred to the Acting Procureur-General, that officer reported that he was not aware of any law by which job contractors could be compelled to give security for payment of wages; whereupon, on the 23rd July 1855, Governor Higginson recorded his Minute that further steps did not appear to be necessary at that moment, as he was not aware what advantages were to be gained; and he believed great differences of opinion existed between planters as to the advantage or otherwise of job contractors.

Circular Instructions issued to the Magistrates in 1856.

2355. Nevertheless, on the 26th March following, a circular was issued to Stipendiary Magistrates informing them that instances had occurred of job contractors, and others styling themselves "Entrepreneurs" or job contractors, who presented themselves before the Stipendiary Magistrate with a view of engaging bands of labourers in their service, but that, in many cases, they did not possess the proper qualification which alone could be considered a sufficient guarantee for the performance of the stipulations entered into with their servants.

(Appendix J 5, Circular B, 189, 26th March 1856.)

Guarantee to be required.

The Governor requested that, as it was requisite in order to obtain an uniform system throughout, the custom already adopted in some districts should be followed in all; and that whenever the Stipendiary Magistrate should be satisfied that the position of these job contractors was not such as to afford the necessary guarantees, he should require them to produce the guarantee of a landed proprietor, or other solvent person, so that the fulfilment of the contract on the part of the "Entrepreneur" might be fully secured.

Complaint of non-payment of wages by fifty men from Grand Port in 1864.

2356. Matters appear to have continued in this state until August 1864, when the Protector of Immigrants brought to the notice of Government that a gang of about fifty Indians had come to him from Grand Port, about one month before, alleging that wages to the amount of $500 were due to them, and that neither their master, nor the planter for whom they had worked, and who had guaranteed the payment of their wages in the presence of the Magistrate, would pay them; that they, moreover, had been without work and food for more than a fortnight.

(Letter 114, 12th Aug. 1864, Appendix J 6.)

Complaint of non-payment of wages by fifty Grand Port men in 1864.

2357. It appeared that the job contractor was insolvent, and could not pay the wages, and the proprietor would not pay them, because he was not by law compelled to do so.

2358. The immigrants were informed that their master might sue the proprietor in the Supreme Court, although they themselves had no direct claim upon him.

2359. The Procureur-General, to whom the matter was referred, suggested that a suit for the recovery of the wages might be brought before the District Court; which advice was followed.

Letter 169, 27th Oct. 1864. Appendix J 6.

Mr. Beyts draws attention to the numerous cases of non-payment of wages.

2360. Mr. Beyts reported that recourse to the District Court had been just as unavailing as the application to the Stipendiary Magistrate, and that the wages still remained unpaid.

2361. Mr. Beyts, in his letter of 12th August, had further stated that numerous instances had already come to his knowledge in which immigrants had forfeited their wages through want of legal protection; and, on the other hand, that he had many proofs that the absence of proper restraint over the middlemen was operating very much to the prejudice of the planters of the colony.

Complaint of Mr. Ormsby's labourers.

2362. On the 26th October 1864 another case was reported by the Protector of Immigrants to Government in which several labourers employed by Mr. Ormsby, a job contractor, on the "Virginia" Estate had obtained judgment against their master for wages and rations due, execution of which had been sought, and a warrant of distress issued, to which a return was made of *Nulla bona*. They consequently sued Mr. Moncamp, of "Virginia" Estate, who had guaranteed the payment of their wages; but it was proved that the wages due were for work done on "Union Vale" Estate, after they had left Mr. Moncamp's, and, consequently, they had no claim against him. It does not appear that any guarantee for their wages had been given on "Union Vale" Estate, and consequently the labourers lost their wages and rations.

Appendix J 7, Letter 84.

The Circular Instructions of 1856 issued to Magistrates a failure.

2363. It thus became apparent that the circular letter above referred to was at once too much and too little for the purpose intended. It did not afford the proper security by way of mortgage upon the estate benefited by the Indian's labour, while the personal guarantee which it contemplated might have been that of any one holding landed property in the colony, or any supposed solvent person. Another important defect was, that the guarantee could not be made effectual in the Stipendiary Magistrate's Court, whose jurisdiction did not extend to claims for wages founded upon guarantee. Consequently the labourer suing upon a guarantee had to go before the District Court, the procedure of which was inappropriate to the recovery of such claims.

Procureur-General's report on Ordinance No. 7 of 1865, 10th April, 1865. Appendix J 9.

Circular in some respects went too far.

2364. On the other hand, the circular went too far, since it interfered with that freedom to engage which was considered an important part of the immigration system, in so far as the Old immigrants were concerned.

Attention of Government drawn to the system.

2365. The repeated instances of failure of justice, as noticed above, and a gradual increase in the number of job contractors, forced the subject upon the attention of Government, as one calling for legislation; and at the end of 1864 a Draft Ordinance upon the subject was laid before the Council.

Ordinance No. 7 of 1865. Draft Ordinance brought in to Council.

2366. The original Draft contemplated a guarantee by the owner or lessee of an estate upon which the labourer worked, and it provided measures for the better recovery of wages, and for their security by way of mortgage.

Difference of opinion upon the Draft Law.

2367. The first part of the proposed enactment caused considerable difference of opinion both in the Council and out of doors, and, ultimately, the scheme was generally approved with the limitation of the security to *New* immigrants; as it was considered that the special protection of Government was only required for the Indian during his earlier years of residence, when he was unable to protect himself; while the Old immigrants, from their intelligence and familiarity with the usages of the colony, were generally able to protect themselves in any contract they might wish to enter into, and were entitled, if they chose, to enter into contracts which other persons might consider to be to their disadvantage; and the Old immigrant, therefore, had the same power to protect his own interests as any other classes of persons in the colony. Consequently provision was made requiring the owner or lessee of the estate to guarantee the payment of the wages, the lodging, and the medical care of the labourers; but, restricting the security to the case of New immigrants, and to the sum which the planter agreed to pay to the job contractor.

The Old immigrants are very wise.

Security confined to employment of New immigrants.

Where new security to be given.

2368. In the event of the property changing hands, or of the death or insolvency of the proprietor, the Ordinance required new security to be found.

2369. The Ordinance also provided that payments by the owner to the job contractor

should not be a good defence to a claim upon the guarantee, as a planter could easily prevent this provision operating to his disadvantage by seeing that the wages were settled out of the sums he paid to the job contractor.

Planter barred from pleading pay ments to job contractors.

Mortgage rights given to New immigrants doing job work.

2370. It also gave the Stipendiary Magistrate jurisdiction in these cases, whether brought by Old or New immigrants; and gave the New immigrants, engaged to job contractors, and working on an estate, the same mortgage rights upon the estate as are enjoyed by labourers engaged directly to the owner.

A circular issued explaining the provisions of the law. Security could not be dispensed with. Security did not extend to Old immigrants. Explanations to be made to Old immigrants. Labourers' consent to be established. Withdrawal of guarantee to entitle labourers to have contracts cancelled.

Ordinance No. 7 of 1865. Appendix J 8. Circular 510. 14th March, 1865.

2371. Upon this Ordinance being passed, a circular was issued to the Stipendiary Magistrates, explaining the provisions of the Ordinance, and pointing out that though the security could not be dispensed with, even by consent of the New immigrants, the security did not extend to Old immigrants; and, therefore, it was the Magistrates' duty to see that this state of the law should be fully explained to such of the Old immigrants as desired to enter into contracts of service with job contractors; and he was to inform them that they would have no guarantee from the owner or lessee of the estate on which they worked, or any privilege over the estate itself, for the security of their wages. The Magistrates were also enjoined to take care that labourers fully consented to serve on these terms with the job contractor who sought to engage them, before they passed their contracts of service. If the job contractor obtained a guarantee of any person of whom the immigrants were satisfied, then the Magistrate should pass the engagements, specially mentioning upon its face that it was made on that condition, and that the withdrawal of the guarantee, in case of such a contract, would entitle the labourers to have the contract of service annulled, unless the job contractor, without delay, furnished the guarantee of another person, sufficient, in the Magistrate's opinion, to secure the labourers' wages.

The law meant to be experimental, but still in force, with a few additions. Section 64 of Ordinance No. 31 of 1867 extends Ordinance No. 7 of 1865 to any immigrant. Regulation 53, Ordinance No. 31 of 1867. Guarantee to Old immigrants working on estates.

2372. The Ordinance was considered only to be to some extent experimental, but it has remained in force and unaltered to the present day, except that Section 64 of Ordinance 31 of 1867 extends Ordinance 7 of 1865 to contracts of service between any job contractor and any immigrant; and except that by Regulation 53 of No. 31 of 1867 the distinction, regarding guarantee, between Old and New immigrants is removed as regards contracts of service to be performed on any estate; and in the case of labourers engaged without any estate or any place where the labour is to be performed being specified, the job contractor is bound to furnish security to the satisfaction of the Stipendiary Magistrate.

Notice to Magistrates of intended removal of labourers from estate to estate.

2373. Job contractors are also bound to give notice to the Stipendiary Magistrate of the district of the intended removal of their labourers from one estate to another; and no special guarantee should be signed or authenticated by any Stipendiary Magistrate unless it be proved to his satisfaction that the wages guaranteed to the labourers by the owner or lessee of the estate upon which they were last employed had been duly paid to them.

Penalty of contracting with labourers without a licence.

2374. It is also provided that any job contractor employing labourers without licence, or without security, shall be liable to a fine not exceeding £2 for each labourer so employed, without prejudice to any penalties he might be liable to under Ordinance 7 of 1865; and, further, that all wages guaranteed to immigrants shall be paid to such immigrants in the presence of the proprietor or lessee, or of some person authorised to represent him, by whom such wages shall have been guaranteed; and such proprietor, lessee, or representative shall sign the Pay-book on which such wages shall be borne, in attestation of his having witnessed the payment thereof, in default of which the Stipendiary Magistrate shall not recognise the payment, and the proprietor or lessee shall not be held discharged from his guarantee in respect of such wages.

Regulation 54, Ordinance No. 31 of 1867.

The paying of wages in presence of proprietor or lessee of estate.

1871.

Mr. Beyts upon the restrictions imposed upon job contractors.

2375. On the 8th March 1871, Mr. Beyts submitted to Government that many proprietors of sugar estates had represented that the restrictions imposed upon job contractors hindered their carrying on their business in a manner profitable to agriculture; and he proposed that they should be allowed to engage labourers without specifying in the contracts that they were to work in any particular district, and that the contracts should be made liable to the following conditions:

Appendix J 14.

Conditions of contract, suggestions by Mr. Beyts.

1st. That the Magistrate should clearly explain to the labourers at the time of passing the contract, that they were bound to work in any district to which their employer might choose to take them;

Explanation to immigrants of liability to serve in any district.

Good security to be given.

2nd. That the job contractor should furnish good security for the fulfilment of his obligations to his labourers;

District of estate to which removal of men.

3rd. That the job contractor should satisfy the Stipendiary Magistrate of the district in which the estate might be situated, previous to his removing his

Wages for previous work to be paid first.

labourers from that estate, that the wages due to them for work done there had been fully paid them;

To notify his change to the Magistrate of the district, and to file contract in his office.

4th. That within three days after the removal of his labourers to another estate, he should give notice to the Magistrate of the district in which the estate might be situated of such removal, and file a copy of the contract of service passed before the Stipendiary Magistrate of the district whence they were removed;

5th. That job contractors not observing the foregoing rules should be liable to heavy penalties.

Suggestions, accompanied by remarks, of Mr. Beyts.

2376. These suggestions were accompanied with remarks mentioning the names of five planters, or representatives of planters, who had called his attention to the subject.

2377. The remarks are full of the usual platitudes employed by Mr. Beyts on similar occasions, such as

Mr. Beyts' suggestions as to job contractors.

"it is desirable in the interests of proprietors of sugar estates;"

and that,

"with certain *precautions, it might be carried out* so as not to expose labourers to any "risk;"

—though what these precautions are, of course, Mr. Beyts does not mention; that

"the changes are necessary, not only on account of personal inconvenience from the "present system,"

but on the

"wider ground of the general interests of the agricultural community."

Probability of higher wages for service generally throughout the Island.

2378. He further declares that cancelling a contract by a job contractor, with a view to renewing it in another district, would be a signal for a host of crimps to interpose their influence and endeavour to entice away the labourers to other employers; and, he adds, in a postscript, probably with a view of showing that the contract for districts generally would be favourable to the labourers, that it is not improbable that the labourer, to whom a job contractor proposed a contract of service for work to be performed in any district, would demand a higher rate of wages as compensation; for, he continues, the generality of Old immigrants are quite sufficiently aware of the general terms of contracts of service to understand what their future liabilities would be.

If that be the case, we do not see what is left to the Magistrate to explain to the immigrant.

2379. He also wrote of

"the mischievous intervention of crimps in the transactions and negotiations "between masters and servants;"

and,

"but not to expose the labourer to any risk or hardship, every possible safeguard "should be prescribed."

2380. He then goes on to propose as

"every possible safeguard,"

that

"the nature of the contract should be fully explained to him by the Magistrate, "when its terms are proposed to him;"

as if he had not already said that the generality of Old immigrants are quite sufficiently aware of the general terms of contracts of serving to understand what their future liabilities would be, and as if it was not well known that the Magistrate, through ignorance of the language, was utterly incompetent to explain the nature of the contract, even in the most general terms, to any immigrant; and, therefore, that it would be utterly impossible for any Magistrate or Clerk to explain the contract fully, even if such explanation were not perfectly superfluous.

Mr. Beyts' proposition not carried out.

2381. Mr. Beyts suggested that the plan had better be submitted for the opinion of the Chamber of Agriculture. This, however, does not appear to have been done; but the scheme was laid before the Stipendiary Magistrates for their opinions; and their opinions, together with Mr. Beyts' remarks, were submitted to Government, but no further proceedings were taken.

No advantage in the immigrants from the plan he suggested in 1871.

2382. Before us, Mr. Beyts admitted that it would be better to allow the law to remain as it is; and if a job contractor wants to transfer his men to another estate, he should break their engagements, and re-engage them for that estate. He admitted that there are no advantages to the immigrants from the plan he suggested, except that

Question 3474.

Question 3479.

"the substitution of the contract would be subjected to certain conditions, and that "it would enable the immigrants to ask for more wages if they "thought the conditions to be imposed by the new contract more onerous."

Question raised by the Stipendiary Magistrate of Grand Port.

2383. The Stipendiary Magistrate of Grand Port raised rather a complicated question with regard to the employment of labourers by the job contractor Doolub. He had about forty labourers more than he required engaged to him working on his private estate. He therefore applied to the Magistrate, Mr. Messiter, to know whether he could, without cancelling their engagements to him, and with their consent, send them to work on the "Mon Désert" Estate as job contractor's labourers; Messrs. Thomy, Thierry, & Co., the proprietors, furnishing the usual guarantee.

The Procureur-General's opinion.

2384. The Procureur-General on the 6th July 1872 informed him that he saw no objection, provided the men themselves consented to the transfer, which should be noted in the contract, and signed by the master; provided Doolub furnished the usual security from the owner of the estate on which the men were to be employed.

Appendix J 17.

Decision given transfer with consent of men.

2385. It would appear from the decision, that any person who had labourers in his private employ could, by obtaining a job contractor's licence, with the consent of these men, transfer them for employment to any estate, a proceeding we think most objectionable, and tending to confound job contractors with other employers of labourers; for a planter finding that he had more men than he required, could, by obtaining a job contractor's licence, transfer them to work on his neighbour's estate, or to any other besides his own.

Mr. Renouf suggests job contractors should furnish monthly returns of men employed 1866.

2386. In May 1866 the Magistrate of Pamplemousses, Mr. Renouf, finding that job contractors engaged labourers in his district to work in another, in his opinion to evade the provisions of Ordinance 29 of 1865 with regard to hospitals, suggested they should be required to furnish the Stipendiary Magistrate with a monthly declaration of the total number of men working with them, so that the Magistrate might at any time furnish the Medical Inspector with the information he might require upon the subject.

Protector's Report, 6th July 1866.

2387. The question was referred to the Protector and the Medical Inspector, and the Protector reported that he was not aware of the places where the job contractors had established their camps; and receiving no reports from them, either directly or indirectly, he was not in the position to furnish a return of the hospital accommodation which was provided for their labourers.

Report 11th June 1866.

The information required was not of much importance, as the Procureur-General reported that the recommendation with regard to the monthly declarations of men working with job contractors ought not to be adopted, and the suggestion consequently fell to the ground.

Ignorance of Immigration Department as to job contractors.

2388. Mr. Beyts and his department appear to have remained in equal ignorance with regard to the job contractors and their establishments up to the date of our arrival, for on calling upon him for a return regarding them, he was unable to furnish it, although he had on the 17th February preceding applied to Government to instruct the Magistrates to send him a list of the job contractors in their respective districts, and to inform him of the number of labourers employed by each of them, and also of the names of those job contractors who had notified to the Stipendiary Magistrates the arrangements made for hospital accommodation; and we were compelled to obtain the information we required upon this subject from the Acting Treasurer and Collector of Internal Revenues, by calling for a return of the job contractors who had taken out licences during 1872, and sending that return to the several Stipendiary Magistrates, to ascertain whether the job contractors continued in the districts where their camps were situated, and the number of men they employed.

Appendix J 20. List of job contractors' licences.

Returns as to job contractors.

Statistics as to job contractors.

2389. From these returns it appears that 242 persons in the Island had taken out job contractors' licences, and that 71 of them had no men in their employ; that 28 of them are no longer job contractors in the district in which they resided at the time of taking out their licences, and that 147 job contractors employ 6354 men; that one of them, Mr. Desjardins, in Flacq, employs 236, and Cunder Borah, in Plaines Wilhems, employs 206; the remainder employing different numbers, varying from the above down to four men only.

Accuracy of returns doubted.

2390. We are afraid that the accuracy of these returns is no more to be depended upon than are the majority of returns which we have had submitted to us in the colony; for the above returns show 1032 men, immigrants, employed by job contractors in Savanne, while the returns annexed to Mr. Daly's Report upon the Sugar Estates of Savanne for the year ending 31st December 1871, show 1266 immigrants and Creoles of Indian origin employed by job contractors in that district during the last half of 1871.

Mr. Beyts upon job contractors,—his evidence.

2391. Mr. Beyts in his evidence informed us that job contractors were not all, but mostly, Indians; that they were not generally wealthy men, nor possessed of landed property themselves. We have not been able to ascertain how far the latter information is correct; the former is entirely wrong. The number of Indians who have taken out licences in 1872 amounted to 106, of whom 69 have 2578 men in their employ; whilst there are 136 other than Indians, of whom 74 employ 3706 men. Whether we take the number of job contractors, or the number of men they employ, the minority, and not the majority, is with the Indian.

Question 1402.

Unsatisfactory evidence given by Mr. Beyts as to the system.

2392. Nor was the opinion we obtained from Mr. Beyts more satisfactory with regard to the system of job contractors than was his information with regard to their number. He first informed us that his general impression was, that if job contractors could be eliminated from the labour system, it would be best for the interests both of the agriculturist and the labourer; at all events, still greater benefits ought to be obtained than are, under the existing state of affairs.

Question 1414.

Job contractors to be eliminated.

Inspection of job contractors' establishments.

2393. On further questioning, he stated that, under the Ordinance passed in 1871 appointing Inspectors, he thought that these would be entitled to make an inspection similar to the inspections made on sugar estates, on which immigrant labourers were located or employed. He could hardly see anything more necessary as the system now stands,—that would lead to the discovery of abuses, if abuses existed; and if those safeguards were actually obtained, the system might be allowed to continue tentatively a little further, and that he would give the system a further trial. This might seem to contradict his first answer upon the subject, but the latter is his impression now on consideration.

Question 1427.

Questions 1430, 1431.

System to be given a further trial.

We therefore could not hope to derive much assistance from the information that could be obtained from Mr. Beyts upon the subject.

Camps visited by Medical Inspector.

Camps never visited by Protector or Magistrates.

2394. Moreover, though Dr. Desjardins has visited the job contractors' hospitals, where they existed, in the same way as he visited those on estates, the job contractors' camps have never been visited by the Protector or Magistrates, any more than the camps of the establishments working in the town of Port Louis; so that we have no information with regard to them anterior to 1872. Since then, we find visits have been paid to job contractors' establishments.

Job contractors working on estates not noticed by Protector in his Reports.

2395. On the 31st January 1872 Mr. Beyts visited "Beau Séjour," in the district of Rivière du Rempart, on which estate there were four job contractors settled, employing 324 men; but we find no notice whatever taken in his report of job contractors' camps, hospitals, or treatment of their servants. So, likewise, at "Antoinette," in Pamplemousses, visited on the 1st February 1872, no notice is taken of there being any job contractors on the estate, though Comerosamy, a job contractor, whose camp we visited, has had for several years his camp there.

Appendix Q 166. Protector's Visits to Estates, 1872.

Appendices B 1, and Q 173. Protector's Visits to Estates, 1872.

Mr. Daly's inspections.

2396. Mr. Daly, in his half-yearly inspection of sugar estates in the district of Savanne, mentions in his report, dated 26th March 1872, page 6, that these job contractors are, of all employers, the most unscrupulous in endeavouring to profit by the curtailing of their servants' wages, as he had, within the first six months, detected a system of illegal and unjust marking as absent, men whose amount of work or task did not satisfy the employing job contractor. He also, on the next page, mentions two cases, one at "Beauchamp," and another at "La Flora," where job contractors had marked for the forfeiture of wages, as if the labourer had been really absent, men who had not performed their allotted task; and he winds up his report upon pay and rations (page 15) with a suggestion that it would be very desirable to abolish job contractors, as their system of operations is not looked upon with any favour by the planters.

Appendix D 8.

Unscrupulousness of job contractors.

Planters view the system as a necessary evil. If system abolished, labourers would engage directly on estates.

2397. Job contractors are regarded, Mr. Daly adds, as a necessary evil; and yet where most disliked, the proprietor feels he cannot do without them, unless all proprietors are made to do without them also; and he concludes with stating his opinion that if all job contractors were abolished, their men would have to engage directly with owners of estates.

No report by Mr. Daly as to camps and hospitals.

2398. Mr. Daly makes no special remark in this report upon the camps or hospitals provided by the job contractors.

Mr. Mitchell's visit to Ayasamy's camp.

2399. On the 20th July 1872 Mr. Mitchell visited the camp of Ayasamy, a job contractor in Rivière du Rempart, to inquire into a complaint made by seven women whose husbands were undergoing a sentence of imprisonment, and who declared that they had been forcibly ejected from their huts.

Appendix Q 74. Visits to Estates. Mr. Mitchell, p. 32.

Complaint unfounded.

2400. It appeared that this complaint was unfounded, for three out of the seven women were actually in the camp at the time of his visit, and the others had gone to see their husbands, who were among the number of the prison gang at work on the high road about three miles off.

Mr. Mitchell's visit to Ayasamy's camp.

2401. Mr. Mitchell was unable to discover how these women subsisted during their husbands' imprisonment, as they were not always in a position to procure a sufficient supply of food.

2402. He examined the camp, which he considered far from satisfactory. The rooms were mere dens; and, with three exceptions, the ranges of huts were very much out of repair.

Ayasamy's hospital.

2403. The hospital, a wooden building, thatched, with an earthen floor 30 feet long by 12 broad, and 5 feet in height to the wall-plate, was divided into two rooms, with verandah in front, and was reported to be in good order. There were six beds in one room and two in the other, provided with coarse mattresses, and a press containing a fair supply of medicines. The doctor appeared to attend very regularly.

Appendix Q 75. Visits to Estates. Mr. Mitchell, p. 34.

Arnachellum's books inspected by Mr. Mitchell.

2404. On the same day Mr. Mitchell examined the books of the job contractor Arnachellum, employed on "Beau Vallon" Estate, in the district of Flacq.

Mr. Mitchell puzzled by the pay-book.

2405. From an examination of the books it appeared that entries in the Pay-book did not correspond with those in the Carnet, nor with those in the Hospital-book, and Mr. Caldwell, Acting Inspector of Immigrants, was directed to make a further inquiry upon the subject, which he did on the 15th August following.

Appendix Q 158. Visits to Estates. Mr. Caldwell, p. 87.

Result of inspection by Mr. Caldwell.

Pay-book disgracefully kept.

Conflicting entries as to Seetul.

2406. The result of Mr. Caldwell's examination was, that the Pay-book was disgracefully kept; that the job contractor did not understand French, and that those who kept his books for him had done so in the most slovenly manner. The days of sickness and absence were not entered in detail, but the totals only given, so that it was impossible to check the entries from the Carnet. There was an entry of one Seetul as having died on the 31st May: it is entered again that he died on the 1st June, and on the permit of burial being produced, it appeared that the date of death given to the Civil Status Office was the 2nd June at 7 a.m.; the burial took place on the 3rd June, from which it is most probable that the real date of his death was the 2nd.

Arnachellum's camp inspected by Mr. Caldwell.

2407. The camp appeared to be better than the average, but Mr. Caldwell says,

> "it is almost derisory to speak of medical care as connected with this band of "men,"

Medical care.

the men requiring medical assistance being treated in the hospital on "Beau Vallon."

The first entry, however, in the Hospital-book is on the 18th April 1872, on which day the Medical Register appears from Dr. Cordouan's entry to have been presented for the first time; the constant entry appears to be "pas de malades," though sickness of immigrants is often entered in the Pay-book.

Cuttings.

2408. Mr. Caldwell found that rations were never cut for absence, unless the absence extended during the whole week. The men declared themselves well satisfied with Arnachellum, and stated that they had no "corvée" to perform on Sunday.

The men well satisfied.

Appendix Q 84. Visits to Estates. Mr. Mitchell, p. 113

Mr. Mitchell's visit to Naina Mahomed's camp.

2409. On the 19th August 1872 Mr. Mitchell visited the camp of Naina Mahomed, a job contractor at Moka.

The hospital.

2410. He found some confusion in the books: the hospital had been built only some seven or eight months, and would contain three patients, and had four beds provided with mattresses covered with coarse sacking, one with mats, and the other with no bedding at all.

Medical Attendant's visits very irregular.

2411. There were ninety contract labourers employed by him, but the Medical Attendant's visits were very irregular.

Cleanliness of camp.

2412. The camps, of which there were two, were both models of cleanliness, and most of the houses in good repair.

Rations.

Wages.

Appendix Q 80. Visits to Estates. Mr. Mitchell, p. 68.

2413. The Indians here always receive fish as part of their rations; but the wages, though fair, were lower than those paid by some other job contractors, particularly by those employed by Mr. Godard; but of these job contractors Mr. Mitchell gives no detailed report.

Mr. Jenner's inspection of Doolub's establishment.

Appendix Q 26. Visits to Estates. Mr. Jenner, p. 115.

2414. On the 24th July Mr. Jenner visited the camp of Doolub, job contractor in Grand Port, who has 164 men in his employ, 72 only working on his estate, 67 at job contractor's work, 12 labourers in the yards and shops, 6 hawkers, 2 as carters, and 5 as jewellers.

Irregular payment of wages.

2415. Doolub pays his wages at no regular periods; sometimes at the end of two months, sometimes monthly. His Pay-books were not forthcoming for any period previous to September 1871, the former ones having, it is said, been stolen.

Doolub's establishment inspected by Mr. Jenner. Doolub's shop.

2416. Doolub has a shop kept in his own name and in the name of his son Samsunder, a lad of about seventeen years of age, where credit is readily given to the labourers, who, when paid, have the money counted out to them, and the settlement of the shop debts takes place in such manner as the employer and the men arrange between them.

Truck system.

Inspection not complete.

The inquiry was not made as complete as it might have been; Mr. Jenner, apparently, having had some unnecessary objection to make it as searching as he ought, in consequence of a case pending before the Magistrate, as if any inquiry or report Mr. Jenner made, would, or at least ought to, have had the slightest effect on the Magistrate's proceedings.

Dwellings.

2417. He found some of the dwellings miserable hovels, as might be expected from his report that, after his visit, eight houses had been knocked down by order of the Sanitary Inspector: on the other hand, some of the houses were reported to have been very comfortable. One was described as a very miserable structure, but it was added that the immigrants, six men and two women, built it for themselves, and preferred it to another that had been rented for them a short distance from the camp.

Water.

2418. Water was scarce, and in the dry season was said to be brought by a cart from a canal at "Deux Bras" Estate, a mile distant.

The immigrants denied that the water was ever brought in a cart, and declared they had to fetch it themselves.

Hospital.

2419. The hospital was reported to be a good wooden building, but unenclosed, and in the middle of a block of buildings occupied as houses, stablings, &c., some of the houses being within a few yards of the hospital. It had been certified by Dr. Gouly, late Medical Inspector, and therefore no further remark need be made upon the subject.

Corvée.

2420. "Corvée" of three hours' duration is required by this job contractor, which we are informed is not generally required by others.

Distance of work.

System of tolerating absences.

2421. Mr. Jenner observes that many of these men had to go at least five miles to their work and then return; and that, as was naturally to be expected, half their time was spent in absence. It therefore appeared to him that the system was to keep twice as many men as Doolub had work for, and to tolerate the absence, making it subservient to his purpose of prolonging their engagements.

Captain Blunt's visit to "Antoinette."

Appendix Q 115. Visits to Estates. Captain Blunt, p. 403.

2422. Captain Blunt, on the 23rd January 1873, visited "Antoinette" in Pamplemousses, but he merely mentions the fact of there being four job contractors on the estate—Comerosamy, Muneeram, Ramdeen, and Jayaseam and Ramroid.

Visit by the Commissioners to the job contractors Muneeram and Comerosamy.

2423. We had before that, on the 13th September 1872, visited this estate, and had

Appendix B 1. Visits to Estates, Royal Commissioners.

found that only two of the above-mentioned job contractors, Muneeram and Comerosamy, employed sufficient men to require hospital accommodation.

Medical care.

The hospital registers were kept in the same manner as the estate's register, but extra diet was not ordered for the job contractor's men to the same extent as it was for those of the proprietor, Mr. Maroussem. We visited the camps, but our visit having apparently been expected, we found them swept, or being swept, and very much like Indian villages, with huts in good repair and plenty of water at hand.

huts.

fishwas.

2424. On examining Comerosamy's stores, we found that he, like many proprietors, gave his men no fish, that the rice was dirty and the dholl inferior; but it is just to say that the labourers made no complaint about them.

Comerosamy's complaint against the Magistrate's decision.

2425. Comerosamy complained generally of the Stipendiary Magistrates' decisions, and attributed the number of desertions from estates to those decisions. We were unable to ascertain what the specific cases were to which he objected, but one had been brought to our notice in the month of June, wherein Ipermal had been sentenced to six months' imprisonment for repeated desertion, a sentence just double what the Magistrate had power to inflict, and therefore, hardly one of which the job contractor had grounds to complain.

Case of Bappoo and others *versus* Bax and Leriche.

2426. We have already alluded (Chapter XVI., paragraph 1461) to Mr. Jenner's report

Appendix J 29.

upon the case of Bappoo and others *versus* Bax and Leriche, job contractors, who complained, on the 3rd January 1872, that they had been engaged to work on the "Virginia" Estate, that they worked there one month and seven days; were then taken to "Beau Vallon" (Rochecouste), where they worked one month and twenty days; and thence were taken to "Beau Vallon" (Dauban), where they worked one month, and were left there by their employer, Mr. Bax, who never came near them after the day he took them to that place: that they had been paid for the time they worked at "Virginia," and they sued for the remainder of their wages, and that their engagement might be cancelled, as they were engaged for "Virginia" only.

Judgment of Mr. Messiter.

2427. The Stipendiary Magistrate, Mr. Messiter, gave judgment on the 28th May for the wages due for "Beau Vallon" (Rochecouste); but the month not having expired

of their working on "Beau Vallon" (Dauban), they were ordered to return to their work there.

Bappoo and others *versus* Bax and Leriche.

Mr. Messiter's belief.

2428. The Magistrate *believed* that the men when changed to the last-mentioned estate had appeared before him and consented to the removal; but he could not speak with any degree of certainty to the fact, as it is not a rule of his Court for men to appear and give consent when their master, a job contractor, removes them from one estate to another.

Illegal transfer by job contractors.

Extraordinary procedure of Magistrates Messiter and de Boucherville.

2429. The report of this case shows, not only how the job contractors, setting the law at defiance, transfer their labourers from one estate to another without the consent of the men, but also the extraordinary manner in which Mr. Messiter, the Stipendiary Magistrate, and Mr. de Boucherville, the District Magistrate, his *locum tenens*, decide the cases that come before them.

In the end truly justice.

2430. It is here sufficient to remark that the labourers, on the 27th September 1872, did at last obtain the wages for the work they did on "Beau Vallon" (Dauban), and got their engagements cancelled. It is hard, however, that they should have had to wait from the 3rd January to 27th September 1872 in order to obtain justice, which, but for the incompetence of the Magistrate, they ought to have obtained eight months before.

State of the labourers in the employ of Messrs. Fauvette and Fabre.

2431. The state of the labourers in the service of Messrs. Fauvette and Fabre, in Flacq, was brought to the notice of the Protector of Immigrants on the 23rd May 1872 by

Appendix I 16.

Mr. Daly, then Magistrate of the district, in consequence of a man suing for two months' wages, having been marked absent in the Pay-book, when he contended he had been sick. He declared that there was no hospital belonging to his master, and that none of the labourers had ever been treated in hospital.

Mr. Daly's report.

Pas de malades.

2432. The Magistrate found that, for several months, not a single man's name had been entered in the Pay-book as sick or "malade," and though the defendants had engaged Dr. Le Juge to attend their men, Mr. Daly found, on examining the hospital register from August 1869 to 1st May 1872, that no man, woman, or child had ever been treated for any complaint.

2433. The doctor had regularly signed his name throughout, opposite an entry of "pas de malades," and the Inspector of Hospitals, at the time of his visits, duly attached his signature to the entry "Vu."

Defence of the job contractors.

Since May 1872 labourers had become alive to the advantages of hospitals.

Job contractors' men are never sick.

2434. The job contractor maintained that the men persistently refused to go to hospital; that if men complained of sickness they were treated by the job contractors, but marked "absent," because they refused to go to hospital; though since the 1st May 1872 the register showed that several men had gone to hospital and been treated there; the cause of this they did not explain, except that, since, the manager of the estate "St. Julien" had insisted upon the job contractors' men being sent to that hospital. One of the defendants, moreover, boldly asserted that

"job contractors' men were never sick."

Mr. Jenner's inquiry.

2435. On inquiry of Mr. Jenner it appeared that on the 23rd June 1869 an authority had been given for Messrs. Fauvette and Fabre's men using the hospital at "St. Julien;" that from the 2nd August 1869 to the 9th May 1872, 189 visits had been paid by the medical officer, and that "pas de malades" was repeated on each occasion.

Statement of Mr. Alcide Fabre.

2436. Mr. Alcide Fabre stated that his Indians refused to go to hospital until the 9th May 1872, when Mr. Boristhène, the Administrator, refused to give rice to them, of which he only gave half rations, unless they presented themselves daily at hospital; that when he saw a man was really sick, he gave him medicine and took care of him, marking him sick in the books; but if he thought a man feigning, he ordered him to go to hospital, which he never did, and then he marked him absent.

False statements as to Gawer.

2437. The statement, however, that men really sick received medicine and were marked sick without going to hospital was proved to be false in the case of one "Gawer," who, having worked up to the 15th April, was absent to the 30th of that month, and the whole of his wages were cut for his absence. This man had the appearance of suffering from the commencement of leprosy, and Mr. Fabre stated that he could do nothing to the poor fellow but let him lie quiet in his "case," giving him his half-rations, though, according to his own showing, he ought to have received his wages also to the 15th April at least.

Malpractices of long standing.

Mr. Jenner also discovered other similar cases, and he concluded his report by saying that Messrs. Fabre and Fauvette appeared to have long practised a similar plan with regard to the sick in their employ.

Calleemootoo's case.

2438. On the 25th August 1872 Mr. Jenner brought to notice the case of

Appendix O 18.

Calleemootoo, which will be given in detail in the chapter regarding Magistrates; and, consequently, no notice need be taken of it here, further than to mention that Calleemootoo brought a complaint against Doolub in order to get his contract cancelled, and withdrew it on Doolub cancelling the contract. The papers

regarding the Magistrate's conduct in this business have, we understand, already been laid before the Secretary of State, whose decision on it has not yet been received.

Calaven's case.

2439. The case of Calaven and others, who, when engaged to a job contractor, were deceived by him and taken before the Magistrate, under pretext of taking their consent to a transfer to Grand Port, but in reality to break their engagement with him as a job contractor, and to enter into another engagement with him as attorney for Mr. Dauban, is mentioned in the chapter upon *Contracts* (*vide* paragraph 1550), and need not be repeated here. Nor need the case of Roochun and 39 others *v.* Wiehé and Co., in which they were deceived to enter into a contract with Messrs. Parat and Co., mentioned in *Contracts* (paragraph 1547).

Appendix I 6.

Roochun and 39 others, *v.* Wiehé and Co.

Case of Doolub *v.* Seedarry and 80 others.

So, also, the case of Doolub *v.* Seedarry and 80 others is given in detail in the chapter on *Contracts* (paragraphs 1551 and following).

These show the careless manner in which the contracts were passed by the Stipendiary Magistrates. They were, however, annulled by the Supreme Court, and need not be further noticed here.

Case of Maremootoo *v.* Poonoosamy. False entries in pay books.

2440. On the 17th April 1872 Mareemootoo sued Poonoosamy, job contractor, before the Stipendiary Court of Black River, to recover his wages and for refusal of medical care. The defendant produced his books in support of his defence, but the Magistrate found he had made false entries in the books, and awarded $3 45c. claimed for wages, but threw out the claim for refusal of medical care; the case showing that job contractors as well as planters keep false books.

Appendix J 15.

Planters' opinion generally adverse to the system.

2441. We have endeavoured to ascertain the opinion of the planters and Magistrates with regard to the job-contracting system.

The opinion of the planters seems to be generally adverse to job contractors.

Mr. Antelme's opinion favourable.

2442. Mr. Antelme, though not a great employer of job contractors' labourers, having recourse to them only for two or three months in the year, when all his men are employed in the crop, and when it is necessary to have the land holed to make plantations in November and December, appears to have *the most* favourable opinion of them. He thinks that those who have large gangs are placed in much the same position as planters themselves; but that those who have small gangs are, in a pecuniary point of view, in a better position, for, unless they have more than 30 men, they are not obliged to have an hospital, and, therefore, have no expenses for medical attendance and medical treatment.

Question 6569.

Small employers of job men better off than large.

Mr. Antelme's opinion.

2443. At certain times of the year some planters want assistance for extra work, and there are some who require assistance throughout the year, but Mr. Antelme is of opinion that many planters would not require such assistance if the job contractors had not taken the men from them.

2444. He thinks that to place the system on a fair and equitable footing, job contractors should not be allowed to engage men as they now do, but that they should be required to have a camp and hospital, and to fulfil towards their men the same obligations as are imposed upon planters.

Question 6572.

2445. This would get rid of all job contractors with less than 30 men, which he thinks would be a good measure, though he is not prepared to show how job contractors, if they have camps and hospitals, could transfer their men from one estate to another.

Question 6574.

2446. He thinks that the job contractors' service presents greater attractions to the immigrants than that of the planters, as there is not the same discipline among them; and illegal absence is compensated to the job contractor when it is not to the planter. The job contractor does not care whether a man absents himself or not; for if he absents himself for 14 days in the month, he has to work the rest of the month for nothing; and it makes no difference to the job contractor how many men are absent, as he is paid for all the work his men do, and he does not pay the absentees.

Question 6575.

Questions 6579, 6580. Question 6577.

2447. On the other hand, planters who permanently employ job contractors' men cannot, in his opinion, realise large profits.

Dr. Icery's opinion.

2448. Dr. Icery, whose opinion we have quoted above that planters pay job contractors extremely dearly for work generally badly executed, tells us that the work done by job contractors cost him one-third more than if done by his own labourers, but he has not employed them for a long time. He does not think that the job contractors have better men than those that are employed on sugar estates.

Questions 7556, 7557.

Mr. Hardy's opinion.

2449. Mr. Hardy, for the last ten or eleven years, has employed job contractors to hole the ground from September till the end of January. He considers that he pays job contractors more than double what it would cost him to do the work with his own men; but as it is necessary in high ground, like Moka, where his estate is, to plant early, he is

Mr. Hardy's opinion.

obliged to employ job contractors, the number of men on his estate, "Minissy," not being sufficient to do the work without the assistance of job contractors' men; though, were there no absentees among his own labourers, the men he employs on his estate would be sufficient to do all the work.

Probably more correct than Dr. Icery's.

2450. We have already shown (Chapter XVII., paragraphs 1640 and 1641) the comparative expense, as exemplified by holing, between work performed by job contractors and by estates' labourers, showing that the work of the former costs, at the lowest estimate, twice as much as that of the latter; and we are consequently led to think that Mr. Hardy's opinion of the relative expense of job contractors' work is more nearly correct than Dr. Icery's.

Mr. Messiter's opinion.

2451. Mr. Messiter is of opinion that the job-contracting system should not exist; that the job contractors have no discipline amongst the men they employ, but let them do what they please, and that they are not so hard upon their men as the planters; and he thinks that if the planters would employ a sufficient number of men, they might get on without the job contractor.

Question 15,151. Question 15,132. Question 15,138.

Irregularities in Mr. Messiter's proceedings.

2452. We cannot, however, quote Mr. Messiter's opinion as very high authority upon this subject; for his conduct in the case of the job contractor, Doolub, as we said before, is still before the Secretary of State; and, from his examination, we found that he was by no means careful with regard to the manner in which he passed contracts. He has in his office but one form of contract, and that the one for the engagement of immigrants to planters, which he employs for job contractors also, though there is a separate form of contract with them; and he passes a contract with a job contractor for five years, although a job contractor has only an annual licence, and by law cannot engage an immigrant beyond the period to which his licence extends.

Mr. Renouf upon contracts with job contractors, 1869. Job contractors necessary.

2453. Mr. Renouf, in May 1869, was of opinion that no verbal contracts should be allowed to job contractors, as they elude the guarantee required for written contracts and the hospital laws. He, however, thinks that job contractors are necessary to assist the planters on an emergency, when the planters have not a sufficient number of men on their estates. He knows Comerosamy, the job contractor in his district, and, though he considers job contractors generally lenient, thinks Comerosamy rather severe with the labourers.

Appendix J 13. Letter, May 1869. Question 11,410. Questions 11,411, 11,414.

Mr. Renouf upon Comerosamy's case.

2454. Mr. Renouf, however, did not punish Comerosamy as he ought in the case of Antony and several others, who complained of having been driven from the camp twice, for which he only fined Comerosamy £6, and threatened to cancel the engagements in the event of his doing it again. Mr. Renouf did not cancel the engagements this time, because the men had abandoned the estate on which they were employed ("Antoinette"), and refused to work or return to it; and the men leaving the estate had caused a prejudice to Mr. Marbussem, the proprietor of "Antoinette." He fined them in consequence of their having abandoned their work.

Mr. Renouf's judgment in Comerosamy's case.

2455. The terms of his judgment were:

> "I consider the defendant ill-used his servants, the complainants, by driving them "away from their camp, where they had been ordered by the Court to return and "resume their work. I further order that the complainants do return forthwith to "their work, with a warning to the defendant that if a case of ill-usage be again "brought against him by complainants, their contracts of service will be can-"celled."

Mr. Renouf's explanation of his judgment.

Question 11,410 *et seq.*

2456. Mr. Renouf, however, in his answers to our questions whether this conduct was not sufficient to warrant his applying the law in all its severity, said:

> "I consider a case of assault as still more serious."

From which we can only infer the probability that, had the assault been added to Comerosamy's offence, Mr. Renouf would have thought it necessary to wait until he had committed some still more serious offence before he inflicted the full penalty of the law.

Police Inspector O'Connor's complaint against Ramasawmy.

Ramasawmy troublesome to the police.

2457. The Police Inspector, Mr. O'Connor, in 1867, complained of Ramasawmy, a job contractor in his district, employing about 30 men, giving him more trouble than all the immigrants, amounting to 5000, engaged in the district. He and his labourers were constantly bringing complaints against one another, charges of assault, insubordination (which is not an offence recognised in the law), refusing work, and claim for wages. This camp is described as the resort of all the bad characters in the neighbourhood, and it is said that half the men subsisted by stealing, until, after some time, the greater portion of them had been sent to prison and the remainder deserted.

Appendix J 12. Letter 82, 25th May 1867.

2458. Mr. O'Connor says that the planters were so well aware of the evil likely to

arise from the proximity of a job contractor's camp, that they seldom, except from unavoidable necessity, would permit a job contractor to construct a camp on their property.

Job contractors not essentially necessary to working of estates.

2459. The above opinions show clearly that job contractors are not essentially necessary to the ordinary working of an estate, and that they are only employed on emergencies; that the employment of job contractors' labourers is, in a measure, an expense to the proprietor, though not to the same extent as is shown by the statement we have made above; for, if those eleven men who were required to hole an acre of ground in one day were the permanent labourers of the estate, their wages would be continued to them throughout the year, whether they were in active work all the time, or not.

Probable cost of job contracting.

2460. In estimating, therefore, the cost of work performed by job contractors' labourers, allowance must be made for the time that the labourers on an estate might be paid and lodged, either without work or without full work; and, under that view of the case, possibly Dr. Icery's estimate might be more nearly exact than Mr. Hardy's, though to calculate the expense would require more time than we can devote to the subject, and probably, when worked out, would not repay the trouble.

Internal economy of the system.

2461. With regard to the internal economy of the job-contracting system, the above opinions show that, in a great measure, the job contractors' labourers are their own masters; that no discipline is exercised over them, and consequently that there are constant grounds for complaints between masters and servants.

Hospitals.

2462. At the same time the job contractors' camps have never, and hospitals have only in one division, been subjected to any inspection; and, bad as the hospitals are on the estates generally, which are inspected, those belonging to job contractors appear to be still worse; the division we have excepted as being that in which the hospitals are inspected, is that under the supervision of Dr. Desjardins, who has made regular inspections of them; though, as we have shown in the chapter upon hospitals generally, such inspections are of little use, the Doctor having no means of ordering improvements and reforms, or, if he had, of seeing that they were carried out.

Dr. Gouly's false inspections.

2463. Dr. Gouly does not appear to have made any inspections at all, and if he had made any, unless they were better than those he made of the Estates' Hospitals, they might just as well have been omitted.

How the planters cut their own throats by prohibiting day labourers. Difficulties in the way of the abolition of the system.

2464. Under the present system it would probably be impossible to abolish job contractors altogether; for so long as day labourers are, as it were, prohibited by the heavy tax they have to pay, it would be impossible for planters to obtain day labourers upon an emergency; and, therefore, supposing that the planters had a full complement of men, and those working conscientiously, they could not, in case of necessity, obtain an extra body of men on any emergency if the job-contracting system were abolished.

Abolition of jobcontractors neither just nor advisable under present circumstances.

2465. Moreover, it does not appear to us that it would either be just or advisable to abolish the system, so long as the Sirdar system remains. The trade is a fair one, and closely connected with the Sirdar system—the Sirdar being, in fact, a job contractor under another name.

The Sirdar and the job contractor. Position of the Sirdar.

2466. The Sirdar is neither a labourer nor an overseer, but he receives higher wages and extra rations on account of the body of men which he brings to work upon an estate. He is not responsible, generally speaking, for the work of these men; and it is only rarely that it is a loss to him when the labourers choose to absent themselves.

The job contractor. No need for law to abolish system.

2467. The job contractor, on the other hand, is a Sirdar who receives a sum of money for the work his body of labourers do; and, if they absent themselves, he suffers in consequence of the work he had contracted to perform being delayed. We, therefore, do not see any reason why the job-contracting system should be prohibited by law.

Chapter XXV.—*Treatment of Indians.*

Part I.

The prospects held out to the immigrant on engagement in India are neither fulfilled by the Protector, the Doctors, the Magistrates, nor the planters. *Dicta* of former Governors and opinions of old residents.

2468. In the preceding chapters we have perhaps given sufficient evidence and cited sufficient cases to show that the prospects held out to the immigrant on his engagement in India are neither fulfilled by the Protector, by the Doctors, by the Magistrates, nor by the planters, and probably further evidence upon the subject would be superfluous were not the *dicta* of former Governors as well as the opinions of old residents quoted in support of the general good treatment which the immigrants enjoy in Mauritius.

2469. Dr. Icery in his pamphlet says:

Dr. Icery's pamphlet, p. 35. Appendix D 25.

"Nobody will contest that in Mauritius, as well as in other countries, "condemnable exceptions may be found. I am glad to believe that

"such do not now exist, but at best it must be admitted that such may have "occurred and may occur again."

Dr. Icery questioned as to whether there were not estates on which planters were hard and unjust. He did not imply there were not such planters to be found. He had reason to believe that such planters do exist and are to be found.

2470. On his being questioned by us whether, when he wrote this, he was not aware of there being any estate in which the planters were hard and unjust towards their labourers, he said he did not imply that there were not such planters to be found, but that he hoped none would be found; and, upon being questioned further upon the subject, he admitted that from the facts that had transpired before us, he had reason to believe that such planters do exist and are to be found; but when asked how far he thought that planters could ill-treat their immigrants without its affecting the whole colony, he replied he could not admit that particular acts stigmatising two or three planters could, when judging soundly and impartially, prejudice in any way the great body of the planters.

Question 8476.

Question 7150.

Particular acts committed by individual planters could not prejudice the great body of planters.

2471. When questioned as to how many people ought to be found in the wrong in order to condemn the whole system, he answered, he did not think the question could be judged in that manner; that the system is based on laws, and if the laws were bad, the system was defective, and must be altered; but we could not ascertain from him what, in his opinion, would justify the general charge against the planters of ill-treatment of the Indians.

The system is based on laws, which, if found defective, should be altered. Could not get Dr. Icery's opinion as to what would justify the general charge of ill treatment against the natives.

2472. Mr. Naz informed us that he was very much surprised to find it revealed by the inquiry before us that there were at least several planters who were notoriously bad masters; such a state of things was not even suspected to be in existence, he having previously informed us that he was awaiting the result of our inquiry with confidence. That successive Governors had proclaimed the happy condition of the immigrants in Mauritius:

Question 310, Vol. II.

Vol. II. Quests. 187 and 188.

Mr. Naz's surprise to hear that there were several bad masters amongst the planters. Such a state of things was not even suspected. Successive Governors proclaimed the happy condition of the immigrant.

"after Sir Lionel Smith and Sir William Gomm, who had both certified the facts to "the Home and the Indian Governments, Sir George Anderson, who was so com-"petent to give an opinion. After him Sir James Higginson, who knew the West "Indies and India, who governed Mauritius six years, has not ceased to assert "unreservedly that the condition of our immigrants was at least equal to that of "the labourers in any other country. Sir William Stevenson and Sir Henry "Barkly, who both knew the West Indies, have repeatedly stated the same thing. "The same has been written and said by all the generals who have provisionally "administered the Government—most of whom also knew India well;"

and he wound up, saying:

"I would be as much surprised as disappointed if the present inquiry did not "corroborate such a succession of impartial and disinterested affirmations, and if, "saving more or less exceptions inherent to human nature the Indian population "in Mauritius in general was not found to be happy and justly treated."

Sir Lionel Smith. Sir George Anderson. Sir James Higginson. Sir William Stevenson. Sir Henry Barkly. The same written by all the generals who have provisionally administered the government.

2473. This succession of what Mr. Naz calls the

"impartial and disinterested affirmations of the several Governors"

we have heard reiterated down to the present day, and we find in a letter to the 'Times' newspaper, dated the 11th August 1873, by Mr. Macpherson, the proprietor of "Cluny," the same assertion made, that

"such men as Sir. G. Anderson, Sir J. Higginson, Sir William Stevenson, and "Sir Henry Barkly all fully testified to the fair treatment of the Indian Coolie by "his Mauritius employer;"

and, again, on the 13th of the same month, Mr. Anderson and Mr. Jourdain, in a letter to the 'Times,' which was not published in that newspaper, but *was* in the 'Standard,' repeated that the publicly expressed opinion of His Excellency the Honourable Sir Arthur H. Gordon fully corroborated the statements made by his predecessors, Sir Lionel Smith, Sir William Gomm, and Sir George Anderson, the last of whom had declared his opinion that the Indian labouring population in Mauritius was treated justly, and that a labouring population perhaps nowhere in the world was in such favourable circumstances. Sir J. Higginson, Sir William Stevenson, and Sir H. Barkly, in later years, bore testimony to the fact that the condition of the Mauritius immigrant was at least equal to that of the labourers in any other country.

Hon. Mr. Naz. Testimony of former Governors as to the good treatment of the immigrants.

These two latter gentleman, Messrs. Anderson and Jourdain, are not planters, and sign themselves as "Two long Residents in Mauritius;" but both they and Mr. Macpherson appear to forget the fact that what these several Governors have recorded have been mere opinions, not founded on any investigation into the treatment which the Indians have received, but opinions formed from gubernatorial visits, from the returns of Stipendiary Magistrates and Medical Inspectors—in fact, opinions formed, if on any inquiry at all, upon one that is merely *ex parte*, and therefore, though they have accepted the

Testimony of former Governors as to the good treatment of immigrants.

dictum as an axiom and resent its ever being questioned, the question of the treatment of immigrants in Mauritius remains, notwithstanding the strong asseverations, at the present day, a moot point.

2474. Before proceeding to examine the opinions of the Governors and to see how far they are supported by actual facts, it will be advisable to see the opinions generally held in the Island about the periods to which the recorded opinions of these different Governors refer.

2475. In the Report of the Immigration Committee of Council, No 8. of 7th September 1843, the Committee say—

"It is also essential for the existence of the island, in anticipation of the changes "openly announced as early about to take place, there should be such a supply of "labour as will 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 go on to say:

"If any abuse exist of which the Committee have not as yet been informed, the "members think they cannot have any better security for their correction than the "vigilance exercised by His Excellency since Indian immigration has been renewed, "and the interest he has so actively taken to preserve it pure and free from "reproach."

Opinions of Mr. Rawson's Committee.

Second Report of Immigration Committee, 15th August 1845.

2476. In the second Report of Mr. Rawson's Committee, dated 15th August 1845, the Committee say, paragraph 19:

"Experience has proved, and your Committee believe, that all the Governments "interested in the question are satisfied that the Indians derive great positive "advantages from emigration to Mauritius, while their departure from India, if felt "at all, cannot but be beneficial, and this emigration is effected without any "pecuniary charge on the Government of that country;"

and so strongly were they impressed with this idea that they go on, and in the 20th paragraph say, as we have already mentioned (Chapter VI., paragraph 249), but cannot refrain from repeating:

"your Committee cannot dismiss this point without expressing their hope that the "time is not far distant when the immigrants will be so convinced of the advantages "of emigration to Mauritius, and so eager to obtain them, that they will be willing "to enter into an engagement to defray or to refund the expense of their passage to "this colony."

2477. In 1845, as has been already noticed (Chapter VI., paragraph 254), a statement was printed and circulated in the colony, drawn up by a party much interested in its sugar plantations, as containing information which might be useful to Her Majesty's Government in arriving at an estimate of the whole complicated question of emigration.

1845.

Mr. Brenan's favourable opinion.

Sir W. Gomm to Secretary of State, Despatch No. 118 of 2nd July 1845.

This was forwarded to the Secretary of State in Sir William Gomm's despatch No. 118 of 2nd July 1845. In this a letter is quoted from a Mr. Brenan, dated "Bois Manguier," 24th May 1845, in which he commences by saying:

"I cannot better support the opinion I have given you that the Indian labourer "materially betters his condition by emigrating to Mauritius, than by placing before "you a simple statement of such facts and observations as my connection with "agricultural pursuits both in Bengal and in Mauritius has brought under my "notice, and enabled me to make."

2478. He then goes on and gives a sketch of the state of the Coolie in Bengal, and concludes with:

"I shall now turn, and I must confess with something of the feeling of one who is "leaving a prospect where all is desolate and barren for one of smiling prosperity, "to the condition of the immigrant labourer in this colony, which I shall consider "in the order already proposed;"

and he concludes his comparison with:

"At first sight some parties may suppose that the high wages of Mauritius are not "worth more to the Coolie than the low wages of India, inasmuch as food, &c., "are in the same proportion. This would be true if he had to buy his supplies, "but as he does not go into the market at all in Mauritius, everything there being "furnished to him 'gratis,' his money wages are all so much over and above all "wants, clear profit or pocketing.*

* This is not the case at the present day—1873. His clothes, all condiments, and everything above the allowance made him of food, he is obliged to procure for himself.

"In this case, therefore, the common argument of relative prices does not apply; "and even if it did, even admitting the wages of Mauritius to be only equal to "those of India, the important question remains—can all Coolies get Indian wages? "Is there no surplus population in India?—no thousands and thousands, if not "millions, of men, who cannot get regular employment, and who, in consequence, "suffer frightful misery, even to be obliged to sell their children at times "for food?

"Let Indian gentlemen answer this; this is the important particular that ought "to be thought of when considering emigration to Mauritius from India; a wide "field of industry and labour is thrown open to destitute thousands."

Mr. Brenan's views supported by Mr Neave.

2479. The remarks of Mr. R. Neave, of the Bengal Civil Service, upon this letter are also enclosed in the Governor's despatch.

Despatch No. 137 of 19th July 1845.

In these he very fully corroborates Mr. Brenan's views of the subject, and he even goes so far as, in a subsequent report, enclosed in the Governor's despatch to the Secretary of State of the 25th of that month, to say:

"Truth also compels me to declare that, in some respects, in endeavouring to "protect the immigrant, justice has not been rendered by the Legislature to the "employer."

Subsequent treatment. Frightful misery.

How, since that day, justice has been done to the immigrant has been shown in different parts of this Report, and reference to paragraph 30 of the chapter upon *The State of the Colony*, 1862–1867, will suffice to show that since Mr. Brenan wrote, the Indian immigrant has had, even in Mauritius, to suffer what it is not too much to call frightful misery.

Local opinions as to treatment, 1850.

2480. To return to the opinions entertained in the colony, of the treatment of the Indians. In the Report of the Immigration Committee of Council, 9th January 1850, paragraph 20,* the Committee remark that

"the immigrants in sufficient numbers would be willing to come to Mauritius "without any such promise;" of this the Committee can entertain no doubt now "that so many immigrants have returned to India with little fortunes in their "possession, a marked improvement in both their physical and moral condition, "and, as must be, with a good report of the land they visited."

And, referring in the 34th paragraph to what we shall notice hereafter, Sir George Anderson's Minute upon the subject, they add:

Feeling of injured innocence.

"If there be any who will not believe what Sir George Anderson may say on this "subject, and the Committee are satisfied His Excellency will never be backward "to vindicate the colony as far as it may require and deserve, neither would they "believe, were the whole colony to rise up and offer the most irrefragable evidence "to the fact,"

declaring in the 36th paragraph that they are

"perfectly convinced that it is not the servant, but the master who is really now "wanting of protection; that the former not only enjoys liberty, but indulges with "impunity in licence, while the latter pays high wages and is served with "contumely and neglect."

Governor Higginson's Minute on Education, 12th Nov. 1856.

2481. Again, when referring to the subject of the education of children (Inc ..., which their attention was drawn by a Minute of the Governor of the 12th November 1856, the Special Committee of Council, to whom it had been referred, reported amongst other things, on the 26th December, that,

Happy state of the immigrants.

"although it is not to be denied that the labour of Indian immigrants is most "essential to the prosperity of the colony, it must be remembered that the "advantages they receive in return are more than equivalent, for not only is their "labour so liberally remunerated that a great majority are able during their "industrial residence to accumulate sums of money; but they have, moreover, "become used to habits of regular labour, and have been inducted into the usages "of civilisation, to which, if left in their native villages, they would probably "never have attained."

Opinion of the Protect 1868.

2482. But not to multiply instances of the ideas which have been held in times long past, it will, perhaps, suffice if we refer to what has been said in the year 1868, at the time when the most stringent laws were being enacted against the immigrants, by one who ought to be a very high authority on this subject, the Protector of Immigrants. In his Annual Report for the year 1867, dated 13th April 1868, he writes:

"I have not the least hesitation in affirming that the general condition of immigrants

* As to return passages.

Opinion of the Protector. 1858.

"in the colony is happier than that of the generality of peasants of their own "class in India.

"To say that the immigrant in Mauritius has no cause to complain under any "circumstances would evidently be going beyond the truth and beyond what his "most sanguine well-wisher could expect; but it may be asserted without the least "fear of contradiction from any quarter, that by steady labour and good behaviour "he may ensure a life of greater ease and comfort here than in India, and that "chances of making money and rising above his sphere are certainly greater here "than in his native country. That such is the opinion entertained by Indians "themselves is manifestly evidenced by the fact that large numbers voluntarily "come back after having returned to India. They, undoubtedly, consider their "prospects are bettered by doing so."

Camps and hospitals.

2483. He then goes on and says, with few exceptions the camps and hospitals were in good condition when inspected. We have seen what hospitals are, as well as what the generality of the camps are. He then adds that wages were in arrear beyond two months on 18 estates only; eight of these owed four months' wages, five owed five months', and five, six months'; and he adds that Ordinances referring to immigrants and other labourers had been consolidated into one, and numerous important amendments introduced into the system of laws concerning labour; and he continues, apparently rather inconsistently with his former assertions, that the new provisions will, in his opinion, both strengthen the protection of Government over labourers and safeguard the interests of all the other classes of the community, which, if his former assertion was strictly true, would appear to be superfluous.

Payment of wages.

Legislation.

Protection of immigrants.

Opinions of Governors.

2484. With reference to the opinions of the several Governors which have been quoted, it will not be necessary to notice all of them, from the time of Sir Lionel Smith down to the present day; it will suffice for us to look only to those which, from having been the most frequently quoted in proof of the happy condition of the Indian immigrant in Mauritius, have become, as it were, axioms which it is not allowable to doubt, and for infringing which, the assertions in Mr. de Plevitz's pamphlet were called by Mr. Naz

Mr. de Plevitz's pamphlet, p. 12.

"falsehoods and calumnies."

Sir William Gomm's.

2485. We have seen (Chapter IV., paragraph 191) what Sir Lionel Smith's was in 1841. Sir William Gomm, in a Minute which he laid before the Legislative Council on the 12th May 1845, but which was not printed with their proceedings, said:

Sir William Gomm's Minute, 12th May 1845.

"No one can be more perfectly satisfied than I am that, could the measure of "fair and of harsh or even careless treatment of the labourers throughout the "colony be brought tangibly into comparison, the latter would be found infinitely "outweighed by the former, but I have equally little hesitation that my position "affords me the opportunity of seeing sufficiently into the opposite scale to "make me anxious that for the interest of all it should be kept as light as possible "by every precaution which is within the province of regulations to contribute "with that view."

We are not aware whether this is the opinion of Sir William Gomm which is considered in favour of the planters or not, for the paper drawn up by Mr. Brenan, and the note thereon by Mr. Neave, to which we have referred above, and which Sir William Gomm forwarded in his despatch to Lord Stanley, No. 118, 2nd June 1845, comments in rather a condemnatory tone upon the Minute of the Governor; and we consequently infer that the Minute was not at the time considered laudatory of the treatment of the immigrant.

Sir W. Gomm to Lord Stanley, 2nd June 1845.

Better condition of Indians in past times.

2487. Whether the state of the Bengal Coolie has improved since that date we are not able to say, but that of the Indian labourer in Mauritius certainly has not improved. He was then furnished at the sole cost of his employer with an excellent dwelling, constructed either in stone or wood, well ventilated, with doors and windows, affording him secure shelter in the worst weather, furnished with a bedstead, and secured with a lock and key. His food then was furnished at the sole cost of his employer, and in addition to what he is now supposed to receive,

Rice, Dholl,
Salt Fish, Ghee, or Oil,

he also received

1 lb. Masala, } per month,
1 lb. Tobacco, }

and

1 glass of spirits in wet weather.

Better condition of Indians in past times.

He also received clothing gratis,—

1 shirt,
4 yards of cloth to make a dhotee,
1 warm woollen cap, and
1 good blanket

to protect him from the rain and cold. None of these articles does he receive now; and a more wretched object in cold or wet weather than the immigrant in Mauritius, with his cotton clothing and a piece of gunny over his shoulders, as compared with the Indian Coolie of the very lowest order, with his warm "cumblie," cannot be conceived.

2488. Medical attendance and pay seem to have been on much the same terms as at present, but the hours of labour were then from daylight to sunset, so that some improvement may be considered to have taken place in them.

2489. The chances of redress under ill-treatment or injustice appear to have been much the same as they are supposed to be at the present day. The Magistrate is always represented as accessible to the Coolie and ever ready to investigate his complaint. A central position, easy of access from all parts of the quarter,* is said to be selected for the Magistrate's office, and the Coolie is stated to be quite alive to his rights, the slightest infringement of which is sure to meet the Magistrate's ear. The same is said at the present day, with how much truth may be seen on referring to what we have written in other parts of this Report.

Sir George Anderson's opinion, 1850.

2490. This being the state of things in 1845, we come now to what Sir George Anderson is reported to have said upon the subject on the 13th February 1850, he having arrived in the colony on the 9th June preceding, and, consequently, not having had a very long time in which to obtain personal knowledge of the state of the immigrant:

13th February 1850.

"Of the treatment the immigrant meets with generally in the colony at the "hands of his employer, I am thankful, for yourselves and for humanity, to be able "to speak favourably; to bear favourable testimony to the conduct of the planters "in this momentous matter. I am aware that a very erroneous impression has got "abroad on the subject. I have carefully looked to the Weekly Returns from the "different Magistrates. I have looked into the cases, and I can declare as to the "result that I, an old Judge, an old Magistrate in India, consider that the Indian "here has as safe a protection, as ready a protection, and as perfect a protection as "in India.

"The cases of personal violence to the Indian are comparatively few, and "most rarely, if any, excessive violence, while in other cases the complaints are, "perhaps, numerically more on the part of the master against the immigrant. The complaint of the immigrant is, in fact, mainly for the non-payment of wages.

"But the redress is quick and almost ever certain.

"The Stipendiary Magistrates have, I must do them the justice to say, done their "duty, and administered the law quickly and efficiently.

"I do not mean to say we have not cases where difficulties are raised and justice "sought to be evaded; it would not be human nature if it were not so; but I mean "to say, as a whole, the immigrant is as well protected, and as a whole he is as "justly treated, and, as a labouring population, nowhere in the world is in such "favourable circumstances. He is well and certainly fed, he is clothed, he is "lodged, he has good pay, he is cheerful, he is healthy, saving of his pay, and looks "to the end of his term of residence to return to his home with what is to him "wealth.

"Compare this with other parts of the world and you need not fear the issue."

The Immigration Committee's opinion, 1863.

Minutes of Council, paragraph 13, p. 346.

2491. So likewise in 1863 the Immigration Committee of Council in their Report declare that

"it cannot be denied that the Coolie has a decided preference for "emigrating to our shores, where he well knows he will find the same food and "habits as he is accustomed to in his own country."

The Chamber of Agriculture, 1863.

Minutes of Council, p. 228. See also Chap. XV. paragraph 1295.

2492. Again, the Chamber of Agriculture on the 18th December 1863, when addressing the Colonial Secretary, pronounced themselves

"not prepared for these violent innovations on a system that 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, of which we doubt not "His Excellency, when he has had time to make himself more fully acquainted "with the facts, will be able to bear ample testimony."

* On this point see Table of Distances, Appendix S 40.

Sir Henry Barkly's opinion as to necessity for Magistrates' half-yearly visits, 1865.

2493. In August 1865, Sir Henry Barkly, having received the first Half-yearly Reports of the Stipendiary Magistrates' visits to estates, in writing to the Secretary of State said, it would seem that the necessity of such visits was clearly established, and that immediate benefit was likely to result in several ways from their reinstitution. He mentioned that the objections taken to so many camps had been received by the planters in good part, and, no doubt, would be followed by great improvements to them as well as to the hospitals. It was satisfactory, he observed, to learn that Sunday labour, if at one time prevalent, had very much changed for the better, but he had not been prepared to find the payments of wages so far in arrear as they were reported to be. He also mentioned a system of undue severity practised by the Messrs. Montille, by locking-up at night immigrants who had at any time absented themselves, allowing them only to go out to work in the morning under a Sirdar. The inquiry was then pending before the District Magistrate; but Sir Henry Barkly thought it only fair to the planters of Mauritius to mention that the Messrs. Montille must be regarded as exceptions to the class, in conduct as well as origin; Mr. Montille, senior, being reported to have actually worked as a slave.

Despatch No. 220, 20th Aug. 1865.

The Montille case.

He referred also to the insufficiency of medical attendance provided for the immigrants, and the inadequacy of the existing law to remedy this state of things, and he hoped that the draft which he then submitted would, when passed by the Legislative Council, not become, like its predecessor, a dead letter.

Ample testimony borne by Sir Henry Barkly in favour of planters.

2494. Twelve months after this, Sir Henry Barkly, as suggested by the Chamber of Agriculture, does bear as ample testimony as the Chamber could desire to the condition of the immigrants in Mauritius, for, writing to the Secretary of State in 1866, he concludes his despatch by saying:

Despatch No. 210, 4th Sept. 1866.

"It will be for Her Majesty's Government to determine how far the system may "with justice be pursued, remembering always that the immigrant, once in "Mauritius, is better paid, better fed, and certainly not less the object of solicitude "on the part of the State than he is in his own country; that in coming here "he exchanges poverty for comparative affluence, and that when he is free to "return to India, he, for the most part, prefers to remain resident in Mauritius."

Result of the failure of Mr. Kerr's charges.

2495. We are not, therefore, surprised to find that, when in the following year Mr. Kerr, the Treasurer, opposed the second reading of the Ordinance, since passed as Ordinance 31 of 1867, he should have incurred the heavy displeasure of the Governor, as mentioned in the Chapter upon the *New Labour Law* (paragraphs 569 and following); and, no inquiry* having been instituted into the allegations made by him, the failure of his charges of course became further evidence in corroboration of the good treatment of the immigrant in Mauritius, which, as we have before remarked, it was a dire offence for any one like Mr. de Plevitz to call in question.

Appendix F 22.

Systematic ill-treatment on some estates.

2496. Perhaps the cases we have already mentioned in the course of our Report may be thought sufficient to prove that the treatment of the immigrant in Mauritius may be improved; but there are further cases regarding Messrs. Staub, Poulin, de Belloguet, Montille, and others, that will be found elsewhere, tending to show that ill-treatment has been systematic on some estates, and these we will now bring forward.

Guzoo Govin's case.

2497. We have already (Chapter IX., paragraph 533) alluded to the case of Guzoo Govin, or Goorgoo Gobine, who was found by the police lying dead on the roadside near Mr. Staub's estate "Baie du Cap" in Savanne. The District Magistrate, having completed the inquiry regarding his death, forwarded the depositions to the Acting Procureur-General, in order that he might form an opinion whether a criminal information should be laid against any party, with a view to his prosecution before the Court of Assize. Sir G. Fropier, the Magistrate, gave it as his opinion that it was evidently a case of involuntary homicide caused by inhumanity, or, at least, by imprudence, and that, though from the wretched state of the old man he would probably have met a natural death, still, it was not an excuse, much less a justification; and he goes on to say:—

Letter No. 80, 21st Nov. 1867. Appendix D 32.

Mr. Staub.

"Certainly, also, Mr. Staub is guilty of great cruelty for not having procured some "assistance for a human being found dying near his estate, in so isolated a place "that he could not expect to be helped by the police or any other person; but you "will see the excuse he alleges for not having done so, and, as the charge of having "ordered the removal of the dying man is denied by him, and only preferred "against him by Cannoo, who is most interested to repel the accusation from

* This statement must be understood as referring to the inquiry challenged by the Chamber of Agriculture, and refused by the Governor under the circumstances related in paragraphs 575–577. An inquiry was instituted into the truth of the complaints made to Mr. Kerr by certain vagrants confined in the Depôt; of these only one (Narsoo—see Appendix F 22, p. 5) could be traced, and the report given of him by the Police was unfavourable.

Systematic ill-treatment on some estates. Mr. Staub. Case of Guzoo Govin.

"himself, I think he will escape legal responsibility, but will undoubtedly meet "with public censure should Cannoo and Ramjee be prosecuted. I think these "two men, after having at first, in presence of the sergeant and constable, denied "knowing anything, have afterwards admitted, the first to have ordered, and the "second effected, the removal of the sick man. Moreover, there are certain dis-"crepancies in their declarations which may serve as circumstantial evidence to "prove the induction drawn by Dr. Tyack from the autopsy—that the poor man "had been dragged by means of a cloth or a rope, and so strangled, if not wilfully, "at least through want of caution."

2498. To this the Procureur-General, on the 11th December 1867, answered:—

Procureur-General's answer, 11th Dec. 1867.

"The fact that great inhumanity and neglect was exhibited by Mr. "Staub to his Indians, and that the deceased was thrown upon the public "road in a retired spot, and there cruelly left in a dying state, is clearly "proved; yet I am at a loss to discover any mode of criminal punishment;"

and he concludes his letter, after further remarks, by adding:—

"I feel confident that, after the matter is brought to light by this inquiry, your "attention as District and Stipendiary Magistrate will be especially directed t "this remote part of your district, and to the manner in which the immigrants "employed by Mr. Staub are treated."

Ill-treatment of Mr. Staub labourers in 1857.

2499. This took place as recently as 1867; but, ten years before that, in 1857, the same estate had been brought into unenviable notoriety. On the 5th November in that year three immigrants complained to the Stipendiary Magistrate that some men on their estate were in a weak and emaciated state, and had been kept without food, and, though ill, without medical assistance. The Magistrate directed a mounted sergeant to proceed to the estate and have the sick men conveyed and lodged in the Poor Relief Commission Asylum, which appears to have been done, and five—Towsee, Carpen, Samminaden, Rajos Gopaul, and Etlander—were lodged in the hospital; and, being restored to health, were discharged on the 25th of November; the doctor having, on the 9th November, certified that he found them all in a very debilitated state of health; three suffering from itch, one from disease of the liver, and one being covered with warts on his hands and feet, and none of them able to perform any labour. The Magistrate found the charge of negligence so clearly proved against Mr. Staub that, on the recovery of the men, he cancelled their engagements with him.

2500. On the 17th of the same month, eight men in Mr. Staub's employ accused him of having beaten them with a stick and with his fist; and the doctor gave a certificate that he had examined the men and found on their persons marks of blows such as would be inflicted by a cane, or similar instrument, but none of a serious nature. The case was tried on the 19th November, and, notwithstanding the doctor's certificate, Mr. Staub having produced witnesses to refute the complaints—that is, to prove that they did not see the assault committed, the Magistrate concluded that the assault sworn to by the complainants had not taken place, and punished them in various sums, from 5 cents to £1, or fourteen days' imprisonment with hard labour, for "a frivolous and malicious complaint."

6th November 1857. Case of three Sirdars.

2501. In another case, on the 6th November 1857, three Sirdars—Carpen, Solay, and Moorgen—complained against Mr. Staub for having no hospital, nor any drugs on his estate, and no medical man to visit and cure the sick; that he had not served out the rice according to contract, and that he had illegally withheld their wages for three months.

2502. As regards the first and second charges, Mr. Staub denied them; as regards the third charge, Mr. Staub admitted that the wages were due from the 29th of July, and judgment was accordingly entered for them on that account.

2503. With respect to the other charges, it was admitted by Mr. Staub that Dr. Bertin, the medical man of the estate, had not been there for the past two months; and Dr. Bertin himself admitted that the agreement between him and Mr. Staub was, that he need not visit the estate except upon a written requisition signed by Mr. Staub; that he had been the medical attendant of the estate since the end of August, and since that time had never received any requisition to attend.

2504. The Hospital Register, too, had no entries except two, dated 11th November 1857, the day before Dr. Bertin gave his evidence; and, after several adjournments, the case was, on the 16th December, postponed, in consequence of the gang of complainants having left the estate and not attended before the Court.

2505. On the 17th December Mr. Telfair reported to the Procureur-General that, on the 28th of October, a large gang were brought to him from Black River under escort from the "Baie du Cap," and were sentenced to fourteen days' hard labour each. They were, for the most part, emaciated and thin, and many were covered with itch; that,

Systematic ill-treatment on some estates. Mr. Staub, 1857.

having completed their imprisonment, they had returned to the estate; but, on the 17th November, seventeen men, and on the 19th November, twenty-one, of the original gang again deserted, and, in spite of Mr. Telfair's exhortations, refused to return to the estate, and were again sentenced to fourteen days' imprisonment with hard labour each. That, on the 1st of December, the gang, having completed its second term of fourteen days, "were besought" by Mr. Telfair to return to the estate, but refused, and were again sentenced to another fourteen days' imprisonment. That the gang, in consequence of the treatment of the Government Medical Officer and gaoler, had had their health restored, but they still refused to return to the estate, saying they had no fault to find with the Magistrate or any Government servant, and were willing to work on any estate in the district except Mr. Staub's, but that no power on earth would ever compel them to work on his estate. That he thought, if they were forced to return to the estate, they were capable of killing their employer; and, on the other hand, if he persisted in condemning them to fourteen days' imprisonment, they would pass the whole three years of their engagement in prison, and, on their return to India, would circulate rumours calculated to do the colony much harm. He, therefore, detained the gang for Procureur-General's orders.

2506. To this letter, on the 18th December, the Procureur-General answered that the proper course for the Magistrate to follow would be to inquire from those men their reason for refusing to return to work, and to investigate the truth of the reasons that might be assigned by them; that should ill-treatment on the part of their master be brought to light, or should it appear that he neglected to provide proper medical attendance and medicines for the sick, the Magistrate would have it in his power, if such facts, in his opinion, were sufficiently substantiated, to cancel the contracts of service of these men, as he had already done with a portion of the same band. Such a course would be far preferable to condemning them to successive periods of imprisonment for continued refusal to return to their work. He should take care, on the other hand, not lightly to give a decision cancelling the engagements of these men, which might effect the ruin of the estate.

Appendix S 1.

Weakness in the Procureur-General's directions.

2507. In these directions, it is to be observed that the Magistrate is told that if ill-treatment by the master be brought to light, and, in his opinion, sufficiently substantiated, he should cancel the contract of service, as preferable to condemning the men to imprisonment, as if these men were to be imprisoned because they refused to work under a master who had repeatedly ill-treated them; but even if the Magistrate determined to cancel the contract on account of that ill-treatment, still he is cautioned against lightly giving a decision in that sense, lest the effect be the ruin of the estate.

2508. This advice, however, which the Magistrate adopted, was not attended with much success, for, on the 5th of January following, Mr. Telfair again wrote to the Procureur-General, informing him that, having remonstrated with the gang on the impropriety of their conduct, they threatened to drown themselves and rushed to the sea, where they remained a couple of hours; and, not having sufficient constables to watch and keep them at work, he requested authority to forward them to Port Louis gaol.

2509. In reply to this, the Procureur-General informed him that he had no authority to comply with his request; but, as the case appeared urgent, he had no objection to the Magistrate's forwarding these men to Port Louis prison by the first opportunity; and, in the meantime, he applied for the Governor's authority to detain them in Port Louis to undergo the punishment awarded against them, apparently for refusing to work on an estate on which they had been ill-used.

Mr. Poulin, 1871.

2510. We shall, in the chapter upon *Magistrates* (Chapter XXX., paragraphs 3297 to 3320), show how the labourers on "Mont Choisy" Estate, in Pamplemousses, were treated in 1871 by their master, Mr. Poulin; but that is not the only charge of ill-treatment brought against him by his labourers.

Appendix O 16.

1864.

2511. In November 1864 Mr. Poulin was sentenced to three months' imprisonment, six weeks of which he underwent, and £20 fine, on account of an assault, with blows, upon Coopen, a Sirdar in his employ, and six weeks' imprisonment and £20 fine, further, on account of an assault upon Coopen's wife, Yellamah, from the effects of which she died.

2512. It appears from the proceedings before the Magistrate that a labourer on the estate, named China Veeren, had died suddenly, and the Inspector of Police went to "Mont Choisy" to inquire into the case; and, on examining Coopen, he was informed that the man had died without receiving medical attendance, and that the doctor had not been seen on the estate since the beginning of the year. Mr. Poulin then, according to Coopen's statement on the day of the assault, called him and asked him what the police had come to the estate about, and what he had told them. He said that they had asked him if the doctor had visited the estate that year, and he told them he had not. The defendant thereupon struck him with his fist several blows on the body and head, and,

Systematic ill-treatment on some estates. Mr. Poulin, 1861.

after beating him, pushed him over a tank of boiling water; that he jumped over the tank and avoided falling in. The defendant followed him and laid hold of him by his topknot and cut it off with his penknife. The next day he went to the Magistrate to lodge a complaint, but not having money enough to pay the fees, he returned home. The following morning, early, the watchman came and called him to go to work. He said he had been beaten by Mr. Poulin, and would not go to work. Later in the morning an overseer came and told him that Mr. Poulin wanted him. He said he would not go to him, but that he would go and lodge a complaint.

The overseer, placing two men to watch his house, went away, and returned shortly afterwards with Mr. Poulin.

2513. Defendant called to him and he went out, his wife saying to him,

"Why did you not go when you were first called? now the master comes himself "to fetch you."

While she was speaking defendant struck her four or five blows on the shoulders and back with a stick tipped at each end with yellow metal. This happened on a Wednesday. Mr. Poulin then desired the two men to take deponent to the hospital, but he ran away and hid himself in the canes. Mr. Poulin and the overseer then came on horseback with dogs to hunt for him, but did not find him.

2514. Coopen then went to the District Court and lodged his complaint. Meantime, one of the witnesses deposed that when Mr. Poulin could not find Coopen, he ordered the watchman, if Coopen did not return home, to burn his house.

Death of Yellamah.

2515. Yellamah, returning from the police office that same afternoon, was afraid to go to her hut, and went to that of one of the witnesses and complained all day and night of the blows Mr. Poulin had given her. On Friday night she felt very ill, next morning was delivered of a full-grown dead child, and she herself died on the Sunday morning.

2516. For this double assault, however, Mr. Poulin was not committed to prison until the 23rd of November, several influential planters having in the meantime (on the 14th of November) supported a petition that was preferred by Mr. Poulin, praying to be relieved from the sentence of imprisonment, on the ground that the charge of assault upon Yellamah was the result of false depositions, and that the imprisonment for three months at that time of the year would be the cause of a very serious loss to the proprietor.

2517. Subsequently a petition was presented to the Governor by the immigrants of the Bengal Presidency engaged on the "Mont Choisy" Estate, praying for Mr. Poulin's pardon. The petition was referred to the Stipendiary Magistrate on the 30th November, to ascertain whether it was a *bonâ fide* manifestation of feeling on the part of the immigrants on Mr. Poulin's estate.

2518. The Magistrate reported that he had called the Sirdar Coopen, who had complained of Mr. Poulin's ill-treatment, and he stated that he did not sign the petition, on account of sickness, but that he freely and voluntarily solicited his master's pardon. The Magistrate then called the rest of the band, and they all, with one exception, made a similar request. He then called the other Sirdars on the estate, and they expressed their wish that mercy should be extended to him.

2519. Under these circumstances, which the Governor declared were honourable alike to employer and employed, his Excellency authorised Mr. Poulin's release on the completion of three weeks, or one quarter of his imprisonment, and, consequently, he was discharged from prison on the 13th December. But Sir Gabriel Fropier, one of the planters who had signed the petition in Mr. Poulin's favour, stated his painful astonishment at hearing of the case and its consequences, as Mr. Poulin was known as a gentleman of mild character and temper.

2520. However mild his character and temper might happen to be, Mr. Poulin, on the 12th January 1865, just one month after his discharge from gaol, brought a charge in the District Court against Coopen and six others, charging Coopen, with three of the boatmen of his schooner 'La Marie,' with stealing rice, rum, and sugar from the said schooner, and three other persons with receiving those articles. There were but two witnesses against Coopen, one of whom stated that Coopen and three sailors had obliged him to carry a gunny bag, which he supposed contained rice, and another witness, who saw Coopen and another man coming from the seashore, the man carrying a bag three-fourths full, which he ascertained (how he does not mention) to be rice, and had taken it to Coopen's house.

2521. Coopen's defence was an *alibi*, and no evidence was taken in refutation of it. Nevertheless, he was convicted of larceny, and on the 27th of January was sentenced to twelve months' imprisonment, with costs, which sentence Mr. Poulin allowed him to undergo; and a month after his release, on the expiration of his sentence, as we understand, this unhappy man died.

Systematic ill-treatment on some estates. Mr. Poulin, 864. Unequal justice from the Magistrates.

2522. Perhaps these cases are not only a reflection on the planters, but upon the Magistrates also: since six weeks' imprisonment and a fine of £20 was an adequate punishment for an assault upon a pregnant woman, which was closely followed by her miscarriage and death; while a larceny of rice, sugar, and rum, even if proved, could not be adequately punished with less than twelve months' imprisonment.

2523. With this case before us, we need not be surprised at Mr. Poulin's overseer, Mr. Nidole, being brought up on the 12th of December 1866, by Eliheebuccus, charged with assault.

2524. It appears from the complainant's statement that he was sent for by Mr. Poulin, and went to the part of the storeroom where Messrs. Poulin and Nidole were standing. Mr. Poulin asked him why he did not go to his work, and he answered that his engagement had been out for the last two months, and that if Mr. Poulin wished him to continue to work, he must put him *en règle*. Mr. Poulin checked him for speaking in the loud voice he did; and Eliheebuccus said he had stolen nothing, that his engagement was finished, and he would not work. Mr. Nidole struck him with his clenched fist, and thrust him into a basin full of syrup. Mr. Nidole admitted having beaten the plaintiff, and, of course, said he was very insolent; but the Magistrate fined him £2.

2525. Personal ill-treatment is not, however, the only offence with which Mr. Poulin is charged in the treatment of his Indians. In this same year a sugar-boiler on the estate obtained judgment by default against the proprietor of "Mont Choisy" for four months' wages at $4 per month, from the 1st September to the 31st December. The cause was allowed to go by default; but, at Mr. Poulin's request, a "new trial" was granted, and on that day Mr. Poulin appeared and produced the labourers' wages book of the estate, showing that the wages claimed had been paid, and the claimant's signature attached to the payment of wages for 1865. The claimant called upon the Magistrate to examine the signature, and declared on oath that it was not his, and that it was a forgery. Upon that the Magistrate ordered the labourers' wages book to be impounded, and applied to the Procureur-General as to what should be done in the case.

2526. The Procureur-General, on the 29th March, informed him that the enquiries made not having brought home the alleged forgery to any one, it would be necessary to return the books. The fact, however, remains. There are those books, but by whose hands they were compiled is not shown.

2527. This case, though an attempt to defraud a Creole, is one to which the Indian immigrants are equally liable, as the forgery was in the labourers' wages book, and not in a book reserved for the Creoles only.

Mr. Raynal.

2528. In the Appendix will be found the proceedings held before the Magistrates, Messrs. Robertson and Ronillard, upon a petition by Pandoo, late Sirdar in the service of Mr. Préaudet, on "Bonne Veine" Estate, in the district of Moka, which he presented to Governor Sir Henry Barkly, on the 12th June 1867. From this it appears, to use the Protector of Immigrants' (Mr. Beyts) words, that, whatever the general behaviour of Mr. Raynal, the manager of the estate, towards the labourers in his charge, Pandoo and his men were perfectly justified in complaining against him; and, however impartially and rightly Mr. Gautier might have generally gone through his duties as Stipendiary Magistrate, Pandoo and his men were, in this case, justified in seeking redress before his jurisdiction.

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2529. That they were ill-used by their employer is proved—by the practice adopted on this estate of marking down "sick" all labourers who did not go through their tasks on three successive days; by the beating which the labourer Gunack received; and by the unjustifiable treatment of Isram, who was wrongfully arrested without a warrant, on a charge of being disorderly, and wrongfully detained a whole week at the police station without trial, and was at last brought before the Magistrate upon a *different* charge, viz. of "desertion," which was not proved, and yet he was sentenced to two months' imprisonment for it. Remissness on the Magistrate's part is shown in this case, as well as in that of Gunack, whom the Magistrate sentenced to one month's imprisonment for a false and malicious complaint of assault, although the man had severe marks upon his body, to which the Magistrate's attention had been called by the Protector, but of which he took no notice. For this remissness in his duty Mr. Gautier was removed from the appointment of District and Stipendiary Magistrate of Moka, and nominated to the District Magistracy of Plaines Wilhems;* but Mr. Raynal appears to have escaped punishment altogether.

Remissness of Magistrate.

Magistrate's remissness censured.

Mr. Chasle.

2530. On the 2nd September 1867, Mr. Chasle, the proprietor of "L'Union" in Rivière du Rampart, and Dr. Fropier, the Medical Attendant on that estate, were charged before the Stipendiary Magistrate with contraventions of Articles 14 and 15 of Ordinance

* Mr. Gautier's subsequent career, and the circumstances under which he resigned the Magistracy of Flacq, will be found in the Chapter on *Magistrates* (Chapter XXX., paragraph 3289); also Appendix O 13.

Systematic ill-treatment on some estates.

No. 29 of 1865—that is, the former with not appointing a new Medical Attendant on a vacancy, and the latter with not having made the required number of visits to the estate. They both of them pleaded guilty, with extenuating circumstances; that is, that during the twenty-seven days that Dr. Fropier did not visit the estate, there was no sickness thereon, or medical assistance would have been sent for, as Dr. Fropier had requested, if required; and Dr. Fropier urged that the prevailing epidemic prevented his fulfilling his visits to estates with regularity, being detained by cases requiring more particularly his assistance. Upon this plea, the Magistrate, Mr. Lablache, discharged both the proprietor and the doctor. It is not, therefore, to be wondered at that both proprietors and doctors were careless in their duties, although the Magistrate's remissness called forth a becoming rebuke from the Government.

Messrs. Montille.

2531. We have already referred to Messrs. Montille (*vide supra*, paragraph 2493), whose conduct Sir Henry Barkly condemned, but deprecated their being taken as samples of the class of planters, in consequence of their being descended from actual slaves, and therefore they must rather be considered as exceptions. So early as the 14th of May 1859, Mr. Jules Montille was tried before the Supreme Court for inflicting wounds and blows on Mardeemootoo, a labourer on "Beau Fond" Estate, without intention to kill him, but which, nevertheless, caused the death of the said Indian. He was however, found "not guilty," and discharged.

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2532. On the 5th May 1865, one Mootoosamy, an immigrant on the "La Rosa" Estate, the property of the Messrs. Montille, laid his head upon the rails of the line, near "La Rosa" Estate, while a train was coming down the incline. His head was completely severed from his body, and the Inspector of Police, Boulter, in reporting the case, stated that the immigrants of that establishment, as well as those of "Beau Fond," belonging to the same proprietors, were said to be the worst treated of any in the district; that they were a wretched-looking lot in general on these two estates, and that there were a great number of absentees and continual complaints of ill-usage.

2533. The Magistrate's suspicions being aroused by this occurrence, as well as by information privately received, shortly after paid a nocturnal visit to "Beau Fond," in company with Inspector Boulter, of which he made the following report:

Question 14,889, *et seq.*

Mr. Messiter's report.

"I arrived about 3 A.M., and found a Guardian in charge of a prison, the door of "which was fastened by a chain and hook, and against the outside of the door was "placed, in a leaning position, a very large piece of iron, apparently three-quarters of "an axle-tree of a piece of some kind of machinery which would render it impos-"sible for the strength of one hundred men to force open the door from the inside. "There was no other aperture in the building, which was a building of stone with "an iron roof. On having these fastenings removed, I found thirteen Indians, almost "in a state of nudity, lying on the earthen floor, except three who had a piece of "old gunny bag each, but all in a most wretched condition. The Guardian stated "it was his duty to guard them by night, and if any of them required to be let out "for a call of nature, he let them out and kept guard over them during the time, "and shut them up again. This I saw done while I was present; I then sent for "the Montilles, when Etienne and Azénor Montille made their appearance. I "ordered the fastenings to be removed and the door reopened. The unfortunate "Indians were then removed at my request by the Police Inspector, as also the "Guardian, he being in charge of a prison contrary to law. Having thus far suc-"ceeded in establishing a most flagrant contravention of the law, as well as a most "gross case of cruelty, I proceeded to 'La Rosa' Estate, fearing that a messenger "might be sent thither to give warning, and which I afterwards had every reason to "believe was the case."

The Procureur-General's opinion.

2534. On finding that the persons confined at "La Rosa" had apparently lately been removed, Mr. Messiter took evidence in the presence of Mr. Jules Montille, and subsequently, on the 24th May, he examined the Indians found in the prison at "Beau Fond." These papers were referred to the Procureur-General, who reported that there were three different kinds of ill-usage detailed:

Illegal imprisonment;
Forcing to re-engage by means of threats;
Beating;

each of which was a lawful ground for having the engagement of the immigrants who had suffered from it broken; but as this could only be done on the complaint of the immigrant himself, the proper course, he thought, would be to give all the Indians who had suffered an opportunity of making their complaint with the assistance and under the protection of the Protector of Immigrants: he also proposed to take up, for criminal prosecution, the more serious cases of illegal imprisonment.

Systematic ill-treatment on some estates. Messrs. Montille, 1865.

2535. Instructions were issued to Mr. Beyts to proceed to Grand Port, and visit the estates of the Messrs. Montille at as early a date as possible, for the purpose of procuring the cancelment of the indentures of the immigrants, as far as the law admitted.

2536. Mr. Beyts went there, and made a report without date and without taking any notice of whether the indentures were cancelled or not.

Sentence passed.

2537. On the 23rd of August 1865 Mr. Alcide Montille was sentenced to one year's imprisonment with labour and £50 fine and costs, or, in default, to a further imprisonment of three months, with labour; Mr. Azénor Montille, to six months' imprisonment with labour and £50 fine and costs, and in default to three months' further imprisonment with labour; and the guardian, Toolsy, to three months' imprisonment with labour and costs. Mr. Etienne Montille was sentenced to £50 fine and costs, and in default to three months' imprisonment with hard labour.

2538. The parties declared their intention of appealing, and the appeal was heard before Mr. Justice Bestel on the 20th November, who dismissed the appeal with costs, affirming the conviction; he however remitted the order for hard labour.

2539. Mr. Etienne Montille paid the fine awarded against him with all the costs. The other two Messrs. Montille absconded before the judgment of the Supreme Court had been given, and a sum of £400, in which their sureties were bound for their surrender, was paid in.

2540. The District Magistrate, Mr. Dupuy, whose conduct in this case and the feeling it excited against him will be found in a subsequent chapter (XXX. paragraphs 3357 to 3364), recommended that the fines should not be claimed as he thought the convicts, relying upon the general leniency prevailing in the country, would come back to the district as soon as he (Mr. Dupuy) was removed from it, and that it would be better to wait till they reappeared, when they might be arrested and the judgment enforced against them. This advice was, as we understand, so far followed that no immediate steps were taken to recover the fines; and Sir Henry Barkly further recorded, on the 23rd June 1866, that he

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> "trusted the security bonds would be forthwith enforced by the law officers, o
> "else the whole proceedings in the Montille case will be a farce:" adding,
> "I do not understand why so many months have been allowed to elapse already."

Sir Henry Barkly relents.

2541. It appears, however, that Sir Henry Barkly in the course of the following yea relented,—that he did not consider that mitigating the sentence to one and tw months respectively would cause the proceedings to be a farce, for, on the petition c Mr. and Mrs. Montille for the pardon of their sons, supported by a number of planter and others, in October 1867, the Governor reduced the sentences to the above exten But not satisfied with this, Mr. and Mrs. Montille, on the 8th of November, agai petitioned the Governor, requesting, as Alcide's health had become impaired and migh be further injured by longer detention, and as they had suffered heavy pecuniary losses in the shape of fines and forfeiture of bail bonds, that the Governor would be pleased, on the occasion of the anniversary of the Prince of Wales's birthday, to grant them a free pardon for the remainder of their imprisonment. A reference to the Medical Attendant of the gaol showed that Mr. Alcide Montille had quite recovered from an operation he had recently undergone, and, though not robust, he was by no means in bad health, and that Azénor was in perfect health. The Governor, therefore, directed that the Messrs. Montille should be employed only upon clerical work.

2542. It then appeared from a report from the Acting Procureur-General that the prisoners Montille were not employed at hard labour (that, as we have mentioned, had been remitted by Mr. Justice Bestel): that Mr. Alcide Montille was working as a clerk, and Mr. Azénor Montille was entrusted with the supervision of other prisoners (whatever that might mean), and the Governor directed Mr. Montille, *senior*, to be informed that he could do no more. They were released, the one on the 4th and the other on the 30th December 1867, they having been committed to Port Louis gaol on the 4th of November in that year.

In order, we presume, still further to prevent the case becoming, as Sir Henry Barkly feared it might, "a farce," the guardian Toolsy underwent the full sentence of three months' imprisonment awarded against him, in expiation of his offence of having been the tool of the Messrs. Montille, apparently without remonstrance or petition from the "planters and others," who had shown so tender an anxiety for the pardon of the principal offenders.

2543. While this case was pending and the sentence remained unexecuted against the Messrs. Montille, further irregularities were still going on on their estates.

1866. Complaint of 80 men.

2544. On the 6th of March 1866 about eighty immigrants complained to the Protector that their master, Mr. Montille, obliged them to perform tasks too heavy for them; that when any portion, however small, was left unfinished at the end of the day, their allowance of rice was reduced by half; that seven men had been the day before sentenced by the Magistrate, some to one month's imprisonment, and others to six, for not having completed their task; that rations were not issued to them regularly, and that whenever their tasks were not completed, though they might have finished three-fourths of them, they were marked absent, and two days' wages were deducted from their pay, as if they had been absent without leave.

Systematic ill-treatment on some estates. Messrs. Montille. 1866. Complaint of 80 men.

2545. On the receipt of this letter, Mr. Messiter declined to make any investigation unless ordered to do so by the Governor, considering that there appeared an implied charge against him of undue severity in his official capacity.

2546. A similar petition was presented by some Indians (immigrants) to the Governor, who, on the 12th March, informed the Magistrate that he had desired the petitioners to present themselves before him the next day; and the Governor desired the Magistrate to make an immediate inquiry into the matter complained of.

2547. Mr. Messiter, on the 29th March, reported that he knew the ill-feeling existing on the estate, and that, wishing to have evidence as disinterested as possible, he had authorised Mr. Montille to send the band of Indians from the estate called "Beau Fond" to the "La Rosa" Estate, and to place them at work indiscriminately with the Indians of "La Rosa." That, for three days, the gang walked from "Beau Fond" every morning to "La Rosa," a distance of four miles, and commenced their work at 7 A.M., and finished at 3 P.M., and returned to "Beau Fond," leaving the immigrants of "La Rosa" Estate, with their task half finished; which was corroborated by the evidence taken before him in the case of the 88 immigrants referred to him by the Colonial Secretary. Consequently, the defendants having nothing to urge in their defence, he had condemned seven of them on the 7th March preceding: three to 27 days' imprisonment with hard labour, each, and four to 168 days' imprisonment each, with hard labour, as incorrigible, having been repeatedly condemned before; but under what law their sentences were inflicted Mr. Messiter does not inform us.

2548. The Governor concurred in opinion with Mr. Messiter, and directed that proper steps should be at once taken to compel the men in question to return to their work.

Complaint of withholding wages.

2549. On the 4th April, having the proceedings in the case of the complaint of some Indians of "La Rosa" before him, the Governor, thinking that the Magistrate before whom the evidence had been taken was the best able to judge on which side the truth lay, desired the Magistrate to explain whether two months' wages were retained to cover the value of tools, and directed him to give judgment, explaining why the complaint had been dismissed, and ordering the immigrants back to the estate, under pain of being taken up as deserters.

2550. Mr. Messiter explained that 2*s.* were kept back out of the first month's wages to pay for a "marmite," and Mr. Jules Montille positively denied the amount was kept back to pay for tools. Mr. Messiter further said that, from his personal knowledge, part of the evidence was unfounded, as he had previously verified the books of the estate; that, had two month's wages been retained, as alleged, it must have come to his knowledge, and that the books of an estate, if regularly kept, were the best evidence that could be produced in these cases, and that no such act could be committed by a proprietor without the connivance of the manager, book-keeper, overseer, and Sirdars on the estate.

2551. We ourselves know how it is done on this very estate, from the evidence of Mr. Moncamp, late manager of "La Rosa," but even without this evidence, there would not be much fear of detection of any irregularities in the account books, where the manager and all the officials on the estate were either of the name of "Montille," or closely connected with that family.

Questions 9422 to 9429.

Messrs. Montille's books worthless.

2552. Mr. Messiter, however, certainly ought to have known better, for on the 23rd of August 1865, on the trial of the Messrs. Montille for the sequestration, as it is called, of the Indians mentioned above, the defendants put in a deed of lease to show that Mr. Montille, *senior*, had no concern in the estate "Beau Fond," and the others put in a number of contracts of the renewal of service and a pay-book, to show that they treated their labourers well, paid them regularly, and consequently had no reason to imprison any of them. The parties having, as before mentioned, appealed to the Supreme Court, the Magistrate's proceedings, together with these documents, were forwarded to that Court, and Mr. Dupuy, to the best of his recollection, wrote to the Crown Solicitor suggesting the advisability of impounding the documentary evidence, being of opinion that they were not genuine, but had been forged for the benefit of the defendants' case. Shortly after the decision of the Supreme Court it was discovered that the deed of lease, though a notarial and authentic document, had been forged.

Systematic ill-treatment on some estates. Messrs. Montille, 1866.

2553. As was not unnaturally to be expected, on the 29th of April 1866 Mr. Rice, Inspector of Police, reported a violent assault having been committed on "La Rosa" Estate.

The labourers resort to violence.

2554. On the Monday previous, after the labourers had finished work, Mr. Moncamp, the manager, ordered eight immigrants to be kept from work, the next morning to be sent before the Stipendiary Magistrate, charged with assaulting a water-carrier and with desertion. Next morning at roll-call six of the eight men, though positively and repeatedly warned to remain, went off to their work. Mr. Moncamp then sent to the police-station, and two constables, one an Englishman and the other an Indian, arrived, and went with Mr. Jules Montille and Mr. Moncamp to the fields where the men were working. Mr. Moncamp pointed out the men he wanted arrested, and the whole band made a general onslaught upon Messrs. Montille and Moncamp, during which the constables were several times struck. Mr. Montille was struck with a pioche and Mr. Moncamp felled by a series of blows, and when he was down was assaulted with stones, and by people jumping upon him. Mr. Montille ran through a cane-field and hid himself, and eventually escaped without any serious injury.

2555. Assistance came from the Central Police Station, and the people were arrested, and twelve of the ringleaders committed on the 13th May to the Assizes for trial, which they underwent on the 14th of June, and two of them were sentenced to fourteen years' imprisonment and a fine of £20; whilst three of them were acquitted, and the others were sentenced to four years' imprisonment, and also to a fine of £20.

2556. In this case the police appear to be to blame as well as the planters. The police could only have been called in to arrest the labourers for the assault committed upon the water-carrier two days before, and, not having seen the assault, they had no right to arrest the men without a warrant.

1867.

Suicide of Cunden.

2557. Again, on the 6th January 1867, another labourer on this estate, named Cunden, committed suicide in exactly the same manner as Mootoosamy had done about two years before. As the last train from Port Louis was coming down the incline, he laid his head upon the rails, and though the driver blew his whistle, he was unable to stop the train, and the man's head was severed from the body, which was so much mutilated as to render identification difficult, and caused the Messrs. Montille to deny the identity of the body, of which, however, there could be no possible doubt.

Necessity to Governor of power of removal.

2558. It appears to us very evident that there are estates from which the Governor should have power to remove the immigrants, not only as an act of justice to the immigrants themselves, but likewise to prevent the possibility of such treatment as we have noticed above, leading, as we have seen, to suicide, and, as it very probably would, to the murder of the proprietor or some of the staff of the estate.

Case of Ragoobur *v.* Castel of "Riche Bois."

2559. On the 9th of April 1872, Ramjutten, and four other labourers of "Riche Bois" Estate, the property of Mr. Hewetson, in Savanne, appeared before the Protector of Immigrants, stating that, on the 5th instant, Mr. Castel, the manager of the estate, had beaten Ragoobur, one of the labourers, and that he had died in consequence of those blows. The Protector went to the estate and found the accused at large on bail, but ordered to attend the District Court on the day fixed for the hearing of the trial.

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2560. Again, on the 20th, Ramjutten, with ten others of the gang, appeared before the Protector, saying that they had come to him because they did not know what had been decided regarding their comrade and their complaint against Mr. Castel, and were afraid of being ill-treated if they returned to "Riche Bois," for the Sirdar Takoor had threatened to beat them if they returned. Mr. Beyts advised them to go back to their work, which they declined to do, and begged to be removed to any other estate belonging to Mr. Hewetson.

2561. On Mr. Hewetson being written to upon the subject he refused to remove the men, because he believed the complaint against Mr. Castel to be utterly false. Mr. Beyts, thereupon, had no alternative but to direct the men to return to "Riche Bois." The case against Mr. Castel had certainly been dismissed by Mr. Daly, a Magistrate against whose character and opinions we have nothing to say; but a perusal of the evidence leads us to imagine that a further acquaintance with the immigrants and their habits and manners would very probably have led him to come to a different decision in the case.

Case of 27 Indians of "Riche Bois."

2562. On the 30th of January 1873 Mr. Daly wrote to the Protector that the manager of "Riche Bois" had summoned twenty-seven Indians for absence in January, and that in almost every man's case the accused charged the manager and infirmarian with rejection from the hospital and refusal of medical care. In some cases the men bore traces of sickness; in several instances the infirmarian said he had carefully attended to the accused for their alleged maladies; but the books showed they had been marked "absent." The doctor's visits in January had not been at all regular, he having made but one visit between the 25th December and the 9th of January, and that visit was paid on the 5th January.

Necessity Governor power of removal.

2563. Although the September and October wages had not been paid until the 26th of December, the double cut had been inflicted during the twenty-five days of December. The absence since New Year's Day the manager calculated at 2200.

2564. Mr. Daly further added that when he announced to the Indians that he would request an inspector should be sent to make inquiry on the spot, they expressed most evident satisfaction, and some declared that they had witnesses to the fact of their being turned away from the hospital. Mr. Daly further expressed his opinion that it was a case which merited prompt and special inquiry.

2565. Mr. Jenner was sent to make that inquiry, and did not go to the estate until the 3rd of February. It was not until the 7th of that month that he commenced his inquiry, and then, instead of making it in a summary manner, as an inspector ought to, he found a barrister in attendance, whom he permitted to accompany him during the whole time. The consequence, as was to be expected, was that the whole inquiry proved abortive. In justice to Mr. Jenner, we ought, however, to remark that we do not attribute his failure in this case to any want of zeal, but to a want of judgment and discretion.

Action of Mr. Farquharson where complaints of beating.

2566. We may here remark that anterior to this there were a great many complaints against the manager of another establishment belonging to the same owner in Flacq. Mr. Farquharson informed us that in consequence of his having had a great many complaints, he had told Mr. Michel that the next time a complaint came before him of batteries and assaults he would inflict the highest penalty. He did fine the manager £6, and found that cases of this kind were thereafter less numerous.

Question 12,540

Gorlingum's case. Charge against Mr. Lemerle.

2567. On the 12th February 1872, Mr. Bell, the Inspector of Police in Grand Port, informed the Inspector-General that a woman named Atchamah had declared at the police-station that her husband, Gorlingum, a labourer on the "Rivière Créole" estate, had that morning been beaten by his master, Mr. Lemerle, and that he died shortly afterwards. Mr. Bell proceeded to the estate with Dr. Finnimore, who made a post-mortem examination of the body, the result of which showed that death was caused by rupture of the spleen. Mr. Bell further reported that he had made a most careful inquiry into the case, and had evidence to prove that Mr. Lemerle did strike the man.

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2568. Mr. Lemerle brought forward several witnesses to disprove the fact, and denied having touched the man; but Mr. Bell lodged an information against Mr. Lemerle for wounds and blows without intention to kill, and obtained a "warrant" for his arrest. The consequence was that Mr. Lemerle was tried before the District Magistrate, Mr. de Boucherville; and when Mr. Bell was examined on oath he said:

"I examined several witnesses as to whether the complaint lodged by the woman "Atchamah against Lemerle was founded, but could find no evidence to corro-"borate her statement."

2569. Notwithstanding this evidence by the Inspector of Police, the Magistrate committed Mr. Lemerle, on the 5th of April 1872, to take his trial before the Court of Assizes for the crime of manslaughter.

2570. The case came on on the 11th April, when, on the hearing of Mr. Rouillard, the counsel for the prisoner and the Acting Procureur-General, an order was given, in consequence of Mr. Bell being about to leave the Island to join his new appointment at Rodrigues, that the District Magistrate should further examine him in the case; and, on the 13th of April Mr. Bell was further examined by Mr. de Boucherville; but no inquiry was made as to how he came to mention, in his report, that he had evidence to prove that Mr. Lemerle did strike the man, while he said in his deposition that he could find no evidence to corroborate Atchamah's complaint against Mr. Lemerle. The result was, that the Procureur-General, on the 31st of May, came to the opinion that the evidence was insufficient to support the charge, and authorised Mr. Lemerle's release.

2571. With Inspectors of Police who can thus deliberately write one thing in their reports, and directly contradict themselves when examined on oath, we need not be surprised that, when no punishment attaches to a man who ill-treats a labourer, the labourers should be ill-treated.

Ruptured spleens.

2572. In the Appendix we give a list, amounting to fifty, of the number of immigrants who, in the country districts from June 1865, and in Port Louis from 1st January 1867 to 1st July 1872, met their death from rupture of the spleen, which appears to be as common a cause of death in this country as in their

Appendix S 20.

own, and ought to make all those in authority over them particularly careful never to strike them.

Complaint from "Union Vale."

2573. On the 2nd February 1861 a complaint was brought by two labourers, Jumeeran and Jeebun, on the "Union Vale" Estate, against the manager, Mr. Descombes, Casimally, a Sirdar, and three other labourers on the estate, of ill-treatment. The Magistrate recorded that the complainants had been awfully ill-used; that they had, both of them, had wounds on their right thighs, caused by blows of a leather strap with which Casimally struck them, while the other three labourers held them. Appendix S 2.

2574. Mr. Descombes admitted having ordered Casimally to give them eight or ten blows and the other defendants to hold them, because the complainants were great deserters, and had just been apprehended.

The Magistrate's judgment.

2575. The Magistrate discharged one of the defendants, against whom there was no evidence, and sentenced Mr. Descombes to a fine of £5, the Sirdar who beat them to a fine of £2, and the Sirdars who held them to a fine of £1 each. He further ordered the engagements to be cancelled.

Mr. Barbot of "Terracine" takes the law into his own hands, 1867.

2576. In 1867 Mr. Barbot, the manager of "Terracine" Estate, Savanne, presented a petition to the Governor, praying that the sentence of a fine of £5, passed against him by the Magistrate of Savanne for an assault upon an Indian labourer on "Fontenelle" Estate, whom he caught in the act of stealing his clothes, might be remitted, as he urged that, while assaulting the said Indian, he had *inadvertently* made use of a piece of leather in his hand, which he Appendix S 8.

> "sincerely regretted had produced several marks on the body of the said "immigrant."

2577. The Governor called for the Magistrate's report upon the case, which was that petitioner had pleaded guilty to a charge of having previously beaten an Indian, and that the Magistrate was satisfied that he had been tied up and beaten with a leather strap or thong. The Governor, therefore, saw no reason to interfere with the sentence.

Complaint of 66 men against Mr. Kœnig, 1867.

2578. In the same year in Rivière du Rempart we find a charge brought by Chatwerran, Hera, and sixty-four others, against Mr. Kœnig and two others, claiming five months' wages, and complaining of a serious assault and battery. There was no finding recorded in the case, and, upon inquiry, we found that it was the case referred to in paragraph 1408 (*Contracts*), in which the Acting Procureur-General had given his opinion that the Magistrate would be justified in postponing his decision as regarded wages for a fortnight, to enable Geffroy and Co. to procure funds for the payment thereof. He therefore sent the whole gang back to the estate until that date, when he would hear the different complaints, as well as pay the wages.

2579. The Magistrate attributed the disorder on the estate to a Sirdar named Ramchum, a leader in this case. We were, however, unable to discover from the complaint book, or the rough book, on reference to the Stipendiary Magistrate, Mr. Farquharson, what further had been done in the case.

Bretagne's case.

2580. In another case, 250*bis* of 1872, Mr. Bretagne, junior, was convicted, on the 20th September 1872, of assaulting Roopun with a cart-whip, and fined £3 and costs. Appendix S 13.

2581. The following case, though not one of bodily ill-treatment, is certainly one that might generally be considered a case of ill-treatment.

Planché's case, 1869.

2582. Mr. Planché and his servant Imamkhan were brought before the Magistrate of Black River, charged with a breach of Ordinance No. 8 of 1869, in attempting to kill game with a loaded gun without previously providing themselves with a licence, and without consent of the owners of the property on which they were found. The case against Mr. Planché was first tried, who admitted the charge, and produced his licence, which he had not with him at the time he was shooting, and pleaded that he was invited by an employé in Mr. Monneron's service, the owner of the property, to come and shoot there. His plea was not proved, and he was fined £5 and costs, and the gun was confiscated. Appendix S 18.

2583. His servant Imamkhan was next tried. He pleaded not guilty, and that he only accompanied his master and carried his gun. This apparently was not sufficient to excuse him, for, under the Ordinance, all those found in company of persons shooting, or killing game, or carrying a gun, on land of another person, even though they have no dogs, nor guns, nor other engine in their hands, shall be punished as poachers. He was found "guilty," and sentenced to a fine of £5 and costs, or twenty-four days' imprisonment.

2584. Mr. Planché petitioned the Governor for remission of the sentence against himself; pleading an infirm, aged, and indigent mother, and two sisters, of whom he was the sole support.

2585. The Magistrate reported that the costs were rather heavy, and that the loss of the gun and payment of the costs would perhaps be sufficient punishment; upon which the Governor, Sir Arthur Gordon, reduced the fine to £1, and Planché was discharged; but neither Planché nor the Magistrate brought the case of his servant Imamkhan to the Governor's notice, and he, like Toolsy in the Montille case (*vide* paragraph 2542), suffered the whole of his imprisonment.

2586. Masters, after this, might not be surprised at finding that all the orders given to their servants by them are not implicitly obeyed.

Case of Ozeer and 14 others, 1865.

2587. At the Assizes on the 30th November 1865, Ozeer and fourteen others were put upon their trial for murder and instigating to murder. The case will be found in the Appendix. The prisoners pleaded "not guilty," and on the 1st December, the Procureur-General declared he would not ask for a verdict of guilty against the two last prisoners, who were accordingly withdrawn, without any verdict either for or against them being taken, a proceeding very inconsistent, in our opinion, with justice, but not unprecedented in this colony; and the jury, by a majority of seven to two, found the remaining prisoners "guilty," but unanimously recommended them to mercy *on account of the cruel treatment which they had suffered at the hands of the late Mr. Dalais, for the murder of whom they were tried.* Appendix S 35.

Murder of Mr. Dalais.

Two of the convicts recommended for execution, and the sentence of the others to be mitigated.

2588. The prisoners were sentenced to death, and the proceedings on the trial were laid before the Executive Council, who, on the 7th December 1865, considered there was nothing in the evidence given on the trial to show that any ill-treatment had been practised against the prisoners by Mr. Dalais which could justify or excuse the crime of which they had been found guilty. They therefore recommended to the Governor that the law should take its course in the case of two of the convicts, and recommended that the sentence should be mitigated in the case of the other convicts.

The convicts had suffered ill-treatment.

2589. It is very clear, from the recommendation of the jury in this case, that there had been cruel treatment suffered by the convicts at the hands of Mr. Dalais; and it is extraordinary to find the Executive Council declaring there was not any ill-treatment to excuse the crime of which they had been found guilty.

Case of Medeenah-Saïb.

2590. Medeenah Saïb was a labourer on "Chamouny" Estate, in Savanne, and died on the 12th January 1866. Mr. Constantin, the proprietor, reported the death and got a permit of burial; but the widow Saidoo said her husband had been severely beaten and kicked by the Sirdar Beeka on the 30th December, and that she believed that was the cause of his death. The burial was stopped, and Sirdar Beeka arrested and taken before the District Court for assault, and he was convicted and sentenced to pay a fine of £1.

Severely beaten and kicked by Sirdar.

Mr. Reinhart's case, 1866.

2591. Mr. Reinhart, an overseer on an estate in Rivière du Rempart, on the 25th of April 1866, petitioned the Governor to be released from a fine of £5, to which he had been condemned on a false charge, supported by false evidence, of having assaulted two labourers on the estate. Appendix S 3.

2592. The Magistrate to whom the petition was referred, reported that Mr. Reinhart had, on the 20th March, been fined £5 for assault and battery on one Beekaram; but that did not prevent him from committing an assault upon two other labourers, Ramgeewun and Cheekory, for which offence he was fined £5, for the remission of which he petitioned the Governor.

Khristnamah's case.

2593. Kristnamah, a labourer on "Chemin Grenier" Estate, in the service of Mr. Bax, a job contractor, generally working as a carter, got leave from Lucien Bax on Sunday the 28th of October 1869, to rest that day; but about 6 A.M. an overseer, Edouard Marquet, came to his hut and asked why he had not gone to work, seized him by the hair, dragged him out and struck him two or three times on the belly with the butt end of a gun he had in his hand. Appendix S 4.

2594. Marquet admitted before the Inspector of Police that finding Kristnamah lying in his hut, on Sunday, he pulled him out and dragged him to his house, in order to send him to Mr. Bax at "Belle Vue," and that he had, on the road, struck him once or twice across the head with his hand.

2595. Kristnamah died in the Poor-Law Hospital on the 2nd November, and Marquet was committed to the Assizes on a charge of manslaughter. He was tried and found guilty, with a recommendation to mercy, and Judge Bestel sentenced him to *one month's* imprisonment, without any order for labour.

Case of Venitaten of "Bonne Mère."

2596. On the 22nd November 1869, Venitaten, a labourer on the "Bonne Mère" Estate, was standing, when the Sirdar Bundally came behind him and struck him on the back with a sugar-cane which he was eating. Venitaten turned round and remonstrated,

when Bundally dealt him a blow and pushed him: he fell down and died without uttering a cry. The doctor could assign no cause for his death, as the spleen, though enlarged, was not ruptured. The Magistrate, however, committed Bundally to the Assizes, but the Procureur-General returned the case in order that the Magistrate might try the prisoner on a charge of inflicting wounds and blows, and the Magistrate, on conviction, sentenced Bundally to six months' imprisonment.

Case of Jeetoo of "Virginia."

2597. The case of Jeetoo, who complained of having been assaulted and his arms tied behind his back with a cord by the Sirdar Adjudar, on the "Virginia" Estate, Grand Port, after having been kicked by Mr. Latapie. The case appears to have been hushed up subsequent to his making his complaint—the District Magistrate having apparently, from the evidence given, no other course to pursue but to dismiss it. There was proof that Jeetoo had been tied up and beaten and that he had been dragged to the overseer's house, and that several persons had heard that he had been beaten; but he failed in producing evidence to prove these points, and the impression left on our minds, is, that the case was compromised out of Court.

Appendix S 12.

Assaults on "St. Aubin," 1871.

2598. Mr. Daly, in his letter to the Government, mentions seven cases of assault by employers and Sirdars on "St. Aubin" Estate, in Savanne, which had come before him within two months.

No. 64, September 1871.

Mr. Pitot's evidence.

Mr. Pitot, in his evidence, does not think that this number of assaults accounts for the difficulty experienced in getting men to work on the establishment. They were all, except that of the Sirdars, very trifling cases, in his opinion. He never authorised, and does not approve of these things, and has given strict orders not to strike any man, and he never paid any fines for his overseers or Sirdars when they were condemned. The result only proves that overseers and Sirdars pay very little attention to the strict orders given by the proprietor of an estate.

Question 279, vol. ii.

Paratien's case, 1872.

2599. The petition of Paratien, given in the Appendix, together with all the proceedings held upon it, ended in nothing but the petitioner's getting four days' hard labour, with costs, for unlawful absence, and his wife's charge against Mr. Clair, for assault and battery, being dismissed. The evidence, as given against the overseer, shows great tyranny, if not violence, on his part, while the evidence given in his favour shows an equally wonderful amount of forbearance.

Appendix S 14.

The case having been decided by the Magistrate, we can only give it as one replete with ill-treatment, according to the labourers' account; and, according to that of the manager, as showing the amiability and forbearance on the part of the employés on estates, who are accused not only of turning the labourers' effects out of their huts in order to compel them to remove to another, and of striking noisy and troublesome viragoes, but of attempting to debauch the women on the estates. (See Chapter XXX. paragraphs 3321 to 3372.) But it is unnecessary to multiply cases.

Assaults while the Commissioners were in the Colony.

2600. We have had returns made, which will be found in the Appendix, of cases of ill treatment by persons in authority over immigrants, in Port Louis and in the several districts during the year 1872, having selected that period as being the one during which we were making our inquiry, and therefore likely to show the fewest number of cases and the greatest caution on the part of the Magistrates. The result has been a total number of cases proved, of 182.

Appendix S 26.

2601. We have not received a return from all the districts of the cases not proved, but only from the two districts of Pamplemousses and Plaines Wilhems. In the former there were 21 cases proved and 44 dismissed, struck out, or withdrawn; and in the latter 23 cases proved and 58 dismissed, struck out, or withdrawn.

Tyranny of Sirdars.

2602. From this we might judge of how many charges there had been brought in the whole Island, during the whole year, of ill-treatment by those in authority over the Indians. But we may premise that Mr. Dupuy, Police and Stipendiary Magistrate for Port Louis, who had for twelve years practised as a lawyer, particularly among the Indians, and in 1867, had been more than four years a Stipendiary Magistrate, from his experience,

> "had come to the conclusion that with the Indian population the more esteemed and trusted a Sirdar was by his employer, the more inhuman and cruel he was towards his subordinate countrymen."

Report, 23. 2. 67.

2603. It may be desirable to take a few cases from among the whole number, to show the nature of the complaints.

Nature of assaults.

Shamoogan.

2604. In Port Louis, Shamoogan, a labourer, accused a Sirdar of defaming him, upon which the Sirdar struck him, and the overseer, seeing him go to complain against the Sirdar, slapped and kicked him. The overseer stated that he ordered complainant to go to the police and complain of the Sirdar, but as he did not go, he pushed him. The Magistrate, however, found both guilty, and fined them 10*s.* each.

Assaults whil the Commissioners were in the Colony. Ramsing.

2605. Ramsing, a servant, sued his master for two months' wages and for having assaulted him on his refusing to work in the stables. The defendant pleaded not indebted, but guilty of the assault. The Magistrate awarded the wages, and fined the defendant £1 and costs.

Khiroopen.

2606. Khiroopen, having brought eight men to his master as labourers, was made Sirdar. He, however, gave evidence in a case between his master and another labourer; after which his master ordered him to carry sacks like the rest, which he refused to do. His master then seized him by the neck and gave him a shake and a kick; the defendant urged that, as complainant refused to remove the sacks, he turned him away into the street by the neck: the Magistrate, however, fined him £2.

Ratenallay.

2607. Ratenallay, a servant, sued his master for an assault and claimed six weeks' wages. Defendant admitted owing 23*s.* wages, but stated that the plaintiff had made away with some of his goods. He, however, denied the assault; but, it being proved by witnesses, the Magistrate fined him £1.

Pamplemousses. "Antoinette" Estate.

2608. Chamagee, labourer, complained against an overseer on "Antoinette" Estate, of assaulting him because he did not work fast enough. Defendant said, that complainant was very insolent to a Sirdar, and he, defendant, went to the spot and took complainant by one of his wrists, put his clenched fist to his face, and struck him three times violently with his clenched fist, but denied having kicked plaintiff. The Magistrate, however, convicted him and fined him £1.

"Beau Plan" Estate.

2609. Seegooin, a labourer on "Beau Plan" Estate, stated he was working in the sugar-house, when the proprietor, Martin, ordered him to go into town to work as a domestic servant; this he refused to do, and the defendant gave him four slaps in the face. Defendant admitted the assault, and urged that he had ordered complainant to go into town as a domestic servant for a day or two, but he peremptorily refused to go, upon which, Martin lost his temper and gave him a slap in the face, for which the Magistrate fined him 8*s.*

"Petite Rosalie" Estate.

2610. Gungadeen, a labourer on "Petite Rosalie" Estate, went to the hospital, as he was ill, and complained that the defendant, an overseer, had violently pushed him away. The defendant stated that complainant had come to him, saying he had got a headache, that he felt his pulse and found him all right; so he took him by the arm and told him to go to work and to wait till the doctor came next day. The Magistrate fined defendant 10*s.* and costs. Both this assault and this fine, and certainly the scandal, would have been avoided if there were proper hospital assistants on estates.

The "Mount" Estate.

2611. So in the next case, Monghur, a labourer on the "Mount" Estate, went to the defendant, the accountant of the estate, and asked for some medicine. The defendant abused him, struck him, and pushed him out of the office: the defendant denied the charge, and stated that he only pushed him out of the office because he was annoying him, and asking for more medicine than the Medical Attendant had ordered. The defendant was fined 5*s.*

"Triolet" Estate.

2612. Beedassee, a labourer on "Triolet" Estate, charged the manager with an assault at roll-call, by giving him two slaps on the face. Complainant stated he had been sick for the four previous days, and was ordered to water the canes, which he was unable to do. Defendant urged that complainant had refused to go and perform the work he had ordered him, and he therefore pushed him—once rather softly, and the second time rather roughly. The Magistrate fined him 5*s.* for this.

"Espérance" Estate.

2613. Sittal, a labourer on "Espérance" Estate, complained of the accountant for having struck him three blows with his fist, which made his nose bleed, because he went to him early in the morning to report himself sick, which the accountant said he was not; and, on complainant's insisting, assaulted him. The defendant pleaded "not guilty," yet admitted he pushed complainant with certain force, but did not strike him. The Magistrate, however, fined him 5*s.* This is another proof of what has been so often urged before us of the advantage of the present system of hospital treatment, by which the accountant and planter obtain a knowledge of medical treatment very much to the benefit of the immigrants.

"Haute Rive" Estate.

2614. Cullyan, a labourer on "Haute Rive" Estate, complained against an overseer for striking him several blows with a rattan, because he did not work well; the overseer appears to have had no defence, for there is none recorded, and he was fined 10*s.*

"Ravin" Estate.

2615. Three labourers on "Ravin" Estate brought charges: one against an overseer, another against the master, and the third against the master and the mistress. In the first case the complainant had unjustly been marked absent, of which he complained to Duboisée de Ricquebourg, and went to defendant's house to call him, as the master wanted to settle the matter. Defendant at first refused to come, but afterwards came, and complainant spoke about going to the Magistrate, as he had been unjustly marked absent: upon that the defendant took hold of him, threw him down, and gave him three kicks while

Assaults while the Commissioners were in the Colony. "Ravin" Estate.

on the ground. The defendant urged that complainant was very excited and insolent, and that he simply pushed him aside, and that he fell down. The Magistrate fined him 5*s*.

2616. In the second case, Sumara, a labourer, was hurt in the stables by a cart falling on his side, and went to the hospital: the doctor told him to stand upright, but he could not, from pain. The defendant came up, and the doctor told him Sumara had been insolent, whereupon defendant kicked him and gave him several slaps: defendant urged that he was called from his breakfast to the hospital, as he heard complainant was making a great noise and had grossly insulted the doctor, and that, on his arrival, he seized hold of complainant and gave him a few slaps. The Magistrate fined him £2.

2617. In the last case, Goverdun stated that Mrs. Ricquebourg struck him four blows with her fist, because she said the work was badly done, while he maintained the contrary; soon after, Mr. Ricquebourg gave him a kick while he was sitting down. Mrs. Ricquebourg did not appear, but Mr. Ricquebourg declared that his wife never touched complainant, but admitted that he had pushed him with his foot, after complainant persisted in refusing to obey his orders. The Magistrate acquitted Mrs. Ricquebourg, on what grounds it does not appear, and fined Ricquebourg 2*s*. and costs.

2618. This extremely lenient sentence may perhaps be accounted for, from the fact of complainant having gone, in the first instance, to the Protector of Immigrants to complain and brought a note from him to the Magistrate; and further, because the complainant had uttered abusive language in open court, for which he was sentenced to seven days' imprisonment.

Rivière du Rempart. Moonien of "Schoenfeld."

2619. Moonien, a labourer on "Schoenfeld," accused an overseer on that estate, of assault and battery. The complainant stated that he felt ill while working in the fields, and was sent by the overseer to hospital, but they did not admit him, and he returned to the fields and was sitting down working when defendant came up and said:—

"You sit down to work, do you?"

and struck him several blows with a stick. The defendant admitted the charge and was fined 10*s*. by the Magistrate.

Flacq. Ochunbut. "Belle Rive" Estate.

2620. Ochunbut, a labourer on "Belle Rive" Estate, accused an overseer of assaulting him with a stick, in the mill, after sunset, because he did not work fast enough. The defendant pleaded not guilty, but the Magistrate thought the case proved, and fined him £1 with costs. This was on the 24th December 1872; and on the 6th January following, the overseer, Julien Marion, was fined by the same Magistrate £4 for assaulting Ramballanoo, one of Ochunbut's witnesses, because he had given evidence against him (Marion).

Meerun of "Belle Rose" Estate.

2621. Meerun, a labourer on "Belle Rose" Estate, charged an employé with assault; the manager had told him (complainant) to do eight turbines; defendant came up afterwards and ordered him to do ten; this complainant said he could not do, and defendant assaulted him. The defendant pleaded guilty, but urged that he was annoyed at complainant's refusal to work. The Magistrate fined the defendant £3.

Armoogum of "Mon Rêve" Estate.

2622. Armoogum, a labourer on "Mon Rêve" Estate, would not go to work at the mill, and the overseer came to his hut about 3 A.M., struck him several blows and dragged him out of the hut by the hair of his head, in order to send him to work. The overseer admitted having forced the man out of his hut, and was sentenced to a fine of £2.

There was no proof of assault against a Sirdar, who was charged with the overseer, and he was acquitted.

Meerjahn, servant to Madame de Villecourt.

2623. Meerjahn, a servant, accused his mistress, Madame de Villecourt, of assault with a stick. It appeared that defendant struck the complainant with a stick, in order to console a crying child; the man appeared to be angry with this, and she struck him again; he then threw down his work and went away. The Magistrate cancelled his engagement.

Grand Port. Ramjoum of "Joli Bois" Estate.

2624. Fayd'herbe, an employé on "Joli Bois" Estate, was fined £1 by the Magistrate for an assault on Ramjoum, a labourer on the estate, who went to the defendant and asked leave to go home and sleep, as he had been working since midnight. Defendant refused to let him go, and struck him several blows with a stick.

Ozeer, servant to Mr. de Boucherville, District Magistrate.

2625. Ozeer, servant to Mr. de Boucherville, the District Magistrate of Grand Port, charged Madame de Boucherville with assault. The District Magistrate appeared for his wife and required complainant to prove his case. Complainant stated that he was washing plates and Miss de Boucherville broke a cup. Mrs. de Boucherville asked who broke it, and complainant answered:

"Miss de Boucherville broke it. Why cry so about a cup?"

Mrs. de Boucherville told him to hold his tongue, and he said,—

"You need not speak so loud,—speak less loud,"

upon which she boxed his ears. The Magistrate considered the case proved, but with gross provocation, and fined Mrs. de Boucherville 4*s*.

Assaults while the Commissioners were in the colony. Grand Port. Lutchmun *v.* De Baize.

2626. This case contrasts with a charge brought by Lutchmun, a washerman, against his master, Mr. de Baize, for assault. He had done some ironing, and was ordered to do more, when complainant, admitting that he spoke rather loudly to defendant, told him his linen was in his room, upon which defendant beat him; defendant admitted the charge, and pleaded that complainant was insolent. Defendant, however, was fined £1.

Savanne. Bundoo of "Beauchamp" Estate.

2627. Bundoo, a labourer on "Beauchamp" Estate, charged his master with assault and battery. He was digging holes, and his master struck him two blows on the back with a whip. Defendant pleaded guilty, but said he was provoked, and struck complainant two blows with the butt-end of a whip; what provocation he received does not appear, and the Magistrate fined him £4.

"Bel Ombre" Estate, three cases of assault.

2628. On "Bel Ombre" Estate three charges of assault were brought by labourers: one against the manager and the overseer, and the other two against another overseer.

Ragnat.

2629. In the first case, the manager and overseer admitted the charge of having struck the complainant Ragnat several blows, because he was supposed to have been eating sugar. The manager was fined £3, and the overseer £1.

Manhoa.

2630. In the other case, Manhoa, a labourer, was ordered to do some work by the defendant, which he said he was unable to do, and the defendant struck and kicked him. The witnesses stated complainant was only pushed, and defendant was fined 2*s*.: this was on the 18th September 1867.

Babeeah of "Bel Ombre" Estate.

2631. On the 5th of December following, Babeeah, another labourer, complained of his having been working at the bagasse, when a Sirdar came and took him to the defendant, who ordered him to go and carry canes, which he refused to do, as he was suffering from itch, upon which defendant told him to go to hospital, which he was about to do when his coat fell, and he stooped to pick it up, and defendant struck him thirty or forty blows. Defendant pleaded that Babeeah had refused to work and was insolent, and in a moment of anger he struck him, for which he was fined £2, and allowed ten days to pay it in.

"Chamouny" Estate, two complaints. Cross-complaint against the Indian. Cases withdrawn when called.

2632. On the "Chamouny" Estate, a Sirdar and a labourer brought two complaints of assault against their master. The cases were adjourned, as there was a cross-complaint to be brought against the Indian. But all three were withdrawn when called; the plaintiffs in the two assault cases saying, that the defendant had the right of father and mother over them.

"Choisy" Estate, Cathen.

2633. On "Choisy" Estate, Cathen accused a Sirdar of assault. He was lying sick in his hut, when the defendant entered, seized him by the hair, struck him several blows, dragged him out of the hut, and told him to go to work, which he said he could not do, as he was ill. The defendant admitted having gone to complainant's hut because he was not at work, and that he took him by the hair and gave him a blow, for which he was fined £1.

Ramraj of "Rivière des Anguilles" Estate.

2634. Ramraj, a labourer on the "Rivière des Anguilles" Estate, brought a charge of assault against his master, Mr. Lalanne, stating that, as he was walking along, defendant came up and struck him two or three blows with a stick; he did not know why. Defendant did not think it worth while to appear, but wrote a note to the Magistrate admitting the charge; and the Magistrate fined him £1.

Commissioners not surprised that planters do not appear in court and defend themselves.

We are not surprised, when the Magistrates do this, that planters do not think it worth while to attend and defend themselves in court.

Black River. Nahum of "Clamarel" Estate.

2635. Nahum, a labourer on "Chamarel" Estate, complained to an overseer that some one had broken into his hut and stolen some money, upon which accused struck him several blows with a stick. The overseer admitted the charge, but pleaded, as an excuse, that complainant had told him a lie, intending to charge a Sirdar with having broken open his door; though he, defendant, knew that complainant had done it himself. He was fined £2 and costs.

Moka. Govindoo of "Alma" Estate.

2636. Govindoo, a labourer on "Alma" Estate, was ordered at roll-call, by an overseer, to go and work with the carts. He said he could not, as he had never done so before. The overseer referred him to the manager, who sent him to the fields. On the overseer coming to the fields, he saw Govindoo there; and upon Govindoo's telling him, in answer to his question, that he had been sent there by the manager, the overseer struck him several blows with his fist. Defendant pleaded not guilty, but was fined 10*s*. by the Magistrate.

Chellenbrun of "Bon Air" Estate.

2637. Chellenbrun, a labourer on "Bon Air" Estate, charged one of the Sirdars with assault. Chellenbrun had not, as usual, subscribed on New Year's Day to give the Sirdar a ring, pleading poverty. A few days afterwards the Sirdar asked him why he had not subscribed, and on his saying because he had no money, the Sirdar rushed upon him and inflicted several blows upon his person, for which he was, on conviction, fined £1.

"Helvetia" Estate. Meerah.

2638. Meerah, a servant on "Helvetia" Estate, accused his master, Mr. Lecoultre,

Assaults while the Commissioners were in the colony. Seebaluck v. Lecoultre.

of having struck him a heavy blow under the left ear. Lecoultre pleaded "not guilty," and stated that he merely touched complainant with his umbrella. The charge was proved, and Lecoultre fined 5*s*.

2639. There were two other convictions against Sirdars on this estate for assault, which require no further notice; and also a charge against Lecoultre, by Seebaluck (Sirdar), of assault. The Sirdar was in charge of a band of men cleaning the yard. The men had finished their task about 12 o'clock; but, before he would let them go, the Sirdar told them to go to the overseer for orders. On their way the accused met them, brought them back to where Seebaluck was standing; asked him why he let them go so early, and struck him a blow on the nose. Lecoultre pleaded guilty, but in his defence urged that the man had told him so many lies, and had looked at him in so impertinent a manner, that he gave him a blow on the nose with his umbrella; that he forgot himself, and could not help it. He was for this fined £2.

"La Laura" Estate. Berban.

2640. Berban, a labourer on "La Laura" Estate, was ordered by the overseer, on finishing his line, to sweep up all he had weeded. He expostulated, saying, "You want to break my heart with work;" all the rest of the band having left off work. Upon which the overseer struck him. Defendant pleaded guilty, but urged, as an excuse, that he gave him a blow in the face because the man was impertinent when he called him. He was fined £1.

Soobien.

2641. But that was not sufficient to prevent his committing an assault, a few months afterwards, upon Soobien, who was working in a bagasse shed, at about 1 o'clock in the day, when Mamarot, the overseer, came up and ordered him to turn the straw, upon which the latter said:

"Let me eat, I have not yet eaten,"

and thereupon the accused swore at him, and ordered the Sirdar to take him to the mill, where he inflicted several blows upon him with his fist. Defendant pleaded "not guilty," and called several witnesses in his defence. The Magistrate considered the case proved, and fined him 10*s*.: a very inadequate fine, in our opinion, for at least a second offence.

Plaines Wilhems, "Bassin" Estate. Chellapen.

2642. Chellapen, a labourer on "Bassin" Estate, had been marked five days absent unjustly. He went to Nozaic, the accountant, to complain of it, when he says he was kicked and beaten by him. The defendant admitted the assault, but stated that Chellapen spoke to him in the most insolent manner, and with a loud voice; that he lost his temper and gave him several slaps in the face, but denied having kicked him. He was fined 4*s*.

"Highlands" Estate. Nowloo v. Dalais.

2643. Nowloo, a labourer on "Highlands" Estate, was unloading a cart filled with boards and let a plank slip and split it, upon which Mr. Dalais assaulted him. This Mr. Dalais admitted, but pleaded the man was insolent. He was fined £1.

"Phœnix" Estate.

2644. There are six cases from the "Phœnix" Estate, one against the manager, three against an overseer named Laroche, and one against an overseer named Potein, of the same name as the manager, and another against a Sirdar. And we cannot be astonished at the number of assaults committed on this estate, when we find a labourer named Byragee complain of the manager having struck him several blows without provocation. Potein, in his defence, said that he had ordered the complainant to go with the carts, which he refused to do. Defendant then spoke to him and threatened to strike him. The man was insolent, and defendant gave him two or three blows. He was only fined 12*s*.

"Solferino" Estate.

2645. On "Solferino" Estate we also find five cases against Sirdars and overseers. These cases are more remarkable from their number rather than from any particular circumstances connected with the cases themselves.

The Commissioners' comments.

2646. With all these cases and evidence before us, we may be held justified in withholding our full assent from what the planters have constantly asserted, and to which Sir Arthur Gordon gives his adhesion, that—

Despatch to Earl Kimberley, 10 Nov. 1871.

"Notwithstanding many serious and manifest defects in the immigration laws, the "treatment of the immigrants upon the estates is, as a rule, kind and just."

Cases of lock-jaw.

2647. In the Appendix will be found a general statement, showing the names of all immigrants above ten years of age, who had died of wounds or lock-jaw on the different sugar estates in the years 1868 to 1871, both inclusive. We applied to the Registrar-General for this return, in the hope of ascertaining the number of persons who had been injured on estates and had died from their wounds during these four years, confining it to persons above ten years of age, in consequence of infants and young children being very subject to die from lock-jaw. The Returns show 96 cases in four years.

Appendix S 17.

The names of the victims at "Beau Séjour" to be borne on Returns. Cases of murder; of people burnt; which ought not to have been included.

2648. This return, however, was not exactly what we desired, for, as an example, on the 10th August 1871, seven immigrants were killed by the bursting of a boiler at "Beau Séjour," in Plaines Wilhems; but no record is found of it in the Returns of that year. There are several cases of murder, and one case of people burnt in their hut, which ought not to have been included amongst those that we required; and, as regards the 48 cases of lock-jaw, six of them did not occur on estates, or occurred on estates which are now out of cultivation and deserted.

The Commissioners' visits to estates.

2649. Of these cases, during our visits to the estates on which they occurred, we made every endeavour to ascertain the circumstances under which the accident happened which gave rise to the lock-jaw, if any accident had happened at all, because in this, as in all hot climates, particularly among the dark races, there are other causes which occasion this disease, besides injuries and wounds.

2650. Our inquiries were not successful. On some estates we found the case entirely ignored; on others, if the case was remembered, the circumstances of it had been entirely forgotten; and on others, again, it was perfectly unaccountable.

Enquiries ineffectual.

We, therefore, found it hopeless to make any enquiries on the subject, for planters are not obliged to keep any records of the accidents which happen upon their estates, nor are the doctors obliged to keep registers of the cases which they treat in the estates' hospitals. All that is required of them is to record the illness and the fact of the death.

Treatment.

Fires. Ord. 17 of 1868.

2651. When we recollect that Ordinance No. 17 of 1868 was passed for the especial purpose of protecting property against fire by requiring the Inspectors of Police, in case any fire has taken place, or has been attempted, in the rural districts, to make an inspection of the premises and report thereupon to the District Magistrate; and the Magistrate is obliged to go and, within the smallest possible delay, take the information on oath of all persons likely to know the facts and circumstances, and to allow any interested party present to examine witnesses and to cause witnesses to be examined; and also to appoint a guardian to take charge of the property on the application of any interested party, and to furnish any interested party with a copy of his proceedings—all evidently very useful to Insurance Offices in the event of any question arising regarding the cause of fire—we may be allowed to express our surprise that in cases of Indian immigrants suddenly dying on estates, or from accidental causes, no inquiry is made into their cases, nor is anybody obliged to keep a record of it, to prove the cause of death.

No inquiry in case of sudden death of indians on estates.

Poor relief. Return from the President of the Poor Law Commissioners.

2652. We also, with a similar object, obtained a return of the number of immigrants who met with accidents while at work on estates or elsewhere, and received relief in the Poor Law Hospitals from the date of their establishment to the present time, in February, 1873.

Appendix S 25.

Tetanus. The case of Battoo.

This shows but one case of tetanus, that of Battoo, who, having been kicked by a horse while in the service of a job contractor on "Terracine" Estate, showed symptoms of lock-jaw, and remained 31 days in the hospital and was then discharged.

Sooklall, "Beau Bois," Flacq. Left leg broken and at once amputated.

2653. Among the others worth noticing, was the case of Sooklall, No. 14, who was making a cutting near the sugar-house on "Beau Bois" Estate in Flacq, to allow a larger quantity of canes to be thrown in front of the mill. The embankment fell in on the 26th June 1871, and broke his left leg, which was at once amputated. He was borne on the pay-list to the 28th February 1872, when his engagement ended. He is still allowed a hut in the camp, but has applied for relief from the Poor Law Board since the 1st of April in that year, a month after his release from hospital, and still continues receiving relief. The proprietor gave him a pair of crutches, and the Poor Law Guardian gave him a wooden leg.

Coopoodaven, "Clarencia." Arm amputated.

2654. With regard to the case of Coopoodaven, No. 2 on the list, no trace of this man could be found on the estate on which he was engaged—"Clarencia," and there he was utterly ignored; but it appeared from inquiry at the Poor Law Office, that he met with his accident on the 18th September, 1868, on the estate. He was in charge of some machinery, which he tried to grease while it was in motion, in consequence of which his arm got entangled in the machinery and was amputated on the same day.

He remained in hospital, and was properly taken care of until the 17th of December, the day before his engagement expired, but was not discharged until the 30th, having been in hospital all the time and received no pay.

2655. On the 30th April 1872, the Poor Law Guardian reported the case to the Colonial Secretary, in order that the Protector of Immigrants might take steps to "safeguard" Coopoodaven's interests. The Colonial Secretary informed the Poor Law Guardian that the man would be provided with a free return passage to India, if he chose to avail himself of it. If not, and he was unable to earn his livelihood, he should be relieved from the Poor Law authorities, as he had no legal claim for compensation against the owner of the estate. The man declined availing himself of a free passage, and was placed on the list of paupers receiving out-door relief, and continues to receive it.

Mooklall, Le Val," Grand Port.

2656. Mooklall, No. 2, in Grand Port, was a carter on "Le Val" Estate, and on the 3rd September 1872, whilst in charge of a cart drawn by four oxen, was kicked by one of them, and the cart passing over his leg fractured the limb. He was taken to the estate's hospital, where Dr. Vitry set his leg that night, and next morning he was taken to the Poor Law Hospital, where he remained for eighty-five days at his master's expense. On his release he returned to his master's estate, where he continues as hospital attendant.

2657. The next case shows the difficulty we experienced in obtaining information

Treatment. Poor relief. Difficulty experienced by the Commissioners in getting information. Edgar de Rochecouste.

upon these subjects from the proprietors of estates. Mr. Edgar de Rochecouste at first denied all knowledge of the man, or that any accident of the kind had occurred. On a second visit he admitted that he had forgotten the circumstance, but now remembered all about Radenauth.

The head Sirdar on the estate was supervising work near the road, when the mules in a cart going by at the time shied, and the wheel striking Radenauth lacerated his left leg very severely. He was fifty-one days in the Poor Law Hospital at his master's expense, and, having been discharged cured, is now, as stated before, head carter on the estate, and cultivating on the adjoining estate.

Ibrahim, Savanne.

2658. Ibrahim was admitted into the Poor Law Hospital (Savanne) on the 27th August 1869, where he remained eight days, and came back to the estate for one day. He had been absent from the 14th July, and the manager did not know of his having been in hospital until informed by the Poor Law Medical Officer. He probably met with his accident while a deserter.

Chinaya.

2659. Chinaya; it has been utterly impossible to ascertain who this man is; there are several erasures in the Poor Law Hospital book, in which he appears entered as of "Bel Ombre." In the pay-books of "Bel Ombre" there are four Chinayas entered in the month of March 1870, and one of them is marked "sick" on the 22nd March, the day Chinaya entered the Poor Law Hospital; but the name of the estate being badly scratched out, and Chinaya having only been sick that one day, it is impossible to ascertain who or what this man was.

Prayag.

2660. Prayag remained fourteen days in the Poor Law Hospital. According to the pay-book he was only two days sick in December 1869. From information received at the Poor Law Hospital, it appears he got a blow on the head with a key from Lapatie, an employé on that estate, who was fined £13 by the District Magistrate for the assault.

Dabee.

2661. Dabee; this case is only curious as showing, if further instances were required, the careless way in which pay-books are kept. He attempted to commit suicide on the 8th of January, and was sent to the Poor Law Hospital on that day. He remained there for ten days, when he died from the effects of the wounds he had inflicted upon himself, and his death is entered in the hospital register of the estate as having happened on the 18th of January 1871; but he is marked absent in the pay-book from the 22nd to the 27th of January.

Poor relief to paupers suffering from old age and infirmity.

2662. Besides the Poor Law Hospital for the care of sick Indians, there is poor relief allowed them when suffering from old age and bodily infirmity.

Men who come for relief shortly after their discharge from contracts with the planters.

We have in the Appendix a return of the number now receiving relief, as also a return of those who come for relief shortly after their discharge from contracts with planters, though the latter is not to be depended upon, as it is reported to be impossible to ascertain how long it is after they are discharged from contracts that the Indians apply for relief, no such particulars being recorded. The Return shows that 1656 are now receiving relief from the Poor Law.

Average monthly expenditure of out-door relief of sick paupers.

2663. In the Appendix also will be found a statement showing the average monthly expenditure on account of outdoor relief of the sick paupers, taken from the month of June last.

Appendix S 25.

Monthly expenditure in all the districts.

2664. This monthly expenditure in all the districts amounts to £186 5*s.* 5½*d.*, 97 bags and 88 lbs. of rice. Of this £23 16*s.* 9*d.* and 15 bags and 116 lbs. of rice are given as outdoor relief to the Indians, and another £146 4*s.* 4*d.* and 73 bags and 44 lbs. of rice to the poor of other denominations. There were 607 Indian pauper patients in the hospitals and dispensaries, and 1042 of other denominations.

Comparatively fewer Indians receiving relief as paupers than there are of persons of other denominations.

2665. This Return, at any rate, shows that there are comparatively fewer Indians receiving relief as paupers than there are of persons of other denominations. But, in addition to the Poor Law Hospitals and Dispensaries there is also the Barkly Asylum, to which the Indians, as well as all others, have the right of admission.

Barkly Asylum, to which Indians have a right of admission.

Records of the Barkly Asylum.

2666. The records we have of that asylum show, from the second half-year of 1869 and years 1870 and 1871, that 2575 immigrants not under indenture were treated in its hospital. Of these four only paid the expense of their treatment; 2281 were cured, and 294 died. Of those under indenture, treated in the hospital during the same time, the records show 96 cases, of which three only died, and 93 were discharged cured.

The Post-mortem Returns from 1865 to 1872.

2667. The Post-mortem Returns from 1865 to 1872 for the districts show 114 cases of immigrants killed by machinery, or while working on establishments, and 176 cases of persons killed by violence; but these are only cases in which the deceased have died on the spot.

Necessity for enquiry into the cases of accident involving loss of life or of a limb.

This, nevertheless, does not obviate the necessity that certainly exists for an enquiry being made into every case in which an accident happens likely to deprive a man of his life or the use of any of his limbs.

Treatment. Poor relief. Remissness of Poor Law Guardians. Arnoo, Pamplemousses. Vengrassalom Rivière du Rempart.

2668. The Poor Law Guardians we find, however, have not always been very active or zealous in their duty. On the 9th of June 1869, Arnoo was found on Pieter-both Road, in the Pamplemousses district, and removed to Mountain Long police station. Information was sent to the Poor Law Guardians, but no conveyance was sent for him until 5 o'clock on the evening of the 10th.

2669. Vengrassalom also was picked up on the public road sick with fever and brought to the police station, where he died three days after. The case was at the time reported to the Secretary of the Poor Relief Committee, who refused to do anything for the man, though he had no employer, and was a fit subject for the Poor Relief Committee.

Rivière du Rempart, 80. 20th February, 1867.

Poudre d'Or.

2670. Arnoo Saib was discharged from the Hospital of General Board of Health at Poudre d'Or, at 2 P.M. on the 29th of March 1867. He was again picked up at 6 o'clock that evening and taken to the hospital, where the guardian refused to receive him, stating he had that afternoon been discharged from the hospital by the Magistrate's order and he could not receive him. Arnoo Saib was found dead on the roadside next morning.

Rivière du Rempart, 31.

Curpanen, Plaines Wilhems.

2671. Curpanen was picked up on the public road at Rose Hill, in Plaines Wilhems district, in a very destitute state, at 7 o'clock in the evening of the 3rd of March 1868, and died in the guard-room next morning before authority could be obtained from the Poor Relief Committee for his admission to the Convent Hospital.

Plaines Wilhems, 158.

Gopaul, "Terracine."

2672. Gopaul, in Savanne, was a vagabond, and was found two nights previously sleeping in the district-court yard. Owing to his age (68 years) he was released, but on the 7th of February 1867 he was found dead in the cane-fields on "Terracine" Estate. There were no marks of violence on the body. We do not know to whom neglect is to be attributed in this case—whether to the Magistrate or the police. They knew he was a vagrant, and if not a fit object for punishment, he was certainly a fit object for relief.

Savanné, 68.

Care of "Carpen." Gross negligence chargeable against Officers of the Civil Hospital.

2673. It is a subject for deep regret, however, that the Poor Law Guardians are not the only public functionaries obnoxious to the charge of remissness in their care of the sick, but that even those of the Civil Hospital cannot be wholly absolved from the same charge, as will be seen from the following case reported by Mr. Mitchell, on the occasion of his visit to "Hermitage" Estate, in the district of Moka. In the hospital register of that establishment Mr. Mitchell found the following entry by Dr. Clarence (the Medical Attendant), dated the 25th of February 1871, with regard to the case of "Carpen," an Indian immigrant, brought to the hospital with a fracture of the femur:

Appendix Q 87 (21).

> "Cet homme est arrivé de l'Hôpital du Dépôt des Immigrants sans appareil, ni panse-
> "ment, dans une charrette non suspendue. Il est inconcevable qu'on ait pu mettre
> "en route un homme atteint d'une affection si grave." (Initialed) "J. C."

Carpen afterwards threatened to hang himself if compelled to wear the bandages, &c., put on by the doctor, which he was constantly attempting to remove; he died on the 23rd of April.

Mr. Mitchell concludes his report of this case with the following remarks, in which we entirely agree, and which convey as severe a censure upon those responsible as any which we could pass:

> "It is to be hoped that the suffering endured by this poor Indian, who was jolted
> "some nine miles in a common cart with a fractured thigh-bone, for which nothing
> "had been done, were the result of neglect rather than inhumanity on the part of
> "those responsible for this act, and that his death resulted from the serious nature
> "of the accident rather than the consequences of their carelessness."

Case of Seetya, a female New immigrant, abandoned and left to die on the road-side, August 1865.

2673*a*. Carelessness, however, of this character—entailing fatal consequences, and which in our opinion is but slightly removed from inhumanity—was, unfortunately, not without precedent, as will be seen from the following case, the most painful perhaps of any that have come under our notice, and which occurred five years before.

Seetya, a female New immigrant, left the Immigration Depôt at midnight on the 7th August 1865, with a band engaged for "Mon Trésor" Estate in Grand Port; but being feeble, she was, in some manner not explained, left behind on the road near the 19th milestone, where she remained for five days, and then died. Dr. Finnimore, the Government Medical Officer, having examined the corpse, reported that he had no doubt that her death was caused by exposure and insufficient food, superadded to the extreme state of debility into which she had fallen through disease and other causes; and at the same time he suggested that further enquiry should be instituted, as, but for the culpable neglect of some one or more persons unknown, she might still have been alive. The result of the enquiry showed that deceased had arrived from India in the 'Indomitable' on the 1st of August, and that at midnight on the 7th she had left the Depôt for Messrs. Chauvin's Estate, "Mon Trésor," in Grand Port, with a band of 40

men, 12 boys, and 18 women. They arrived at the estate on the following day (the 8th) at 3 P.M., but without the deceased, and she was never missed, no list of women and children having been sent. Neither the Sirdar in charge of the band, nor the Sirdar in charge of the carts, could tell how or where she was left on the road-side, and all declared that she had arrived in a debilitated condition owing to having been half starved on board ship; and the manager declared that he had never seen so wretched a band.

Dootal, her half-brother, who was with her, was in another cart with his wife, who died soon after their arrival at the estate; so he could not look after her.

On the 11th a man, an Indian, saw her near the 19th milestone, when she told him she had been left behind, and asked the distance to Mr. Chauvin's (between six and seven miles). She was seen by him on the 12th lying under the verandah of an unoccupied house, and again on the morning of the 13th, and he subsequently heard that she had died on the evening of the same day. A Creole woman had also seen her there, and on the 12th had given her some rice, but she was too ill to eat it.

The carelessness in this case must be charged in the first instance to the Sirdars in charge of the immigrants, but we cannot acquit the Immigration Office for sending out 70 persons to an estate without also sending a list of them.

Cases of kindness to Indians, *per contra*, found on some estates.

2673. We must not, on the other hand, imagine that no kind treatment is to be found of the Indians on the estates. For although we have been unable to discover, except in solitary instances, what Dr. Desjardins tells us he must say,

Dr. Desjardins' opinion of the wives of great landowners.

> "to the honour of the colony, that the wives of the greatest landowners do not "disdain to give their personal care to the sick women and children on
> Question 5190. "the estates,"

Mr. Hardy's opinion.

which occurred to his personal knowledge on a great number of estates; Mr. Hardy's assertion that the planter or manager has always treated the Indian as if he were the father of the family, and has always looked after them well when they were ill, and he thinks it is shared by all planters in the Island, we must positively deny; for though it might be true of himself and of some few, yet it can only be said of a very few, if of any single planter in the Island; because, so long as they keep the immigrant's wages in arrears, they do not perform the part of a father of a family to them, and when the wages are two months in arrears, they inflict the double cut. If there were no other ill-treatment to bring against them, we consider that this is sufficient to

The Commissioners' views.

Question 14,238. deprive them of the credit of paternal care of their immigrants.

Limitation of good treatment.

2674. We must, in many cases, as we have shown above, limit good treatment to such as is mentioned by Mr. Daly, who says that the general intention and desire is to

Question 13,573. behave with such kindness as will satisfy the men and keep them on the estate, rather than with what is considered good treatment in England; treating them with the strictest justice and taking a lively interest in their welfare, both moral and physical, and lending them assistance in all their troubles.

2675. As Dr. Desjardins, as we have seen above, compliments the wives of the greatest landowners upon their personal care of the sick women and children on the estates, we have no doubt that he does know of cases in which ladies have so interested themselves; but our own enquiries have satisfied us that an Indian camp is considered a place into which a lady of Mauritius ought, on no account, to enter.

Instances of kind and considerate treatment.

2676. Still, we do find instances of kind and considerate treatment. In our visit to "Labourdonnais" we found in the hospital Samby, an old immigrant, who

"Labourdonnais."

Appendix B 7. had served long on the estate, and is now a pensioner receiving $6 a month and his rations; and another blind man on the same estate, named Amerutt, who lost his eyesight fourteen years ago, when blasting a stone, and has been a pensioner on $6, his rations, and dwelling, and allowed a man to lead him about—all furnished by the estate. He has a house of his own in Pamplemousses, and has been to India, receiving his pension, once since he met with the accident; but returned to Mauritius, preferring his life there.

"Hermitage," Moka.

2677. So on "Hermitage" Estate, in Moka, Sookun was taken ill with fever on the public road, and was admitted by the planter to the hospital on the "Hermitage" Estate, and medicine was given to him, and every care taken of him; but he died during the night.

"Choisy," Savanne.

2678. Also we found on "Choisy" Estate, in Savanne, an old man in the hospital not connected with the estate, who had been carried in the last stage of illness

Appendix B 31. on a charpoy from his abode in the country to the hospital, into which he was admitted, and where he received treatment.

Apajee.

2679. At the "Tamarin" Estate, in Black River, Apajee had, for a long time, been unable to work from bodily infirmity, and was kept by charity on the estate until he died on the 9th October 1865.

So also on "Beauchamp" Estate, in Flacq, Hurree, an old man of 68 years, who has

Appendix Q 148, para. 35. not worked for ten years, receives full rations and clothing, and a rupee per month for tobacco. On being asked by the Inspector (Mr. Caldwell) whether

he wished to return to India, he answered that he preferred to remain and be buried at "Beauchamp." Mr. Caldwell also found in the same camp an old woman—whose husband and son had both died in the service of the estate—receiving the same allowances as Hurree, and like him declining to return to India.

Missions of Messrs. Caldwell and Spencer to the St. Brandon Islands, 1868 and 1869.

2680. We give in the Appendix papers connected with an enquiry held by Mr. Caldwell in 1868, and by Mr. Spencer in 1869, into the case of 48 labourers,

Appendix S 32 and 33. among whom were 17 immigrants from British India, and 2 inhabitants of Goa, engaged in the service of Moco and Ackbar in the fishery at St. Brandon. Messrs. Caldwell and Spencer describe these people as being ill-lodged, ill-fed, and ill-cared-for. The only lodgings provided for them were a few small huts, formed by a ridge-pole with worn-out tarpaulins thrown over it, and in some cases only covered with a plant called "Lianes sans feuilles," as efficacious a protection against wind and rain as five or six folds of fishing-net would be. The huts were open in the daytime at both ends, and only closed at night by the sail of one of the fishing-boats, and when it rained there was not a dry spot in the huts.

Lodgings.

No hospital.

2681. There was no hospital or separate place for the sick, no medicines, and, at the time of Mr. Spencer's visit, only four ounces of rice in the principal island—the people having for six weeks been entirely without that or any other vegetable, and for a longer time on half rations.

Want of food.

Want of water and of wood.

2682. On some of the islands there was no wholesome water and no wood, the people having to seek for both in the neighbouring islands after their day's work was over. Their principal food was turtle, fish, and birds, of which there were innumerable flocks; but the consequence of the want of wholesome food and water was the prevalence of

Scurvy.

scurvy and other sickness.

Cruel usage towards the immigrants.

2683. The people were without proper clothing, had been subjected to excessive labour, even on Sundays, had been defrauded of their wages, and there was no authority on the islands to whom they could appeal for protection against the overseer and manager.

Suggestion of the Emigration Commissioners.

2684. It was suggested by the Emigration Commissioners, in Sir Clinton Murdoch's letter, dated the 14th May 1869, that, before they were allowed to engage any more labourers on these islands, the lessees of the islands should be required to show that they had erected proper huts for them, which, it was said, could easily be done out of the timber of wrecks; they should have separate accommodation for the sick, and should show that they had laid in and contracted for a regular and sufficient supply of food and medicine, and that they had provided the means of obtaining fresh and wholesome water; and that they should be required to issue to their labourers a ration, equal to the ration ordinarily delivered to the indentured labourers of Mauritius—the latter consisting of rice, dholl, salt-fish, oil, and salt; while the ration stipulated for them at St. Brandon was only 1½ lb. rice per diem, and 4 ounces of salt per week.

2685. It was further suggested by Sir Clinton Murdoch that no stipulations would be of avail, unless arrangements were made for visiting the islands from time to time, at irregular periods, to see that they were carried out; and likewise that arrangements should be made to despatch a Magistrate, from time to time, to the islands to inquire into the condition of the people, and to hear and decide any complaints they might have to make.

2686. In concluding his letter Sir Clinton Murdoch observed, that unless more protection could be given than these people had yet enjoyed, the Government would be bound to discourage their engagement with the lessees; but it is a singular fact, mentioned by Sir H. Barkly, that the men brought away from the islands by Messrs. Caldwell and Spencer, on account of their miserable condition and the ill-treatment they had experienced, were said to be then only anxious to return.

Lord Granville's decision.

2687. Lord Granville entirely concurred in the suggestions made by Sir Clinton Murdoch, and expressed a hope that steps would be taken, if they had not already been taken, to secure for the future proper treatment of the labourers employed by the lessees.

Commissioners unable to make inquiry.

2688. The distance of these islands from Mauritius, the want of all facilities of communication with them, and the fact that the Indian immigrants employed there were numerically small, precluded our making any inquiries upon the spot.

The St. Brandon Islands. Leased to Mr. Rault in 1869.

2689. On the 17th November 1869, Sir H. Barkly reported that the islands had been leased to Mr. Marie Jean Fabrien Rault, who had bound himself, within one year, to build in a durable manner a range of huts in wood, and covered with shingles, so as to be impervious to rain and properly ventilated; to have a separate building of wood, covered with shingles, for the accommodation of the sick, and to have not less than six iron bedsteads, fitted with mattresses, pillows, and blankets; to keep a permanent stock of medicine and medical comforts, in accordance with a list to be furnished him by the Chief Medical Officer of the colony: to provide and maintain a quantity of fresh, wholesome water, in the proportion of two French litres per diem to each resident; to pay the labourers' wages, either in the island or to their assignees in Mauritius; to keep a vessel

making monthly communication between the islands and Mauritius; and to have an overseer, who should enter in a book a full account of all things done on the island, a copy of which should be sent to the Procureur-General by the vessel mentioned above; and to keep a supply of tobacco, soap, coffee, coats, blankets, hats, and other necessaries, to be supplied to his labourers at prices to be fixed in the contracts of service passed before the Stipendiary Magistrate. Mr. Rault further contracted that no spirituous liquors, except medicated spirits, should be introduced or allowed on the island, and that two months' stock of provisions for the persons residing on the island should always be kept on hand.

Sir Henry Barkly's precautions.

2690. It was shown that a man-of-war had not been available for a visit to these islands for the last five years, and Sir Henry Barkly hoped that the Secretary of State would be satisfied

> "that the best precautions practicable were now being taken to ensure the proper "treatment of this class of labourers, to whom the semi-savage state of existence "appears to present a charm all powerful against the contingent drawbacks of "possible ill-usage, and for his services after all being unrequited."

Steps taken to ensure better administration of justice. The St. Brandon Islands.

2691. No Magistrate, however, has been appointed to these islands since Mr. Spencer's visit, nor has any further report or enquiry been made regarding them, and the only steps that have been taken towards ensuring better administration of justice in these islands and the other dependencies of Mauritius has been the extending of Ordinances 15, 34, and 35 of 1852, 11 of 1869, and 27 of 1871, without any reservation, to those dependencies; and to enact clause 3, Ordinance 5 of 1872, that the junior District Magistrate of the district of Port Louis should be the District Magistrate for the said islands; and that he and all the officers of his Court should have the same powers and jurisdiction as if the islands formed part of the district of Port Louis. But any attempt at inspection of, or protection over, the labourers on these islands, has been entirely disregarded.

What stores kept.

2692. We have ascertained that a special form of contract has been prepared for the St. Brandon Islands; but in that contract the only stores that the lessee is compelled to keep for his labourers are tobacco and sugar. The items soap, coffee, coats, blankets, hats, and other necessaries, though mentioned by Sir Henry Barkly as amongst those the lessee would be required to keep, are never mentioned. As regards the medicine and medical comforts, we annex a list, dated the 6th October 1869, which was sent with Mr. Rault's men to St. Brandon on that date. We have not heard of any of them being renewed.

Appendix S 21.

2693. We have received from the Procureur-General the copy of the entries made by the overseer, and forwarded to the Procureur-General in compliance with the terms of his lease. We find the Return for December 1869, July, September, October, and November 1870, July and December 1871, and January, February, and March 1872, wanting. No notice appears to have been taken of them, except that on a few of them we see marked in red crayon "file," N.H., and a date. The Reports themselves are merely copies of the pay-book, containing the men's names, employment, date and termination of engagement, the days of the month, sickness, absence, total of wages retained, advances made in Mauritius in cash, and in Cargados in articles, with a column for remarks, in which is entered the date of arrival, date of return to Mauritius, and deaths, but no information whatever, tending in any way to show the condition of the labourers on the islands.

Return of provisions.

2694. On the reverse of some of these Returns, for instance October and November 1869, and March and June 1870, we find a Return of the provisions on the islands, blankets, pipes, matches, shirts, trousers, hats, soap, tin pots, tin plates, iron ditto, earthenware ditto, firewood, medicines—one case prescribed by the Doctor-in-chief remaining untouched.

Mr. de Belloguet.

2695. We have had occasion in other parts of our Report incidentally to mention Mr. Roget de Belloguet, a proprietor of "Schoenfeld," in Rivière du Rempart, of "Rivière Dragon," and "Belle Vue" in Black River, and of "Bel Ombre" in Savanne, who was examined before us, and at whose earnest request we visited his estate "Schoenfeld," having visited "Rivière Dragon" and "Belle Vue" before: Mr. de Belloguet's hope being, that we should find the men on this estate as contented and happy as on any other estate in the colony. The Reports of our visits to estates will show that the result of our visit did not fulfil Mr. de Belloguet's expectations.

His difficulties.

2696. The estate, we believe, had been for some time struggling with difficulties, and in 1856 Mr. de Belloguet found his former manager, Mr. Bocard, and his ex-co-partner Staub, influencing and tampering with men whom he had brought, at the expiration of their contracts, to re-engage. In 1863, also, six bags of rice were seized on the estate for non-delivery of a ticket of one Vencataloyroo. This is remarkable as proving the straitened circumstances in which Mr. de Belloguet then was; and it is still further remarkable from Vencataloyroo's claim being only $2·50, whilst six bags of rice, which produced $21·80, were seized in order to satisfy that claim, which might have been met

by the seizure of one bag alone, but that we find that the Usher's expenses for this small claim were $13·18, and a balance only of $6·12 remained to Mr. de Belloguet.

Mr. de Belloguet. Usher's fees.

2697. In 1864 a good many of his Indians left the estate on a Sunday, and complained that they had on that day been employed upon field labour contrary to law. They did not follow up their complaint, but the Magistrate, Mr. Farquharson, wrote to Mr. de Belloguet cautioning him against any such infraction of the law.

1864.

Case of Soonumber, 1868.

Appendix S 29 (1)

2698. On the 11th of August, 1868, an Indian of the name of "Soonumber," engaged on "Bel Ombre" Estate (Savanne), was brought before the Magistrate on three counts; desertion, having obtained an Old immigrant's ticket under false pretences, and working with another person without any stamped contract. On reference to the Protector, it appeared that on the 2nd August, 1866, "Soonumber" was released from his engagement with Mr. de Belloguet, having paid £10 16*s.* for the cancelling of his contract, and Mr. Beyts requested that "Soonumber" might be discharged, though he had, that very morning, delivered to Mr. Charron, manager of "Bel Ombre," a document to the purport that no payment had been made by "Soonumber" on that account, for he had discovered the receipt after he had given the document to Mr. Charron.

The man had been originally arrested by the police for desertion, on information received from Mr. Charron, the manager of "Bel Ombre."

Case of Goolam Hossein.

2699. Goolam Hossein's case, to which we shall hereafter (see Chapter XXX., paragraphs 3368 to 3372 and following) more particularly refer, occurred on this estate; and in his Report, No. 9 of the 22nd July 1872, Mr. Mitchell inquired into the case of Karrembuccus and Munsoo, who, amongst other things, had not received the annual increase of 1*s.* upon their contract rate of wages.

Cases of wages being reduced.

2700. Mr. Mitchell found Indians on this estate all of whose wages had been reduced, and opposite the name of each man was the following note:

> "Consents to have his wages reduced to four rupees and rice, no increment, 10th "April 1872;"

but there was no signature or initials, and the manager stated that formerly all the forms of the Magistrate's signature, and entries in the copy of the contract and on the Indians' tickets, were not considered necessary, but that alterations in the contracts of Indian immigrants were arranged by mutual consent between employer and employed.

Deductions exceeding actual payments.

2701. A Table was appended to Mr. Mitchell's Report, showing the monthly rate of wages, amount of deductions, and wages paid for 1871 and the first six months of 1872. This showed that in the former year $6089·40 were deducted from the Indians' pay, and $5607·12 only paid to them; and in the six months of 1872, $2754·31 were deducted from the immigrants' wages, and $2931·09 paid to them; the deductions in seven of these 18 months exceeding in amount the wages paid to the immigrants.

Pay in arrear.

2702. The pay also was considerably in arrear. The wages for January, February, and March were paid on the 25th April; April, May, and June, on the 1st July; July, August, and September, on the 25th October; and October, November, and December, on the 31st December. In 1872 the wages for January and February were paid on the 20th April, and for April on the 9th of June.

Mr. de Belloguet's system of cheap burials.

2703. Previously to our visit to "Rivière Dragon" and "Belle Vue," we were informed of what was considered an inhuman practice pursued on that estate, where there was one coffin kept to serve for the burial of all the immigrants. The information we received led us to expect a coffin with, as it were, a false bottom, through which the corpse was placed in the grave and the coffin removed to serve for the next burial. We discovered the coffin in a lumber-room adjoining the hospital. It was not such a bier as is used by Mahommedans in India, nor was it such a coffin as we were led to expect, but one with a movable lid, in which the corpse was laid, the lid on it, but not fastened, and the corpse taken to the cemetery. When there, the corpse is removed and laid in the grave, and the coffin, which might more properly be called a bier, is taken back to the hospital. This proceeding is more abhorrent to the feelings and opinions of persons unacquainted with Oriental customs, than it would be to those who have lived for any time in India. The laws of Mauritius require that corpses should be taken to interment in coffins, hence the necessity for the one in question, but Indians, whether Mahommedans or Hindoos, would carry their dead to the grave uncoffined, and the latter on an open bier, and, consequently, would rather object to being obliged to take a coffin than to carry their dead to the grave in a coffin, and would prefer to be permitted to bury the corpse swathed only, as they would in their own country, in a new cloth.

The case of Charron v. de Belloguet.

2704. It was, however, hardly necessary for us to go into these inquiries on the estate, for soon after our arrival in the Island we obtained information that Mr. de Belloguet had been sued by his manager, Mr. Charron, and that he brought a counter-suit against Mr. Charron. These suits were compromised, Mr. de Belloguet paying $2110 to Mr.

Charron, and an agreement was made that a letter which had been presented as evidence written by Mr. de Belloguet to Mr. Charron, and which led to the compromise being effected, should, in common with all the documents relating to the action, be destroyed.

2705. This agreement took place on the 24th April 1872, ten days after our arrival in the Island, and we were informed that the object of the compromise had been to prevent the case becoming public, and, consequently, being brought to our notice. But although, according to the agreement, all documents connected with the case were destroyed, we found it to be the custom of the colony that whenever any documents are offered as exhibits in a civil suit, copies of these are made in the office of the Receiver of Registration Dues. We therefore called upon that officer to furnish us with attested copies of the documents filed in this case, and having been, after some delay, furnished with them, we took Mr. de Belloguet's acknowledgment of them, and spared him the pain of having the documents read in public.

Appendix S 32.*

2706. We shall now proceed to notice these letters.

Part II.—*Mr. de Belloguet's Letters.*

The de Belloguet letters.

2707. Dr. Icery, writing of the immigrant labourer, says:—

"Whenever he presents himself to work, he must be paid and fed."

Pamphlet, p. 18. Appendix D 25.

And again:

Rations.

"The question of food has never given rise to any difficulty on sugar estates "for planters generally give their labourers more than is fixed by their contracts; "for on most estates every man without distinction receives, as a minimum, during "the whole of the year 1¼ lb. of rice daily, and sometimes more; while, according "to their engagement, New immigrants have no right to more than 1½ lb.; so "that nearly 100 lbs. of rice are yearly given to each man over and above his "contract. On many estates the rations of Old immigrants are augmented by one-"third or half of the agreed quantity as regards rice, and almost always doubled "as regards the other provisions, such as dholl and fish."

2708. In addition to the articles enumerated by Dr. Icery, the Indians are entitled also to oil and salt. We will see how these articles were furnished by Mr. de Belloguet. First, as regards rice:—

Rice.

On the 17th May 1867, he writes to Mr. Charron:—

1867. Letter No. 202. Rice.

"175. I send you a supply of ballam rice, which will go further than "the other."

And, on the 18th November 1867, he asks:—

1867. Letter No. 468. Rice.

"Have you any Saigon rice, and how many bags? You know that "these bags are smaller."

On the 9th of June 1868, Mr. de Joux, the Storekeeper-General, wrote to the Surveyor-General:—

"Saigon rice is most distasteful to Indians; I think it would be bad policy to "continue forcing it upon them, as I have hitherto felt myself compelled to do for "reasons of economy; and I submit that whilst this rice should still be issued to "the Prisons and Vagrant Depôt, ballam should be given to free labourers.

(Signed) "C. M. de Joux, Storekeeper-General."

2709. On the 25th January 1868, Mr. de Belloguet wrote again to Mr. Charron:—

1868. 25. 1. Letter No. 340. Rice.

"Not knowing what your supply of rice is, and although I sent you "by the last boat 70 bags of ballam and 100 bags of Saigon, I send you "some as you ask for it. Alas! rice continues dear—rice is ruining me."

It was probably about this time that Mr. de Belloguet wrote the letter, No. 337, without date, informing Mr. Charron that—

"Rice is now at $5·50; bear in mind this rise when issuing your rations of rice. "I can only give it at a profit; it will soon reach $6."

2710. On the 27th of August in the same year he writes to Mr. Charron:—

Letter No. 354. 27. 8. 1868. Rice.

"I am sending to Mr. Lochon a bon for 200 bags rice barry. This "rice is inferior to karry, as its grain is red; but it costs 1s. less. If "you consider it to be below the standard of what should be given "to the men, mix it by means of a well-studied proportion. At all "events, you will reserve it for the poultry and the dogs."

Letter No. 146. Without date.

What this well-judged mixture is, appears to have been contained in a letter (140, without date), in which Mr. de Belloguet advises Mr. Charron—

* A translation of the same, and classified according to their dates, will be found in Appendix S 29 (2). Those without dates, classified year by year, according to their reference to the other letters, will be found in Appendix S 30.

The de Belloguet letters. Rations. Rice.

"Mix your rice as follows: one-third of Mangalore and two-thirds of ballam, "since your Indians are so difficult to please; but do not deviate from this propor-"tion. By next boat I shall send you a little ballam to remix. In the forest give "Mangalore or [illegible], if you can. But in no case are you to issue pure ballam.

(Signed) "Roget de Belloguet."

2711. There is a letter written apparently about this time (June 1869), in which he desires Mr. Charron to go and see some Saigon rice at Messrs. Ireland, Fraser, and Co.'s, which they sell at $1·50. He informs him they have no ballam or karry; but he sends him at all hazards a bon for 1000 bags.

2712. On the 9th of June 1869, he informs Mr. Charron—

Letter No. 150. 9. 6. 69. Rice.

"I have purchased rice in the husk, 2000 bags of which are for you. "As you have weevils in the store, you must either empty and whitewash "it thrice, or you must place the new rice in another store, where the "same insects are not to be found. It is very essential you should make fine ballam "out of it, and you must not give it to the animals. What quantity of dholl have you?"

2713. In October of the same year, there appears to have been a deficiency of rice in store, and he consequently instructs Mr. Charron as to how he should proceed in distributing the rations when the quantity in store is likely to run short. He writes:—

"I am really sorry for having occasioned any annoyance to you with reference to "your distribution, but the fault lies with your accountant, who enters on his books

1869. 6. 10. Letter No. 178. Rice.

"as received in August, 200 bags of rice, 100 of which figure on his "receipt of the 4th September; he must get into the habit of keeping "his books in accordance with truth. And since those 100 bags were "really received in August (on the 29th), he should give that date to the entry of "that item. This is especially important for the end of the month. You know "that I read everything, and when I find there are 120 bags of rice in store on the "1st of October, I defer the purchase of the article to the ensuing month. If such an "occurrence should again take place (which I hope not), do not go on with the weekly "distribution, but give the men one day's rations until the arrival of the next boat."

Letter No. 136.

2714. On the 20th of the following month, he again writes to Mr. Charron:—

"Your supply of rice is being too rapidly exhausted, and rice will soon increase "in value. I have just purchased 100 bags of fine [illegible], which you will mix "with your ballam."

Letter No. 331.

2715. There is another letter (No. 331) without date, but apparently written in November 1869, in which Mr. de Belloguet informs Mr. Charron that—

"All proprietors give [illegible] and without mixing, and the men are bound to "receive it. The mixture by thirds which I recommended to you is no longer "sufficient in presence of your diminution in the stock of ballam. You must mix "by halves as I do at 'Belle Vue.'"

Letter No. 331. Nov. 1869. Rice.

"The men you say complain; but they always complain for nothing. "I am not obliged to give them ballam. Very few proprietors give "pure ballam to their labourers. We spend a considerable sum for "rice at 'Bel Ombre,' and I wish to reduce my expenditure. In May last I "inquired if the rice which Essack sent you was Bangalore of the first quality.

(Signed) "Roget de Belloguet.

"Above all, do not increase the rations; I can only afford to give what I am bound "to give."

Letter No. 134.

2716. There is a letter (No. 134), without date, which, however, appears to have been written after the misunderstanding had arisen between Mr. de Belloguet and Mr. Charron, probably some time in the year 1871. After noticing other complaints that Mr. Charron had made against him, Mr. de Belloguet proceeds:

Letter No. 134. No date. Rice.

"Why did I ask for information respecting the rice? Because of the "enormous quantity consumed each month; because your monthly "statements do not contain sufficient details. I have a debit side to "sundry persons, 177 bags for October and November, 166—say a difference of 90 "bags, because the whole year and [illegible] it is during bad years, I especially feel "the desire to verify the mistakes that may have been committed to the prejudice "of my interests."

Dholl and fish.

2717. As regards the issue of dholl and fish, both of which we have already seen, are required to be delivered, at any rate to New immigrants, and not, as is the universal custom in Mauritius, delivered in the alternative; we have Mr. de Belloguet's authority for the latter plan, in the postscript to his letter, No. 199, dated the 16th February 1868:—

Letter No. 199. 16th Feb. 1868.

The de Belloguet letters. Rations. Dholl and fish.

"I have given a bon for 30 bags of dholl to be taken at Jonas's, who has none, "and I have been able to get 15 bags, but at what price?—very dear indeed. I "shall try and get some fish, as there is no dholl in the market."

Without date. Letter No. 129.

2718. Again, apparently much about this time, probably in the month of March or April, in Letter No. 129, without date, he writes:—

"In the month of February we consumed 26 bags of dholl, in January 18, and "in December 32. How does the difference arise? I give the men [illegible] dholl "or fish a month. What do you give at 'Bel Ombre?'"

(Signed) "ROGET DE BELLOGUET."

2719. On the 19th June 1870, he writes:—

1870. 19. 6. Letter No. 149. Dholl.

"I delivered a bon for dholl to the last boat; it appears that you "have not yet received it. Dholl is very dear just now. Write me by "the post, and let me know whether you have received that dholl, so "as to enable me to control the price thereof, before the next importation."

And, again, on the 15th October in the same year:—

1870. 15. 10. Letter No. 190. Dholl.

"The [illegible] has ordered the dholl for the first available boat. "You consume a great deal. I have just sent you 30 bags. I shall "only send you eight bags a month."

Letter No. 143. No date.

2720. It was probably soon after this that Mr. de Belloguet wrote Letter No. 143, without date, in which he exclaims:—

"Two pounds of dholl! This is just double what is legally due.* You need "not therefore be hampered when cutting in cases of vagrancy and sickness. Con- "tinue the same rations to avoid discontent, and make up the deficiency in vagrants "and sick men."

Salt.

2721. Regarding the ration of salt, we do not find that Mr. de Belloguet ever experienced any difficulty in that matter; but with regard to oil the case appears to have been different; though we are unable to assign the period at which the difficulties arose, as his letters upon the subject bear no date. The first letter filed (No. 129)

Oil. Letter No. 129.

shows Mr. de Belloguet in a difficulty, in admitting the issue of 438 lbs. of oil for January and February, on an estate where there are upwards of 500 labourers, as the average appears to him to be high; and, upon that subject he writes as follows:—

"The note of Mr. [illegible], relative to the consumption of oil, does not "appear to me to rest on any solid basis. First of all the identical average of "438 lbs. for January and February appears to me to be difficult of admission. "In the second place, the average appears to me to be high for the wants of 500 "Indians, comprising the absentees or confirmed maroons, the number of which "varies from 83 to 109 in the first week of March, omitting the sick. An approxi- "mate calculation made on the last sheet for February and upon the first sheet for "May fixes the average at 297 lbs. Here, when an Indian has been 8 days absent "in the month, he gets no oil. What is the practice followed at 'Bel Ombre?'"

2722. Probably the next letter he wrote on this subject was No. 138, in which he explains the proportion between the velt and the gallon, and gives very full instructions to Mr. Charron as to how he should make a case of oil go furthest:

Letter No. 138.

"The velt and the gallon are English measures, and are terms not to be found "in a French dictionary. The velt I am informed is the equivalent of seven "English gallons or seven French litres and forty-five hundredths of a litre. The "gallon would be worth six-and-a-half English quarts, or four litres 543 m. Let "Mr. Gurney take a note of this. As for the weight of the oil, it must necessarily "vary according to the density of the liquid. The oil that freezes must be the "most liquid; then would come mustard oil, and again cocoa-nut oil, which I "suppose is heavy when it is pure. I presume gingely and mustard oil do not "differ, as they are purchased at so much a cwt., with a deduction of 100 lbs. for "the cask. It is useless to convert these into velts; this is less necessary, as "according to the law we are obliged to supply the Indian with 1 lb. of oil per "month, and not measure it out of the velt. Mr. [illegible] will therefore enter "upon his books the nett weight of oil received. The tare will be 100 lbs., and if "there be any residue, either he or you will advise me of it. It is quite different "with cocoa-nut oil, as that is purchased by the velt. This sort must appear on "the books, the entries being made in velts. With respect to the weight of the "velt of cocoa-nut oil and for its reduction into English measure, the late Mr. "Gimel of the oil store assured me that the oil of that firm weighed 13¾ lbs. I "rather believe Mr. Gimel, who was a good man and manager of the oil store for

* It is only exactly what is due, according to the planters' reading of the law, to give 1 lb. of fish, or 1 lb. of dholl, or 2 lbs. of dholl without fish.

The de Belloguet letters.

"a great number of years. I have a measure of a velt of nine English bottles. I "have just had a velt of cocoa-nut oil received to-day, and weighed it as it came "from Essack's store. The oil is limpid, but perhaps without mixture, and the "weight found by Mr. Jacquelin was 13 lbs. good or dead weight. I shall get "Albert to make you a measure identically the same. Tell Mr. Guerin to adopt "in future, as a rule, 13 lbs. as the velt of cocoa-nut oil. Whenever you use that "quantity in your distribution, have a special measure of the capacity of 1 lb. made, "fill it up with Pistache oil to contract it, as I suppose it is lighter than all others. "If the making of this measure gives you any trouble, I shall have it made here."

Letter No. 344.

2723. The last letter on this subject, No. 344, shows that on that occasion, whenever it was, he supplied the Indians with cocoa-nut oil, because "it is just now the cheapest."

Pamphlet, p. 18. Pay.

2724. We are assured by Dr. Icery, as we mentioned more than once, that whenever an immigrant presents himself to work, he must be paid and fed. With respect to wages, the Indian, according to existing law, can lose nothing, since he possesses a privileged claim, taking rank before all others upon the property, movable and immovable, of his employer, and because the exercise of this privileged claim is ensured to him without incurring any expense and in a summary manner; the Magis-

Pamphlet, p. 26.

trate being bound to enforce the payment of wages by seizure and sale; though Dr. Icery subsequently admits that—

"it must be acknowledged the delay in the payment of wages being suitable to the "economical habits of many Indians, it is regarded by them with very great tolera- "tion. It is thus that these delays, if not extended too far, are scarcely ever made "the subject of complaint, unless at the same time there be other causes of dis- "content, and the facility with which Indians consent to allow their wages to remain "in arrear is a proof of the confidence they have of not being exposed to any loss."

2725. We will now proceed to consider what Mr. de Belloguet's procedure was with regard to pay.

Memorandum, No. 366.

2726. In a memorandum without date (No. 366) between Mr. de Belloguet and Mr. Charron, it is required that—

"The wages and salaries of the labourers and employés must never be in arrear "for more than three months.

"Mr. de Belloguet will cause to be made by a person he will delegate for that "purpose, and in the presence of Mr. Charron, the payment of the wages of the "employés and labourers of the estate, every two or three months, in conformity "with the pay-lists of the estate approved by Mr. Charron."

2727. On the 26th of December 1867, he writes:

1867. 26. 12. Letter No. 182. Pay.

"You ask me for a very large sum, $11,309·75 which, together with "the advances to employés, make $11,874·75. This is, then, the amount "of the pay. I do not recollect how many months the list includes."

2728. In the next letter he requests him to

1868. 20. 4. Letter No. 177. Pay.

"have the goodness not to draw on me without previous notice. My "cash-box is empty, and it embarrasses me."

1868. 1. 5. Letter No. 181.

And, in Letter No. 181, he shows him how to punish a man for negligence without taking him before the Magistrate, viz. by cutting the value of the missing articles from his wages (see also paragraph 2752).

Punishm for careless- ness.

2729. The following two letters (Nos. 193 and 197), without dates, give instructions as to the preparation of the pay-list, and how careless guardians are to be punished without the interference of the Magistrate.

Pay-books.

"Place at the beginning of each pay-list the names of the employés or workmen "disengaged or re-engaged between the present and the last pay-day.

1869. Letter No. 193. Pay.

"On the registers indicate the payments by A, the advances in rice by "B, the money advances by III. Place under distinct headings on each "pay-list these two categories of advances. The letter N is to be used where "no money is paid. This will include Poinen, from whom I cut one month's wages

Cutting p

"for larceny and negligence in performance of his work. The guardian of the "house, from whom $20 must be cut for my basin which he stole or allowed to be "stolen. Place separately also V opposite the name of each man on the pay-list "in the column of remarks, the same to be carried over on the next pay-day. "Place at the head of each pay-list (on which three months would be due) as far "as possible the names and the salaries of each month and the total; in the column "of remarks, place all the Indians, Creoles, and employés who have left, or whose "engagements have been cancelled before pay-day.

The de Belloguet letters.

"If among the Indians whose contracts have expired there be any who have "re-engaged, they will take their former rank on the pay-list. Put a P in red ink "opposite each of those categories, and add up at the foot of the page. Only begin "the pay according to these columns, which are to be separately cast up.

"In the column of remarks, note the money advances in red ink, and the advances "of rice in blue ink, and add up each column.

"Let those who are unable to refund those advances have the following special "note appended to their name:

"Owes so much, brought forward.

"All the individuals owing in this way are to be borne on the register the one after "the other, with the heading—

"Owes so much on the pay of ——.

"The whole of the names to be inserted in the cash account. The pay-list is to be "considered in accordance with the position of each of these individuals, and the "expenses are to be borne first.

"The cash-book is only to contain the advances made in money, no mention "being made of the rice given out.

"The account is not to be closed either on the debit or credit side until a pay-day.

"I suppose that the total of the expenditure is $2000, and of the receipts $3000. "The advances, say $2000, are to be deducted from the total of receipts, then the "$1000 are also deducted, and I would balance the $3000 by $3000. Or put the "arrears separately, deduct from the total receipts by mentioning that the "deductions are for the advances made on the pay of July, August, and September "1869, and even for the re-engagements in October, November, and December."

Pay deferred to settlement with merchant.

2730. The next letter shows that the pay of labourers is to be deferred until after settlement has been made with a merchant for his account.

1870. 23. 11. Letter No. 159.

"I have not lost sight of your demand for money, for the balance of the last "payment of wages, but I was quite dry during that month. I have a "settlement for rice with Ayoob, who is pressing me. Kindly let "me know what you want for your band immediately after I settle for the rice."

2731. In November 1870 he appears to be in great straits, and to have given up the idea of paying two months on the first Sunday of the third month, and to have deferred it until the last Sunday.

"You ask me for $3800 to wind up your last [illegible] up to the 1st October. "This is a very large sum. Have the goodness to let me know over how many "months this payment extends. Make no further advances, or restrict them as "much as possible, as we intend paying two months on the last Sunday of the third "month. Curtail your expenses as much as possible; the year is a very bad one."

The delay, however, in this case appears to have extended too far, and to have become the subject of complaint, for Mr. de Belloguet writes:

1870. 20. 12. Letter No. 165 bis.

"I should wish to assist you and set at nought those unseemly rumours which "have originated with that blockhead Mr. Fropier, by making the "payment to the men myself next Sunday. Send for me to Rose Belle "by the last train on Saturday next; I shall make the payment of the "wages and then return."

Mr. de Belloguet in great straits.

2732. The following letter, No. 353, bearing date the 17th of February 1867, shows the straits to which Mr. de Belloguet was reduced, and Letter No. 160, which follows it, without date, appears to have been written much about the same time; but from it we are glad to see that M. de Belloguet desires that until he is able to send the surplus to pay all the demands, the preference should be given, as he asserts he does at "Schoenfeld," to the Indians and employés on the estate, and the money be employed for their benefit.

Letter No. 353. 17. 2. 67.

Letter No. 160.

"I am consequently obliged to be mindful of my expenses and payments. Where "can one get money for the present; I should not like to apply to the banks for "fear of a refusal. That always damages my credit. I must, therefore, endeavour "to reach the time of the ensuing crop by means of accepted bills. Ask me for no "more guano, as I cannot supply you. Harter, to whom I owe since the middle of "November, has just sent me his account. See whether I am not justified in being "resolved to make no further purchases, since I have no funds, and am in the "necessity of safe-guarding my credit. Where are the times when I could pay cash! "Although I am sixty (60) years old, I should like to be (6) months older, and "to be rid of all these money difficulties."

"$5100! this is a heavy sum to be found to-day, and it is the more so, when to

The de Belloguet letters.

"that must be added $4900 for the wants of my other two estates. I have sent to "'Cloupet's' Office a receipt for $10,000 and a cheque to your order for $5100, "but Thierry has returned the whole to me, stating that he can pay into my credit "but a sum of $5200 just now, that is only to-morrow. I shall go to Port Louis "to-morrow, and if I receive the $5200, I shall pay $3000 to your credit at the bank. "The surplus you will have in a few days. Till then, do as I do, give the preference to "the Indians and the employés; let what I send you be employed for their benefit."

Dwellings.

2733. As regards dwellings, Dr. Icery informs us:

"Most of the planters are satisfied to give their men straw huts, such as under "another *régime*, and before the introduction of the Indian immigration, constituted "the lodgings of labourers. These huts are very healthy, as are all constructions "of straw; have remained, as you are aware, the type of the thatched cottage of "Mauritius."

The only reference we find in these letters to the dwellings is the following:—

"Have a hut made for a guardian, and let 'Philogène' build it with the assistance "of the other guards."

Though what these guards (as the word is in the original) are who are to build the huts we do not exactly know. If guardians, we should have been glad to have found that they were relieved from other duty.

Shops.

2734. Next to the dwellings of the Indians, perhaps the shop at which they are obliged to purchase condiments and other articles not supplied to them in their rations deserves our consideration. The following Letter, No. 153, to which there is no date, shows that the shop on this estate was never let for less than $50 per mensem; that at the time of writing the letter it only brought in $30, and Mr. de Belloguet wishes to know whether there was no means of raising the price to at least $40.

Letter No. 153.

2735. The increase appears to have been effected, for in Letter No. 130, dated 4th March 1871, Mr. de Belloguet says:

1871. 4. 3. Letter No. 130. Shop.

"As the Chinaman offers us $10 more if we place his shop near the "camp, you must remove it with as little delay as possible. Let no "stone store be erected, only the foundation in masonry, the sides to be "of planks cut roughly."

The profits of the Chinaman's trade must be very great to enable him to afford a rent of £96 a-year for a building with planked sides raised only on a foundation of masonry.

2736. Dr. Icery says:

Hospitals.

"It is important to mention that there are frequent cases of labourers alleging they "are sick when they are not really so, and when it is very difficult for "the planter to discover the real truth and oblige them to go to work; "thus, whenever a planter has the least doubt, he, through humanity and a sense "of his responsibility, is forced to shut his eyes and resign himself to what he "cannot prevent. Under influence of laws recently passed, planters have made "these hospitals more effective; but, notwithstanding this, on very many estates "the number of sick treated out of hospital is still much more considerable than "that of sick treated in hospital. Upon all estates the proprietors or "their representatives personally occupy themselves with the care of "the sick, and have acquired a very great practical experience of ordinary diseases. "The consequence has been that apart from surgical operations and cases of serious "sickness, the planter is often the real doctor of his men, especially since the inter- "mittent fever spread generally over the Island has limited the varieties of illness "by taking the place of most other diseases; indeed, everybody in Mauritius now "knows how to administer quinine to a sufferer from fever."

Pamphlet, p. 18.

Pamphlet, p. 24.

And, lastly, pointing to the death-rate of Indians on the estates, Dr. Icery declares

"That these figures prove superabundantly the efficiency of the attention paid to the "sick who claim the medical assistance which planters hold at the "disposition of the whole population of their estates."

Pamphlet, p. 28.

2737. The following letter from Mr. de Belloguet will show how the proprietors or their representatives occupy themselves with the care of the sick, and that very great practical experience which they are alleged to have acquired. On the 5th of March 1867, Mr. de Belloguet writes to Mr. Charron:

1867. 5. 3. Letter No. 198. Hospitals.

Mr. de Belloguet his own doctor.

"I do not know whether you have been visited by the epidemic; here I have many "sick people, but none die. This is how we treat them. Early in the morning an "emetic. You will find the red ipeca (creeper) in your woods, that is what I employ.

"2nd. At 10 A.M. 2 oz. of salts.

"3rd. Towards evening a decoction of champac (*Michalia champace*). You will "find champac at Edouard d'Emerez's Estate "Choisy." My head employé at "Belle

The de Belloguet letters. Hospitals.

"Vue' sent for champac to that place. Ask Mr. d'Emerez to give you some seeds, "and plant them with a view to future contingencies.

"4th. For all nourishment, congé."

"This treatment I continue three days running. Take every care to cover the "sick after administering the emetic. If the patient appear to be very seriously "attacked, I place blisters on the calves of the legs the second day. If the eyes "happen to become suffused with a yellowish matter, I place a blister on the right "side over the liver.

Monkey tricks of Indians.

"7th. If I find the emetic has produced no amelioration, and has not brought on "perspiration, I give a vapour bath. By this means we have prevented relapses. "The evil lies in the propensity those monkeys have for eating and drinking; they "kill themselves in this way. To prevent this, I have established a branch hospital, "where I have the convalescents placed and treated and lightly nourished. We

A plague upon the want of labour.

"cannot possibly think of quinine, which is being sold at $20 the ounce; even at "that price none is to be had. Some is expected by the mail. At 'Belle Vue,' "where I follow the same treatment, we have no mortality; but here, as at 'Belle "Vue,' we have very few men at work. This is a curse. I hope at 'Bel Ombre' "you have been sheltered by your range of mountains and the sea-breeze."

1867. Letter No. 363.

"I have given an order upon Issop Mahomed for several cases of "castor-oil, and do not understand why you have not received them. "Issop Mahomed has the epidemic himself. I learn with pleasure that you have "very few sick people.

"Quinine is not to be dreamt of. See *Cernéen* or *Commercial* of this date, "$133 for less than an ounce. Take champac, and let the doctor get 'reconi' (*sic*) "arsenic acid, according to the formula. You do well to isolate your sick people "and keep them under strict surveillance. Keep them also for several days on thick

Beef-steaks not within means.

"gruel. We have not the means of making a trial of Dr. Grivot's beef-steaks, even "supposing they can be considered a fit substitute for quinine. What [illegible] "remedy."

Mr. de Belloguet personally occupying himself with the care of his sick.

"I send you a bottle of quinine. After you have purged and given several "emetics, administer several doses of quinine. Take care that it be

1867. 17. 5. Letter No. 202.

"given one hour before the shivering begins. The bottle of quinine "contains 49 doses, of 12 grains. All my people have been attacked by "fever. I have 80 men at work, and have lost 81, and a large number of women. "Poor 'Schoenfeld!' it is very much shaken."

Specific if vomiting and purging.

1868. 25. 1. Letter No. 340.

"You have lost one man. Mr. Lousteau has told me that this is "most unfortunate. I pray you to give an emetic to the men, and a "purgative the same day, and to administer two, four, or five grains of "quinine at night, after digestion. Give them five grains of calomel and five grains "of quinine; the same remedy the next day, and if the fever should not yield, put "mustard plasters over the legs and over the liver, in case the eyes should have a "yellowish tinge."

1868. 16. 2. Letter No. 199.

"I send you 12 bottles of quinine, which have been purchased at "Essack Mahomed's, or through his intermediary. Quinine is increas-"ing in price, and to obtain this quantity cheap I yesterday sent Pierre "to town at once in a carriole."

Large investment in Epsom salts.

1868. 20. 4. Letter No. 177.

"I have given the master of the coaster a bon for 15 kegs of Epsom "salts, to be taken at Drouhet's, at $1·75 a keg. Use this instead of castor-"oil, which is very dear. I also send you 12 bottles of quinine from Pou-"pinel. I send you a remedy for dysentery; try it on people who have that disease."

1869. 4. 3. Letter No. 338.

"You must cure leg ulcers, not with any apothecaries' remedies, "but with the remedy I give herewith. Take three parts of liqueur "Labarraque and two parts of phenic acid; wash and sponge the ulcer "with 'white water' (eau blanche), then put on a compress, to be kept in its place "by a bandage. The air must be kept from it. Dress it once, twice, or three times "a-day, according to the state of the ulcer."

Mr. de Belloguet "the real doctor of his men."

"Should the epidemic reach your district, make the men vomit every morning by "administering three doses of ipeca (a red creeper) at intervals. It is

1869. 28. 3. Letter No. 362.

"essential that the sick person should perspire after the emetic, and as "much as possible. If you cannot provoke immediate perspiration, give "a vapour-bath, into which put citron leaves, and cover the man well with a blanket "or woollen covering. On the same day, at 11 or 12 o'clock, administer two ounces "of salts. On the second day cause the sick person to vomit and perspire again, "and give two doses of 'champac' tisane, or of 'Bois cabris' tisane. One is as bitter

The de Belloguet letters. Hospitals.

"as the other. On the third day administer salts and tisane, and for all nourish-"ment, well-prepared 'conge' (gruel or thin rice-water). I give an emetic during "the fits to those persons who have been well cleared out.

1871. 15. 3. Letter No. 132.

"The velt of cocoa-nut oil weighs 13¼lbs. I have often had it "weighed in my presence. Do the same. Weigh also the gingely and "mustard-oil, 12lbs. nett for the weight of the velt. This may be, but "ought to be tested."

2738. The following two letters (Nos. 164 and 342) though having no date, are entirely to the same point:—

Letter No. 164.

"I have purchased 12 bottles of quinine for you; do not give more "than 10 grains."

Epsom salts.

"Send back the six bottles of quinine to Minet, as I had purchased them before I "received your letter offering to let me have yours. Do not allow too great use to "be made of Le Roy; it is too dear. Our usual purgative must be Epsom salts, "and our ordinary emetic 'La liane' (the creeper). Le Roy is suitable only for "women."

Magistrates.

2739. With regard to the Magistrates, we have Dr. Icery's testimony to the judicial authority having always been treated with the greatest respect, and that the community were painfully impressed with an act of violence committed by an Indian,* who threw

Pamphlet, p. 9.

a large stone at one of the Magistrates on the bench, nothing like it having previously occurred. The Magistrates, however, according to Dr. Icery—

Dr. Icery's statement.

"have not all the work to perform that they might have, for, as a matter of fact, "the law regarding cases of breaches of contract has become inoperative because of "their multiplicity. The planter, or his representative, cannot every day abandon "his occupations and displace witnesses, whose day's work would be likewise lost, "in order to claim a few days' imprisonment against an absentee, or an idler, who "invokes as an excuse simulated sickness."

Pamphlet, p. 19.

"The Tables of convictions, whether against one class or against

Pamphlet, p. 29.

"another, is an indisputable proof of the impartiality, as well as of the "firmness, with which justice is administered in the Stipendiary "Courts of Mauritius."

And, lastly, he says:

Pamphlet, p. 35.

"This enormous power of the planter is a mere phantom, which "vanishes at the sight of a summons of any Magistrate, issued on the "complaint of a Coolie."

2740. We have not the means of ascertaining what effect the delivery of a summons

Letter No. 181, 1st May 1868.

has upon a planter; but, from the Letter No. 181, dated 1st May 1868, we find, that, on the Magistrate requiring a power of attorney, properly signed, Mr. de Belloguet enclosed it to Mr. Charron, saying:

"Enclosed, I hand you a power of attorney, with the signature legalised by your "incomprehensible Magistrate."

And he further adds:—

"Il manque au bon homme une coiffe."

And, again, on the 4th of March in the following year, he writes of the same Magistrate:—

1869. 4. 3. Letter No. 338.

"Mr. Fropier is very hard; he ought to remember what he did "when a planter at Piton, and be more convinced that one has not "always got one's money to hand. If I be not able to send you the $250 by "the 10th instant, please go and see Fropier, and tell him that I am trying to borrow "the sum, and ask him to grant me a small delay. What a trade it is to be a "sugar-planter! In a year like this one is inclined to blow one's brains out!"

Thus leading us to suspect that the conduct of the Magistrate, when himself a planter, had not been free from irregularity, and showing us how delay is to be obtained in the payment of wages.

2741. In explanation of this letter Mr. de Belloguet informs us that Sir Gabriel Fropier had done nothing to displease him: that he was one of his good neighbours, and was living quite near to "Schoenfeld." He did wrong in cancelling the engagement of men for a small sum like $21; and, as Mr. de Belloguet had been a Magistrate (we believe a "Juge de Paix" in France) himself, and had been grumbled at more than once,

Question 6904.

he thought he had the right to do the same. Nevertheless, on the 20th December 1870, it appears Mr. de Belloguet entertained much the same opinion of his good neighbour, Sir Gabriel Fropier, for he writes the words already quoted:—

* Case of Goolam Hossein. See Chapter XXX. paragraph 3368.

The de Belloguet letters. Magistrates.

1870. Letter No. 165 bis. "I should wish to assist you, and set at nought those unseemly "rumours which have originated with that blockhead Mr. Fropier, by "making the payment of the men myself next Sunday."

Case of Ittoo and Shunkur.

Question 6905. 2742. It appears, from Mr. de Belloguet's evidence, that there were two immigrants, by name Ittoo and Shunkur, sent back to him by the Protector of Immigrants, with a request that he would employ them at "Schoenfeld." Mr. de Belloguet says he employed them there, and, instead of putting them to field work, gave them the very easy task of looking after the dung-heap. They held a certificate from "Bel Ombre," and when their time had nearly expired, Mr. Charron asked to have them sent thither that they might be discharged. Mr. de Belloguet sent them in his boat, and they said they would return to "Schoenfeld" and re-engage there. Mr. de Belloguet says he would have discharged them at Poudre D'Or, and not have sent them to "Bel Ombre," but the Magistrate at Poudre D'Or refused to discharge them. That the Magistrate must have refused, Mr. de Belloguet appears to have been perfectly aware, for, in Letter No. 135, without date, he says:—

Letter No. 135. "Article 51 of the last Regulations does not allow of a labourer being "transferred from one district to another. I have two men who are "anxious to go to 'Bel Ombre;' their contracts must be cancelled to re-engage "them."

Mr. Beyts pronounced to be a calamity to the colony.

Question 6822. And he further adds, though he declares he does not understand the passage, nor remember the letter very well:—

"It is Mr. Beyts who makes those detestable Regulations; his only wish is to free "the immigrant from all restraint, and to give him full liberty on every occasion. "This man is a real calamity to the colony."

2743. There was a charge against Ittoo and Shunkur of desertion for two years; but, as they had promised to return to "Schoenfeld," Mr. de Belloguet says that on the condition of their fulfilling their promise, he desired Mr. Charron not to oblige them to replace their two years' desertion. When those men, however, were discharged, they asked for a few days' leave, and at the expiration of that time they positively refused to re-engage. There was not, Mr. de Belloguet says, much harm in that, as they were both idle vagabonds; yet, he says, they did not remain content with what they had done, but entered an action against "Bel Ombre" for seven or eight months' wages, when they had not worked a single day on that estate.

Their knavery to be baffled by every possible means, "per fas et nefas." False evidence to be concocted. No admission to be made.

2744. With reference to that action, Mr. de Belloguet wrote the following letter to Mr. Charron:—

1870. 4. 9. Letter No. 168. "You must baffle, by every possible means, 'per fas et nefas,' the "knavery of Ittoo and Shunkur. What witnesses can I supply you "with, and with reference to what points? On the other hand, fabricate evidence "on the spot. The truth is, that Ittoo and Shunkur have only received on account "The account was not made up; but you cannot have confessed this. Look upon "them as deserters; they are surely borne as such on your monthly declarations "Let this be your course. I have, if necessary if necessary to prevent their claim "being established, even though we were to give them afterwards the balance of "their wages from hand to hand; I should not like to profit by this. The truth is, "that men are always paid here after they have contracted their engagement; but "not a whisper as to this. You must make no such admission, and even feign to "ignore that these men ever worked on 'Schoenfeld.' At all events, 'Bel Ombre' "owes them nothing, and you only represent 'Bel Ombre.' Let them, then, come "and lodge their complaint against 'Schoenfeld' at Poudre D'Or."

Presume to cause to engage. Withholding of wages. Deceiving justice.

Appendix S 10. 2745. The claim brought by Ittoo was not for eight, but for three months' wages; and it does not appear Mr. Charron was obliged to "outwit" them, for, neither party attending, the case was struck out on the 20th October 1870. On the 25th, however, Mr. de Belloguet wrote to Mr. Charron:—

1870. 25. 10. Letter No. 167. "To-morrow I shall send Ittoo and Shunkur to Port Louis. Mr. du Pavillon tells "me their engagement expires on the 30th. If they should not reach "you, cancel their engagements in the same way as you do for maroons, "in order to obviate the fine."

2746. In explanation of this, Mr. de Belloguet informs us that the men were sent off very hurriedly from "Schoenfeld" because the boat arrived from "Bel Ombre" unexpectedly, and he had only just time to send for the men, to pay a carriole, and to send them to meet the boat. He had no time to settle their account with "Schoenfeld," of which 75c. were due to one and $1 to the other. He did not withhold these balances, but could not find the men to give it to them. That the boat arrived very rapidly, and they were discharged within the delay.

Questions 6905-7.

The de Belloguet letters. Mr. de Belloguet's claim t good treatment.

2747. Mr. de Belloguet very naturally concluded that, having these letters before us, we should not believe that all goes on at "Schoenfeld" as it ought to do, and he earnestly wished that we should visit his estates; protesting that we should find that the men were as contented and happy as on any other estate in the Island. He informed us, moreover, that there were few estates in the colony on which Indians were re-engaged without gratuities, and that it is only this year that he has given any. And, he added, that if men were not well fed and well taken care of during their service he could not obtain such a result. In compliance with Mr. de Belloguet's request, we paid a visit to his estate at "Schoenfeld," but the result of our visit there certainly did not fulfil what Mr. de Belloguet led us to expect.

Question 6910.

Impression from Commissioners' visit to Schoenfeld.

Appendix B 8. Visits to Estates. "Schoenfeld."

Re-engagements.

2748. Letter dated 17th July 1868, No. 152, shows Mr. de Belloguet's anxiety upon the subject of re-engagements:—

1869. 17. 7. Letter No. 152. "I learn with sorrow that we have lost a certain number of men. When I was "at 'Bel Ombre' I was told that Bolivoir used to make the men of "his band pay for his tiffin; besides which he ill-used them, both by "assaulting and abusing them, whenever they used to refuse to comply with his "demands. I did not then mention this to you, because I was not sure of the truth "of the report. I wanted to question Mr. Parquet on this head, but I have not "been able to see him. I give you the information for what it is worth. One "who is forewarned is forearmed. If the statement made to me is to be relied "on, there can be no doubt that such practices must tell against the re-engage-"ment of the men. One cannot confide in those rogues of Sirdars. How many "good employés have I lost because they used to take advantage of their position "as regards their subordinates!"

Oppression by Sirdars.

2749. And, referring to the same subject, on the 24th of the same month, he writes:—

1869. 24. 7. Letter No. 151. "There is no doubt that swearing is sometimes necessary to get on with the "work, but it is impossible to tolerate the tiffin. If the abuse exists, you must be "watchful, as you are now warned. It is when the tiffin asked for has "been refused that big words are used and blows dealt. This creates "discontent among the men, and induces them to try and leave the estate. I once "had a man name Edouard (of the same colour as Bolivoir), but was obliged to get "rid of him after several warnings, although he was an excellent out-door employé. "You must try and keep Bolivoir, since you are satisfied with him, but watch "him very closely, as there is no smoke without fire. He does not, "perhaps do this regularly as a practice, but he must have been "guilty of it. Have him brought before you, and tell him most solemnly that I "have received complaints on the subject, and have written to you about this "matter, and tell him also most positively that he must renounce those bad habits "if he wishes to remain at 'Bel Ombre.' On the occasion of his wife's birthday "—— bought a hen in the camp for his big dinner, and took two of mine. Besides "which, his big, fat Indian woman steals my eggs. Send for him, and tell him "that I cut him one month's wages for that, and that he had better be careful."

Mr. de Belloguet cuts wages for the stealing of eggs.

2750. On the other hand, the following letter, dated 12th October 1870, much about the time of Ittoo and Shunkur's business, shows how a man condemned to replace 102 days is induced to re-engage:—

Arnachellum.

1870. 12. 10. Letter No. 172. "I place under the charge of the captain of the coaster one of my old maroons, "Arnachellum, who I have just had condemned to replace 102 days. "He promises to work on board the coaster at 'Bel Ombre.' If he "works well give him $4, and only $3·50 if he does not. If, at the expiration "of six months, the captain is satisfied with him, get him to engage for two "years at 'Bel Ombre,' in which case I shall cancel the engagement here."

2751. In the following letter, also, of the 4th February 1871, we are shown how re-engagements are ordered to take precedence of all other claims:—

Precedence to re-engagements.

1871. 4. 2. Letter No. 166. "I hand over to Paulémon a cheque on the Oriental Bank for $500; the surplus "will be forwarded later. Apply this to the more pressing wants, "I mean the re-engagements of the estate. No advances even to the "woodcutters: close your purse to every one."

But the Letter No. 134, without date, shows that there was some foundation for Mr. de Belloguet's fears; for complaints had been made of the wages not being paid in full, and he dreaded immigrants would consequently be prevented from re-engaging:—

Loss of men through non-payment of wages.

"I was told by yourself that —— had complained in Court that they did "not receive the full amount of their wages, and from the tenor of the observa-

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" tions that were made to you by the Magistrate, he seemed to consider these " complaints well founded. Because these complaints will do me a great deal of " harm, inasmuch as they will prevent me from re-engaging my Indians (and " already we have lost a good number), and be an obstacle to my getting men " outside, and thus be more and more exposed to be ——— by job contractors and " to suffer in every way."

General treatment.

2752. After what has been written above, there is not much left for us to say regarding the general treatment of Indians on this estate. On the 26th of December 1867, Mr. de Belloguet writes:—

1867. 26. 12. Letter No. 182. Expenses. " Curtail as much as possible the gratuities you allow the " women. We spend a great deal of money."

And, again, on the 1st May following:—

" All these articles, a small box, a rice-pounder, two baskets (hand) were left
1868. 1. 5. " in charge of (Baboojee, I think) the guardian of the shed, who is
Letter No. 181. " responsible for them under pain of being cut their value."

" Curtail your expenses as much as possible; the year is a very bad one. I have
1870. 25. 11. " settled your $4000. How much of that sum have you invested at
Letter No. 170. " interest?"

" It is when bad years set in that one feels where the shoe pinches. I have not
1871. 4. 2. " been able to send you the money which I have destined for you, as
Letter No. 166. " receipts on which I counted have failed me. Give no advances " even to the men employed in the forest: keep the purse-strings as tight as possible " for every one."

Job contractors.

2753. Mr. de Belloguet appears to have the same opinion of job contractors, and their work, as is entertained by Dr. Icery, who says:—

Dr. Icery's opinion.

" Estates which are behindhand with their work find themselves compelled to
Pamphlet, p. 18. " have recourse to job contractors, to whom they pay extremely dear " for work, generally badly executed:"

Mr. de Belloguet's opinion.

for Mr. de Belloguet, on the 26th December 1867, writes:—

1867. 26. 12. Letter No. 182. " I rely upon you to dispense with the job contractors as soon as you " can do so, and send to me the duplicate of your account."

And, again, on the 23rd May following:—

" Enclosed the guarantee which was asked for; this caution will cause you
1868. 15. 5. " injury. You must pay the men yourself. Make up for the present a
Letter No. 179. " statement of tika-work as if it were our own, and prepare the pay-list " according to that. In order to deliver rice or hand over money to the job con- " tractor, you should see his account written up and look over it, or we shall lose " money by making advances to him. 'Bel Ombre' has already lost in this way, " from six to eight hundred dollars, by the job contractor, Gilot, the brother of " the man at Piton. The Government are always taking false steps."

2754. The next month he tells Mr. Charron—

" The prices you offer appear to me to be more than sufficient. I never paid
1868. 28. 6. " so much. Indians are cunning, and when they think you cannot do
Letter No. 180. " without them they overreach you. I think the best thing you can " do is to begin your crop with the men you have. When you will have done that, " you will get better terms from the job contractors. I have not been able to do " anything with the job contractors here. We must not be in a hurry. We are " not yet on the eve of the crop. I send you $400; these are my flesh and my " bones."

" Try and modify your job contractors' work; as it is at present organised it is
1868. 26. 7. " too onerous for us; it is a gnawing cancer which must be extirpated
Letter No. 183. " with prudence."

" Your job contractors act upon me as a nightmare would. They get from us
1869. 4. 3 " about 66 bags of rice, so that this leaves us with only about 300 bags
Letter No. 338. " out of the large quantity of rice which I had purchased for you.

Costliness of job contractors.

" Try and get rid of them. According to my ideas job contractors ought only " to be employed exceptionally on an estate. On a well-managed estate they " should be employed to hole the ground and cut the canes, and then be got rid " of. Otherwise their work increases the expenditure of the estate, which by this " means goes headlong into ruin."

2755. And, lastly, on the 10th March 1869—

" Your job contractors are a gnawing cancer; we are agreed upon this point.
1869. 10. 3. " This being admitted, we ought not to keep them on from the 1st of
Letter No. 326. " January to the 31st December. It is not wise, in my estimation, to

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" try and augment one's area of cultivation with their assistance; and, I will add, " it is a source of great embarrassment to me in my present straitened circum- " stances. This is why we had agreed to dispense with them. The question is " not whether you should keep them on for a week or a month longer, but we " should adopt it as a rule not to keep them for ever at 'Bel Ombre.' If I were " not so greatly embarrassed as I am at present, I should willingly advise you to " adopt the expensive mode of cultivating with the aid of job contractors. But " times are really too hard. These job contractors have taken away a great deal " of money from 'Bel Ombre' this year; and the hurricane has ruined us com-

Job contractors.

Mr. de Belloguet in difficulties.

1869. 10. 3. Letter No. 326. " pletely. Do not lose sight of this fact, that with my system of giving " the most I can to 'Bel Ombre' I am sacrificing my poor 'Schoenfeld' " for want of money; I have canes overgrown with grass and weeds, and not " sufficient hands to clean them. I refrain from employing 'Iasamy,' the job " contractor, because I have no money, and know that I will be unable to " pay him."

Labourers.

2756. We have no means of ascertaining what the date of the following letter is, but may imagine that the feeling which dictated it pervaded the whole period of Mr. Charron's administration, though it was probably written in the early part of that time:—

No date. Letter No. 365.

Pervading feeling towards the Indians.

" Put down those Malabars. Those people have been spoilt by Mr. Michel. " Ah! we must pay them to do nothing. Cut one day's pay from them for dis- " obedience."

2757. The next letter is also without date, but appears to have been written at the time the epidemic was raging, and therefore refers to the early part of Mr. Charron's administration:—

Coffins.

" You tell me you have employed 800 feet of plank to make coffins since the
No date. Letter No. 143. " 1st January. This is simply frightful. I see nowhere in your letter " that we have lost any labourers. I find by the last page that your " yield is very scanty, and I had requested you not to make them work, and to " put them [illegible]. I see that the number of your men has decreased to 490, " and that you have lost 10 others. Write to me by the post on the subject.

Cheap system of burials.

" Here I have a coffin which serves for the burial of all my deceased labourers. " It is painted black with coal-tar, and a white sheet is thrown over it 'ad decorum.' " Do the same at 'Bel Ombre.' You will have less planks to saw, and much " less work to be performed in the workshop."

Economical offices.

2758. We have already noticed this subject in the former part of this Chapter, suggesting that to a person acquainted with the habits and feelings both of the Mahommedans and Hindoos, this practice is less galling to their feelings than it would be to those of one who had never lived out of Europe.

Mr. de Belloguet's position in the colony.

2759. It is perhaps but justice to Dr. Icery to state that he knows nothing whatever of Mr. de Belloguet or of his affairs. But when asked by the Governor for the names of those planters who might be considered the most extensive landowners, he mentioned, among others, Mr. de Belloguet; and, if he were again called upon to furnish a similar note, he would again put down the name of Mr. de Belloguet as one of the largest landowners in the colony. This explanation exonerates Dr. Icery from any suspicion of having been aware of Mr. de Belloguet's treatment of his Indians: but it cannot justify him, on the other hand, as a member of the Chamber of Agriculture, in adopting his Report of the 6th June 1872 as a report of the general treatment of Indians in this colony.

Shrewdness of Mr. de Belloguet in outwitting his labourers and employés.

2760. In conclusion, not as connected with the treatment of the Indians only, but as showing his general character and shrewdness in the conduct of business, we may add the following extract from a letter dated 14th July 1869:—

" A man, the first sugar-boiler in the colony according to my estimation, has
1869. 14. 7. " asked me for employment. I shall take him, provided he does not
Letter No. 157. " ask too much. At all events, I shall engage him for the crop, without " letting him know my intentions. With his assistance, we shall make the finest " white sugar in the colony. We shall naturally confide to his care the 'batteries,' " the vacuum pan, and the centrifugal machines."

This shows Mr. de Belloguet's ingenuity in making engagements with his labourers or employés.

2761. The following letter of the 18th March 1871 shows his dexterity in avoiding the payment of taxes to Government:—

" I send you the note of the dogs to be declared. It is $1·25 you will have to

The de Belloguet letters.

1871. 18. 3. Letter No. 142. " pay for each dog. Is there still a tax for the church in your district? " Kindly send me a note of the sanitary tax, and state if it is to be paid " just now.

M. de Belloguet's shrewdness in the payment of taxes.

" The declaration of the dogs must be paid before the end of the month, and " you will pay for the declaration of the following dogs:—

" 1. A red and white dog (Rongeau). 3 years.
" 2. A black and red bitch (Fanfare). 3 years.
" 3. A white bitch with a black spot (Diane).
" 4. A black dog with a black mark (Taillot).
" 5. A white and red bitch (Dambel).
" 6. A white bitch (Blanche).
" 7. A white bitch spotted, 4 years (Sappho).
" 8. A white dog, black spots, 1½ year (Monfleur).
" 9. A black dog with marks, 2 years (Charbonne).
" 10. A white and orange dog, 3 years (Bonhomme).
" 11. A white dog, red spots, 4 years.
" At $1·25, equals $13·75.
" Do not declare:
" A. Tambo, old dog, on his last legs.
" B. Tambo, ditto.
" C. Silva, whose description is like another dog.
" D. Billot.
" Other dogs to be declared:—
" 1. Dog, black and white.
" 2. Ditto ditto.
" 3. Ditto ditto.
" 4. Bitch, white and black.
" 5.

Tone of the letters.

2762. Though these letters give no proof of ill-treatment, if that word is confined to physical ill-treatment and brute force, still they show ill-usage in every other respect; systematic delay in payment of wages; infliction of fines and cutting wages without legal authority; mixing different kinds of rice together; systematic short delivery of oil, and utter disregard of the law regarding hospitals and doctors, and a substitution of the ordinary Creole remedies for fever for the regular treatment of the sick by a doctor; of the false discharge of labourers at the expiration of their contract in order to avoid the fine that had been incurred; and, lastly, instigating the fabrication of evidence, in order to rebut a claim laid against him in the Magistrate's Court.

2763. It would be as unfair to quote these letters as proof of the general treatment of immigrants in the Mauritius, as we consider it to be unfair in Dr. Icery to call upon us to accept the description given in his pamphlet as proof of their general treatment but these letters show the treatment adopted by the proprietor of four estates in different parts of the Island; and therefore it is not unfair to conclude that other estates may exist in the colony, on which the labourers are subjected to similar treatment.

Attack upon Mr. Turmel, overseer at "Bel Etang," October 4th, 1873.

Ten days before we left Mauritius an incident occurred, the proceedings relating to which will be found at length in the Appendix, which illustrates forcibly the tenacity with which some planters persist in taking the law into their own hands, and, in defiance of the law, mulcting their labourers of their wages for their own benefit; and also the unscrupulous manner in which false evidence is sometimes given before Magistrates, by others besides Mr. de Belloguet, in order to cover such practices; and lastly, the lamentable, and possibly fatal, results that may be produced by a long continuance of such injustice and lawlessness.

Appendix S 36.

On the 4th of October, 1873, a band of labourers on "Bel Étang" Estate in Flacq rose against Auguste Turmel, their overseer, and violently assaulted him with their pioches—an outrage for which eighteen of them were subsequently tried before Mr. Justice Gorrie charged with attempt to murder, and with inflicting wounds and blows with premeditation.

The inquiries of the Acting Protector of Immigrants, assisted by Mr. Jenner, go to show that, for a considerable time before, wages had systematically been cut for unfinished tasks (a fact which was for some time *positively denied*, though at last admitted both by Mr. Tostée, the proprietor, and by Mr. Lagesse, the manager), and that the "carnet" was *falsified, in order to support charges of illegal absence* brought against these men before the Magistrate.

From the 24th July last, he (Mr. Tostée) appears to have commenced a series of

prosecutions against his men by bands for absence or neglect of work; and while the labourers were condemned at his suit to imprisonment, a complaint brought by fifty-seven men against him for unlawfully cutting their wages was dismissed by the Magistrate on the 17th September, and the men condemned each to seven days' imprisonment for contempt of Court, upon their expressing dissatisfaction; which, considering that the judgment was the result, in great measure, of the perjury of Mr. Lagesse, was, perhaps, not surprising. On the 29th September, Mr. Tostée again brought a complaint against them, and on the 4th of October occurred the attack upon Mr. Turmel, to whose influence and instigation the men, rightly or wrongly, attributed their treatment. Mr. Lagesse was, it appears, subsequently proceeded against on a charge of perjury, but with what result we are not aware.

Considering that these transactions occurred at the close of a public inquiry such as ours, of great length, and in the course of which attention had been so strongly directed to such irregular practices, we cannot regard them as satisfactory evidence of that desire for just reform, fair dealing, and conformity with the law, which we so often heard professed during our residence in the colony.

Chapter XXVI.—*Moral and Physical Condition.*

Pamphlet, p. 33.

2764. Dr. Icery in his pamphlet says:

Opinion from Dr. Icery's pamphlet.

" Thanks to the foresight and spirit towards it" (the immigration population) " which has always animated the Government and the agricultural body of the " colony, they have attached to the soil a race now far superior physically, morally, " and intellectually to what it was when leaving its native country."

2765. It now remains for us to consider how far Dr. Icery is justified in congratulating himself upon the physical, moral, and intellectual superiority of the Indians in the colony.

Consideration as to whether Dr. Icery is justified in his opinion.

2766. As regards their physical condition, that must entirely depend upon circumstances, for to say that any 200,000 natives of India are far superior physically to the other 200,000,000 left in their own country appears to us absurd. Comparing them only with the natives of the same part of the country from which they came, opinions appear to be divided; but it is very evident to our eyes that no one epithet can be applied to the physical condition of all the Indian labourers in Mauritius. There are well-fed, well-grown, and well-looking men to be found upon the estates, and even here and there in the towns and villages we have seen Indians fat and bloated; but there are also on the estates, as well as in the streets and villages, ill-fed, ill-clad, and miserable-looking objects to be met with, and these appear to us to form the majority of the Indians.

Comparison between Indians in Mauritius and in India.

Some well-conditioned Indians.

Majority in bad case.

Labourer in good circumstances has to follow the fashion from fear of being jeered at by his fellows.

2767. It must not, however, be forgotten that among the Indians, as well as all other people, personal appearance will depend much upon the state of their clothing. In Mauritius we find shabby, old, cast-off regimental coats and jackets, and other clothing made out of gunny bags, with a greasy handkerchief upon their heads, constitutes the dress of the majority of labourers.* When questioning a labourer, confessed to be in easy circumstances, upon the subject, he will tell you that he is obliged to dress in this way, and not with a turban and clothes as he would in India, to avoid the jeers of his countrymen, who, if he dressed as in his own country, would salute him as rajah, or with other high-sounding titles.

2768. The moral condition is capable of better proof.

Disproportion of sexes.

2769. In the first place it is hard to imagine the superiority of the moral state of a country where the females (infants included) bear the proportion of 51 per cent. to the males. We have always been induced to think that the civilisation of a country depends upon the near approach to equality between the sexes, if not to the excess of females over the males.

Mauritius not a place of the strictest morality.

Appendix L 3. Letter No. 65, dated 23rd March, 1869, para. 3.

2770. Immigrants in coming to Mauritius, whatever their state may have been in their own country, certainly do not come to a place of the strictest morality, for we have the authority of the Inspector-General of Police that

Colonel O'Brien's opinion as to the morality of Mauritius.

" perhaps no part of the world is so outwardly moral as this colony, but in reality, " I fear the reverse is the state of things; thus, while such an establishment as a " brothel, as understood in Europe, is unknown, yet the clandestine intriguing is so

* This must not be understood as referring to holidays. On occasions such as the races, the Indians appear in clean and gay attire, made, as a rule, of inexpensive materials—generally calico—though often of brilliant colours.

"extensive, that to draw a line as to where the term prostitute is to begin, would "be most difficult."

Colonel O'Brien's opinion as to morality among the immigrants.

2771. So much for the moral state of society among the general population, which, according to the Census Returns, numbers 92 females to 100 males, while, as regards the immigrant population, Colonel O'Brien in the same letter writes :

Appendix L 3. Letter No. 65, dated 23rd March 1869, para. 6.

"the great disparity between the sexes in the immigrant population renders "polyandrism, I may almost say, an acknowledged system."

Polyandrism a system.

Mr. Martin's statement as to the degradation of the Indians.

2772. Mr. Martin, one of the most experienced planters, corroborating this, tells us that every Indian woman has a plurality of men, the men generally, of their own free-will, choosing two or three friends to live with them in their huts.

Questions 14,267, 14,276.

It is only when a woman abandons a man that he objects to her intercourse with other men. It often happens that a woman abandons one man to take another, and then, out of vexation and jealousy, the man deserted murders the woman.

Questions 14,270, 14,269.

Indians trade in the prostitution of their women.

2773. Mr Martin further states that Indians having wives or concubines often live at the expense of the latter, obliging them to lead disreputable lives, and that men often come and ask him to use his influence with other men to get these to return to their huts with the women.

Questions 14,265, 14,266, 14,270.

2774. This on other estates has been excused or palliated to us as being the means of women obtaining some addition to their husband's wages, by being allowed to cook for a mess of other men.

Communism in women among men.

2775. On our visit to "Trianon" Estate, a New immigrant, a Mahommedan, complained to us bitterly, being a married man, that the camp was not fit for his wife to live in, as eight or ten men (this probably is an exaggeration) would have one woman in common. He alleged that, after stoppages, he did not get enough pay and wages, and that he was worse off than his fellows, because he had a wife and lived alone, while the others had a number of friends living with them.

Appendix B 46. Visits to Estates. "Trianon."

2776. In case it might be contended that these are merely assertions, and might have no foundation in fact, we would quote the following cases taken from the Post-mortem Returns.

Murder of Lutchmee.

2777. Lutchmee had been living for several years with an Indian named Chunchoo, by whom she had three children. He had lately ill-treated her, and she left him to live in a hut with Appiah, Lutchmoodoo, and Vencatasamy. They left her asleep in the hut in the morning when they went to their work. At 6 o'clock she was found dead, with three hatchet wounds on her neck and face. Chunchoo was suspected, because he was late coming to work, and had been heard on several occasions to threaten her life. He was convicted and sentenced to ten years' imprisonment.

Savanne. Case No. 97, 21st December 1867.

Murder of Russeawhan.

2778. Russeawhan left his hut on "Plaisance" Estate about 7 P.M. in company with Budaroo, Mungar, Sahatoo, and Daby, and was not seen again till his body was found in a corn-field eight days after. Suspicion fell upon these men, because Russeawhan had constant disputes with them about his wife Ruchina, with whom all, except "Sahatoo," were supposed to cohabit, though Ruchina denied it. They were committed to the assizes, but only Mungar and Budaroo were tried. Budaroo alone was convicted and sentenced to death, but the sentence was commuted to twenty years' imprisonment.

Grand Port. Case No. 252, 29th July 1868.

Murder of Hossein-Buccus.

2779. Hossein-Buccus was found dead in a wood, and Largoo and Gungadeen, with whom he was last seen in company, were taken up on suspicion, and subsequently Hurree and Triborin were arrested. Hurree confessed having committed the murder, with the assistance of the other three, having been instigated to it by Murseeban, Hossein-Buccus's wife, with whom he had been living for the last two years, and apparently, from Murseeban's account of it, with Hossein-Buccus's connivance. Hurree was convicted of the murder and sentenced to death, but the sentence was commuted to twenty years' hard labour. The rest were acquitted.

Flacq. No. 179, 6th August 1868.

Murder of Booneah.

2780. Booneah had been living alternately with Ramgorlam in Savanne, and Geof in Grand Port ; she left the former to go to Grand Port, and was pursued by him and murdered in the hut of Jual, at Rose Belle, in Grand Port.

Grand Port. No. 278, 16th January 1869.

Murder of Kissourie.

2781. Kissourie, Konjbeeharry, and Seewoodut all three lived with the woman Lutchmee. Kissourie was last seen alive in company with the other two, and found dead afterwards in a corn-field with fourteen wounds on his body. His companions were both tried for the murder, and Seewoodut was found not guilty, while Konjbeeharry was found guilty and sentenced to ten years' imprisonment.

Pamplemousses. No. 369, 7th October 1870.

2782. Greedharry and Boodun, said to be old friends, cohabited with one woman, the

married wife of Boodun. They were engaged on "Choisy" Estate, and had a present given to them, which they spent in drink in the hut. A quarrel arose, said to have begun about the woman, and Boodun began beating Greedharry with a stick. Greedharry ran out of the hut, and Boodun followed him, beat him upon the head with a stick, and then jumped upon him, and otherwise ill-used him until people came to his assistance. Boodun was committed for trial and convicted, and sentenced to two years' imprisonment.

Flacq, No. 325, 4th July 1871.

Greedharry beaten by Boodun.

Unequal punishment for violence in cases ab women.

2783. It cannot fail to strike even the most casual observer how unequal the punishments dealt out in these cases have been to the crimes committed.

In no single instance has the sentence of death been carried out upon any one of the convicts, and in every case but one, a secondary punishment alone was passed upon the culprit by the Court, an amount of leniency that possibly may have rather fostered than checked the offence.

2784. The above cases, taken from various districts, fully corroborate (if that were necessary) the statement made by Colonel O'Brien and Mr. Martin, and show that the system continues even to the present day.

The married Indians.

We trust, therefore, nothing more need be said upon the painful subject, and we will now proceed to consider what ought to be a more pleasant one—the married state of the Indians, though we fear even that will not show that their moral state is better than that of the people described above.

Laws of Mauritius as to marriage of Indians.

2785. Previously to 1853 there was no law which specially provided for the celebration of marriages among immigrants. In that year provision was made (Article 8 of Ordinance 21 of 1853) for that purpose, but marriages contracted in India were never recognised until 1856, when Ordinance No. 3 of that year was passed to facilitate the proof of such marriages, and the legitimacy of children the issue of them. (See Chapter VI., paragraph 357.)

2786. Under these two laws the exceptional marriages of immigrants in Mauritius are legalised.

Procedure under Ordinances of 1853 and 1856.

2787. By the former Ordinance immigrants had to produce a certificate from the Protector stating their names, ages, castes, places of birth, and the numbers of their tickets, together with a declaration by the Protector that, to the best of his knowledge and belief, the persons named in the certificates were not married.

The marriage in other respects was then celebrated by the Civil Status Office.

Publication of banns necessary in cases of Indian marriages.

2788. The Acting District Magistrate of Grand Port, however, having laid it down in his letter to the Procureur-General, which was not controverted, that no marriage was valid among Indians in the colony without publication of banns at the Civil Status Office, and without its being celebrated by the officer of the Civil Status, or a minister of the Christian religion, the marriage became subject to the general law of Mauritius, by which no minor under fifteen could contract a marriage without special permission from the Governor.

Appendix L 5, Letter No. 15, 19th July 1870.

Law ill-adapted to Indians.

2789. This law is ill-adapted to the case of the natives of India. In that country the betrothals are contracted at a very early age, and the marriage is celebrated as soon as the bride arrives at womanhood, and the ill effects of the restriction in Mauritius are shown by the children under fifteen years of age, either being in concubinage until they arrive at fifteen years of age, or leading a life of prostitution.

Some time about the latter end of 1868, an Indian, of the name of Soohun, accused another, Oochallee, and a girl named Uckmee, before the District Magistrate of Moka, of robbery. They were acquitted of the charge, but the Magistrate finding the girl to be about thirteen years of age, sent her to the Immigration Depôt, the Protector being the guardian of Indian minors. The girl, however, had been living with Oochallee as his concubine, and the Protector finding that Oochallee desired to marry her, and considering it the best means of extricating her from the position into which she had fallen, applied to the Governor for a dispensation, which was granted on the 29th of January 1869.

About the same time Hodabuccos and Gungeea petitioned the Governor for a dispensation for the marriage of their daughter, because on their arrival in the country in 1860 they had declared her to be only four years of age, whereas they believed her at the time of their petition to be as much as fifteen; but the register in the Civil Status making her only twelve years, they were obliged to apply for a dispensation for her marriage with Fussenally, and the dispensation was of course granted.

Prostitution of little girls.

So in January 1870, in which dispensations were asked for: the one where a girl had been living with a man as his concubine before she was fourteen years old, when she applied for a dispensation to marry, which was duly given, and the other, where a girl had been sent to the Powder Mills Asylum: but as it was discovered that she led a life

of prostitution, she was removed to the Poor Law Asylum at Beau Bassin, when, receiving an offer of marriage, she, at fourteen years of age, applied for and obtained a dispensation from the Governor to enable her to marry.

2790. On the 25th July, 1871, an Indian, by name Singur, applied to the Governor for a dispensation for the marriage of his daughter, Mary Jane Marie Singur, with one Abdoolah Badoolah, she being about fourteen years of age. On this being referred to the Procureur-General, he reported:—

"The law does not allow a girl to marry unless dispensations as to her age be "obtained; but Article 145 of the Code Civil lays it down that such dispensations "may be granted for serious reasons. The petitioner does not disclose any reason at "all. The cases in which dispensations have been granted show that they have not "been granted without some reason alleged thought sufficiently strong by the "Governor to induce him to allow the rule of law to be departed from. Seduction, "pregnancy, have been the reasons usually set forth.

"I see that the petitioner alleges that the welfare of his daughter requires the "marriage of his daughter to be contracted without delay. Why and wherefore he "does not say. Under the circumstances, the Ministère Public cannot give con-"clusions in favour of the dispensation prayed for."

Upon that Mr. Marsh, Assistant-Colonial Secretary, remarked:—

"Neither seduction nor pregnancy are assigned as reasons in the present case, but "the father states that, having lost his wife, he has no one to look after his "daughter. I have seen the daughter, who has the appearance rather of eighteen "than fourteen. It has been usual in such cases to grant the dispensation."

The dispensation was accordingly granted on the 7th August, 1871. The reason why a dispensation should have been granted is very apparent to any person acquainted with India, and the habits, customs, and feelings of those people; and the necessity for waiting until seduction or pregnancy can be alleged as a cause for this dispensation, appears to us abhorrent to the feelings of all civilised countries.

2791. Ordinance No. 3 of 1856 (see Chapter VI., paragraph 357) required married emigrants, with any children they might have, to go before the Protector, Assistant-Protector, Emigration Agent, or any Magistrate or Justice of the Peace in India, accompanied by two witnesses, and to make a declaration that they had been lawfully married according to the forms and ceremonies of their religion; and that the children by whom they were accompanied were lawful issue of that marriage.

Declaration in India to be confirmed in Mauritius.

2792. They were further required on their arrival in the colony to appear before the Protector of Immigrants, and there to confirm this declaration; and the Protector, if satisfied of their identity, had to certify the confirmation of it.

Aids to marriage suggested by Dr. Conran.

2793. Dr. Conran, the Emigration Agent at Madras, was in the habit of sending, not only certificates of the marriage of immigrants, but also certificates of those living in a state of concubinage, which, he stated, was done in the expectation that the Protector at Mauritius would advise all persons so living to contract a legal marriage, according to the laws of Mauritius, prior to leaving the Depôt, which would render the tie between them as valid as any Malabar ceremony; for he reported that concubinage was an established institution among the Malabars, and that to forcibly separate those living in this state would—particularly after having had several children—be a hardship; and he would himself have advised the parties to marry previously to embarkation, but that, according to the rites and ceremonies of their religion, a woman cannot be legally married after she has once lived in concubinage. Whether the issue of these connections is in the Malabar country considered legitimate or not, he does not mention.

Letter from Emigration Agent at Madras to Acting Protector, Mauritius, No. 401, of 31st July, 1873.

Two forms of marriage recognized.

2794. These two marriages were, and are, the only marriages recognised in Mauritius.

Not all marriages in India recognized in Mauritius.

2795. But all marriages solemnized in India, and duly certified by the Protector, are not held binding in the colony; for, in the year 1871, a complaint was made by Kasseewah before the Magistrate of Grand Port against his wife Moonah, and one Tarkoo; against the former for having absconded from his house, and against the latter for harbouring her.

Complaint, 1st March 1871. Magistrates' letter, No. 22, of 12th April 1871.

Kasseewah's case. A plurality of wives.

2796. The certificate of marriage was produced, from which it appeared that Kasseewah was married to both Meegince and Mooneah; and the Magistrate, finding that Articles 1 and 5 of Ordinance 3 of 1856 only contemplated one wife as being married according to the forms and ceremonies of their religion, referred the question to the Procureur-General, who, on the 20th April, 1871, informed him that the law of Mauritius does not recognise two women at the same time as the lawful wives of one man, nor can a man, under the law of Mauritius, marry a second time during the first wife's lifetime, unless his marriage with her has been previously

Appendix L 7. Letter No. 363. 20th April 1871.

dissolved. He therefore suggested that the Magistrate should call upon the complainant to prove which wife had been married first; and if it proved to be Meeginee, whose name was first on the certificate, his charge against Tarkoo and Mooneah would fall to the ground; which was the result of the complaint in this case.

2797. So, in a more recent case before the same Magistrate, when Cheence complained that his wife Luckeeah had been enticed away from his home, and been harboured by one Bowan, and claimed to have her restored. In the course of the trial the marriage certificate given to him in India was produced; from which it appeared that he was married to three women—Ugundeeah, Tataud, and Luckeeah. The Magistrate referred the case to the Procureur-General, and received from the Substitute Procureur-General his opinion that

Appendix L 10. Letter No. 715. 27th July 1872.

Cheence's case. A plurality of wives.

"by the Indian law the contract would be binding upon each of the three wives; "but that it does not follow that it can be enforced in Mauritius."

The Substitute Procureur-General's opinion.

"It is a rule of international law that the validity of a marriage must be deter-"mined by the law of the place where the contract was passed, but the rule that "the validity of a marriage is governed by the *lex loci contractus* suffers an exception "in the case of polygamous and incestuous marriages; they are considered to be so "utterly repugnant, not only to the municipal laws, but also to the general prin-"ciples of morality, admitted by all Christian nations, that the Courts of Justice in "England, as well as those of France and America, have always refused to uphold "them when repudiated by one of the parties."

He accordingly submitted that the marriage evidenced by the certificate was not, by the laws of the colony, binding upon the woman Luckeeah.

Procureur-General's opinion criticised.

2798. It may be remarked with regard to these two cases, that the former decision by the Procureur-General was given while Ordinance 3 of 1856 was in operation, and, it might be argued, was in opposition to the working of some of the sections of the law, which gave the District Magistrate jurisdiction in all cases of enticing away and harbouring the "wives" of Indian immigrants when "such wives" shall be natives of India; though the following Article (9) refers only to a single wife. Ordinance 12 of 1870 throughout only refers to wife in the singular.

Questionable result of legislation for Indian's morals.

2799. From this we learn that all Indian marriages contracted in India, and certified to be lawful there, are *not necessarily* lawful in Mauritius; and the question arises whether, in a small colony like Mauritius, more mischief may not be done by bringing people from India, and obliging them to forego the marriage laws of their own country, than by allowing a marriage legal in their own country, but illegal there, to be upheld.

There is yet, however, another point connected with the subject of marriage, which though a part of the general law of Mauritius, and therefore not affecting immigrants in particular, ought nevertheless to be mentioned, especially as shortly before our departure from the colony our attention was called to it by the Right Rev. Dr. Royston, the Anglican bishop in Mauritius, as being a cause of much immorality, and a great bar to the efforts of Christian missionaries to promote a higher standard of morals. It is the difficulties that lie in the way of those in the Island who desire to contract a regular marriage; for by Article 52 of the Civil Status Ordinance (No. 17 of 1871), it is provided, with respect to natural children who have been acknowledged by both their parents, that unless the son has reached the age of twenty-five years, and the daughter the age of twenty-one years, no marriage can be contracted without the consent of their father and mother; and in case of disagreement, the consent of the father shall suffice unless such father or mother have for good and sufficient cause been refused the guardianship of the natural child, in which case the guardian's consent shall be required, and also the consent of a family council homologated by a Judge of the Supreme Court upon the conclusions of the Ministère Public.

The Article then proceeds to make provision for such cases as those in which either, or both, of the parents be dead, or incapable of giving their consent; and Article 53 provides for the marriage of natural children acknowledged by their mother only, whose consent is required for the marriage of such child, if a son, up to twenty-five years of age; and if a daughter, up to twenty-one years; while in the event of the death or incapacity of the mother, the child, if a minor, cannot marry except with the consent of a guardian *ad hoc*, appointed by the Magistrate of the district in which the child resides; and if the mother has, for good reason, been refused the guardianship of the natural child, the guardian's consent shall be required, and also the consent of a family "the Supreme Court upon the conclusions of the

Difficulties in the way of marriage among Indians

"of proving marriages, when marriages "in Mauritius contracted with

girls under fifteen (probably, as we have said before, the oldest age at which they contract marriage in India) are illegal, we must not be surprised at the marriage tie being less strictly observed in Mauritius than even in India or elsewhere, and that, consequently, the infidelity of the wife should lead to the death, either by murder or suicide, of one or other of the parties.

Murders and suicides traceable to disputes about women.

Gungaram's case.

2801. Thus, on the 25th April 1866, Gungaram committed suicide. He was married to a young woman, of whom he was so jealous that when he went to work he locked her up. She one day ran away to her father, and refused to return to Gungaram, which preyed so much upon his mind that two days after he hanged himself.

Rivière du Rempart, No. 30, 1866.

Mardoo's case.

2802. Mardoo, married to Beemah, was missing, and his body discovered in a cane-field. His wife had been intimate with Kistnah, with whom Mardoo had last been seen in company.

Grand Port, No. 70, 18th May 1866.

Kistnah was arrested on suspicion of the murder; and, on conviction was sentenced to twenty years' imprisonment.

Heeatheeah's case.

2803. Fokir came with his wife Heeatheeah from India, and on the 8th July they went to the manager's house, Fokir complaining that his wife was about to leave him. The manager was absent, but they saw the book-keeper, who advised them to settle it, but Fokir went away with his wife, saying he would see about it: a day or two afterwards, Heeatheeah went to Samut-ally's house, and asked for some rice, which he gave her, and she ate, but remained in his hut and did not go home; in the night Samut-ally was awakened by blows with a knife being struck at his head, and Fokir's crying out,

Moka, No. 19, 14th July 1866.

"You are always keeping my wife in your house."

Heeatheeah was found dead some distance outside the house, and Fokir gave himself up and was convicted of manslaughter and wounding, and sentenced to ten years' imprisonment with hard labour.

2804. In this case, and some others that we have seen, we perceive a remissness in taking advantage of the means provided by the law for binding people to keep the peace and be of good behaviour.

Had the book-keeper, when Fokir complained to him, handed both parties over to the Magistrate, the latter might, under Article 126 of Ordinance No. 35 of 1852, have bound Fokir over to keep the peace, and this murder might probably have been averted.

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Burtoonee's case.

2805. So in more recent times, on the 12th November 1870, Burtoonee, the wife of Bissessur, deserted him and lived with Murden on the "Mont Gout" Estate. Bissessur awaited an opportunity and murdered her, and it appeared in the investigation, that he had come two months before to the estate and quarrelled with Murden, when an overseer named Emilien Couvin told him he could not allow such disturbance, and sent him to the police station. Some time after he came again and asked for his wife, when Couvin told him it was no business of his, he should get a warrant from the Magistrate; and a fortnight after, Bissessur committed the murder. This murder also, as well as some others as we shall see hereafter, might perhaps have been prevented had Bissessur been bound over to keep the peace.

Pamplemousses, No. 374.

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Madaree's case.

2806. Madaree, an old man, had lately brought his wife Tackooree, aged sixteen, from India. They lived in the same hut with his mother-in-law, who was awakened one night by a noise in her son-in-law and daughter's room, and on going in, she found Tackooree with her throat cut and in the agonies of death.

Flacq, No. 88, 6th December.

Madaree admitted the crime, and pleaded that his wife was unfaithful to him, of which there was no proof. He was convicted of manslaughter, and sentenced to fifteen years' imprisonment on account of his age.

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Mooknack's case.

2807. Mooknack's wife left him, taking their child Ramjee with her, and went to Savanne, whither Mooknack followed her. She refused to return with him, and he went back to the estate, taking Ramjee with him, when he wandered about for two or three days, and was found one day in his hut, hanging from a beam, upon which he had also hung the child Ramjee.

Grand Port, No. 292, 27th May 1869.

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Sapoor's case.

2808. Sapoor had, in February, obtained leave from the manager to go and fetch his wife, who had run away from him; he brought her back, but some time after went and made a similar complaint to the manager, who, hearing him use threats, advised him to separate from her: she was about twenty, or twenty-four, and he was a helper: he did not lie

Rivière du Rempart, No. 243, 1st April 1872.

missing on the 1st April, and was not seen till

a cane-field, covered with earth and st

with whom she lived when she le

and Boodnah, who, together wi

against any of them, exce

Necessity for power of binding over to keep the peace.

2809. This is another case, in which had Sapoor been bound over to keep the peace, the murder might have probably been averted.

Object of Ord. 3 of 1856.

2810. With a view to prevent the enticing away and harbouring of wives of Indian immigrants, Ordinance 3 of 1856 was passed, to facilitate the proof of marriages of Indians contracted in India, and of the legitimacy of children, the issue of such marriages; as we have mentioned before (Chapter VI., paragraph 357), and also to provide a summary mode of punishment for persons enticing away the wives of Indians, and with a view of removing one of the obstacles which was supposed to exist to married immigrants bringing their wives with them to the colony.

Discussion as to the extent of operation of Ord. 3 of 1856.

Procureur-General's opinion upon Ord. 3 of 1856 wanted.

2811. It was mooted in council whether the operation of this law should be restricted to immigrant labourers introduced under the provisions of Ordinance 16 of 1852 and 12 of 1855, or whether it should be extended to all natives of Indian emigrants to Mauritius. The former view of the question was adopted in concurrence with the Governor's opinion, and the Ordinance was passed and sent home for your Majesty's confirmation; but without the usual report from the Procureur-General, or at least, if the report did accompany it, it is not referred to in the Governor's despatch forwarding the Ordinance, nor can it be found in the Procureur-General's Office.

Despatch No. 79, 22nd April 1856.

Summary jurisdiction of Magistrates regarding enticing away o harbouring wives of immi grants.

The Acting Procureur-General's opinion upon Ord. 12 of 1870.

2812. The *summary mode* referred to was provided in Articles 8 and 9, by which District Magistrates had jurisdiction against persons charged with enticing away or harbouring the wives of Indian immigrants, where such wives were natives of India. This, however, was amended by Ordinance 12 of 1870, which the Acting Procureur General in his report, without taking any notice whatever of 30 of 1856, said, he

Report No. 400, of 10th November 1870. Enclosure in Governor's Despatch to Secretary of State, No. 176 of 16th November 1870.

"believed would prove beneficial on two important and distinct grounds. It enacts against the enticing away of, and harbouring of the wife of an "Indian immigrant, stringent penal clauses, but clauses not too severe "when the often fatal consequences of the offence are kept in view."

"Many of the murders committed by Indians, and tried before the "Supreme Court, have taken place not so much because the injured "husband of a faithless wife sought revenge for her guilt, but because she left his "hut, her desertion as much as her infidelity being the occasion of her death; again, "it has often occurred that individuals who sought to entice gangs of labourers from "one estate to another, succeeded best by enticing away the wives of the leading "men of the gangs, and a planter who would not otherwise have lost his men, "could not, on that account, succeed in keeping them when the expiry of their "contract of service allowed them to leave him."

"The Ordinance seeks to check the evil, and I believe will, in a great measure, "as far as penal enactment can do, effectually prevent it.

"On another ground I believe the Ordinance will do good. By the law of the "colony it is necessary when a woman deserts her conjugal domicile, to apply to "the Supreme Court for a warrant to have her brought back. Of course cases have "occurred when the remedy proved practically of no avail; but cases have occurred "also where the remedy proved effectual, as when a wife was induced by her "relations' injudicious meddling, or bad advice, to stay away from her husband "against her own real wish, but the remedy could but rarely be taken advantage "of by the Indian immigrants, as the expense of the necessary process was too great; "the object of the Ordinance is to give to the inferior Magistracy power to deal with "such cases, and to give a cheap and expeditious remedy to the husband, and also "to the wife whenever she has been abandoned, and has a right to claim alimony.

"The words *manu militari* in the Ordinance seems startling, but they are the "technical words used by French writers on the Code, when speaking of the process "whereby wives who desert without good cause the husband's house are made to "return, they only imply that the warrant shall, if necessary, be executed by the posse "of the colony."

Punishments under Ord. 12 of 1870.

2813. Article 8, gave the District Magistrate jurisdiction in these cases, and provided that any person convicted of enticing away or harbouring the wife of an Indian immigrant should be liable to a fine not exceeding £50 and imprisonment, with hard labour, not exceeding six months; and the only alteration made by Ordinance 12 of 1870 is, that it separates the punishment for fraudulently harbouring the wives of immigrants, and provides in the case of a second offence of enticing, that the fine be the same, though the convict is subject to imprisonment for twelve months with hard labour. The punishment for fraudulently harbouring a wife is a fine of £50, or six months' imprisonment.

Oversigh Ord. 12 1870

2814. Ordinance 12 of 1870 likewise provided, as the Procureur-General remarks, for the Magistrate having power, on the demand of a husband, to order the police authorities to reinstate in the domicile of such husband "manu militari" any wife, a native of

India, who has deserted her conjugal domicile, unless good cause be shown to the contrary; but there is no punishment provided if the woman, after having been so reinstated, again deserts her home; and, as we are informed, supposing she again leaves it, Question 13,911. Question 13,913. the husband must begin again, and "manu militari" does not require the posse of the colony, but only that, if she resisted the police, they might carry her by the legs and arms to her husband's house.

Number of cases tried under Ord. 12 of 1870.

Circular of Procureur-General, 22nd March 1872. Appendix L 8.

2815. A circular was issued by the Procureur-General, at the desire of Government, requiring to be informed of the number of cases in which the Magistrates had been called upon to carry out the provisions of the Ordinance. From the Procureur-General's letter to the Colonial Secretary, dated the first April 1872, it appears that sixty-eight complaints of enticing away and harbouring the wives of Indian immigrants had been brought before the several district courts in the island; of these, fifteen were convicted, fourteen acquitted, twenty-five abandoned by the parties, and fourteen not carried on, the warrants either not being delivered, or no further notice taken of them.

Report of the Procureur-General upon the returns of cases tried under Ord. 12 of 1870.

2816. The Procureur-General reported, that the equality of acquittals to convictions probably arose from the fact, that in many cases it appears that the woman was not the legal wife of the complainant, and therefore he was not entitled to the protection of the law, the working of which he considered satisfactory, as in his opinion the returns proved that the invoking of the law had in the majority of cases secured the redress intended by its provisions; and such certainly would be the case if all magistrates carried out the law with the same stringency as Mr. Daly did in the case of Soobrun, on the 22nd July 1872.

Soobrun's case.

2817. Soobrun lived with his wife Perbuseeah in the same hut with Seegorin, and the woman, in Mr. Daly's opinion, was common to them. Seegorin left the hut, and Perbuseeah preferred to visit him, and when her husband complained to the Magistrate against Seegorin, he fined Seegorin in the mitigated penalty of £2 and costs.

Mr. Daly's judgment.

Relief under law not extensive enough.

2818. The relief, however, given by a law which restricts the punishment to the wedded wife, and only when such wife is a native of India, appears to fall far short of the remedy required.

Daby's case. Mr. Baudot's judgment. Woman not a native of India.

2819. On the 8th May 1872, Mr. Baudot, Acting District Magistrate of Pamplemousses, sentenced Daby to a fine of £10 and 15 days' imprisonment for enticing away the wife of an Indian; but he subsequently discovered that she was an Indian Créole of Mauritius, and, consequently the complainant could obtain no redress but that which the ordinary laws of the colony would give him.

2820. The Governor, on the 13th May, remitted the fine, remarking that the case proved the law to be insufficient or partial in its operation.

Seechurn's case. Breach of promise to marry.

2821. So in the case of Seechurn, who brought a suit for $100 against Beefrutty and her mother, Manguree, for breach of an agreement to marry him, and thereby obtaining $10 by fraud. It was stated that the money had been paid for an immediate marriage, according to the Indian custom, to be followed by a legal marriage when the girl attained the lawful age; that they (the girl and her mother) had, under this agreement, lived in his hut, though he and his betrothed did not cohabit for 16 months; and that now they had abandoned his domicile, and sought to contract a marriage with Seetul according to the laws of Mauritius, and had obtained a Protector's certificate for that purpose.

cision of the agistrate.

2822. The girl was proved by her Act of Birth to be only 13 years and 6 months old; and the Magistrate, finding that to be the case, and that she could not marry without the special permission of the Governor, was obliged to declare that, as yet, there had been no breach of the alleged agreement, the time for the performance of the obligations not having arrived, and he therefore dismissed the claim; but the Magistrate at the same time reported the case to the Governor, suggesting that permission should not be accorded her to marry any other than Seechurn before she arrived at legal age.

Girl a Créole. Ord. 12 of 1870 perpetuates provisions of Ord. 30 of 1856 as to wives "natives of India."

2823. In this case, however, the girl was a Créole of Mauritius, and therefore Seetul, even if he had illegally enticed her away, would not have been liable to the penalties of Ordinance 12 of 1870; thus showing that this Ordinance perpetuates the provisions of Article 9 of Ordinance 30 of 1856, restricting the penalties of the law to those enticing away and harbouring only those wives who are natives of India, and which have been further restricted by the Procureur-General, who in 1869 declared in a letter

Restricted interpretation of the law by the Procureur-General.

Appendix L 4. Letter No. 409. 26th April 1869.

that the only Indian immigrants mentioned in the Ordinance are natives of India, married out of the colony; a restriction for which we find no authority in the Ordinance. And as we find the same expressions in Ordinance 12 of 1870, it is to be feared that the Procureur-General's restricted interpretation of the law may be continued to the present day.

2824. We think the above fully disposes of Dr. Icery's boast that the moral condition of Indian immigrants is improved by their coming to Mauritius.

Debasement of immigrants in Mauritius.

2825. Whatever may be the practices among some few tribes in different parts of India, we are not aware of there being any district in India in which the natives are morally so debased as is shown by the above to be the state of the Indian immigrants in this colony. We would not, however, assert that all were so debased as those described by the extracts and letters we have given; for, no doubt there are many who have profited by the instructions they have received from missionaries, and among the converts some may be held up as examples to their countrymen; but these cannot be claimed by Dr. Icery, being mostly Old immigrants not working on estates; and they are certainly the exceptions to the general rule.

Attributable to the disproportion of the sexes.

2826. Of course, the origin of this evil is to be attributed to the disproportion of sexes; and for that, it is but fair to say, the Government have done all they could to secure a larger proportion of women.

2827. What was said by Mr. Scott (see paragraphs 113 and 127) with regard to the Hill Coolies is, we are inclined to think, applicable to nearly all parts of India. It is not the nature of these people to emigrate in families.

2828. If a man finds it necessary to leave, either the country or his village, in order to better his condition, he leaves his wife and family in his own village, in the care of their relations, and he migrates to the place where superior wages are offered to him.

Proportion of females in Mauritius and Bombay.

2829. In his Census Returns, above referred to, for 1871, Mr. Beyts (paragraph 57), extracting from the census taken in Bombay in February 1864, shows that the proportion of females to males in that island is 53·6 to 100, very little superior to the proportion of females in Mauritius. But we are aware that formerly, during the working season in Bombay before steam was introduced for pressing cotton bales, numbers of labourers from the villages in the Mawuls resorted to Bombay, unaccompanied by any women, to work at the cotton presses, and returned again, before the commencement of the monsoon, to their own villages.

The system in Bombay.

2830. This census was taken during the fine weather, and the island was probably overstocked with these casual labourers, who would not bring their wives with them even that short distance; and the probability is, the same feeling would prevent their bringing their wives the further distance to Mauritius, and for a longer period.

Immigrant women not under contract, and may choose estates for residence.

2831. The women, who are imported, though nominally engaged for a particular estate, are not indentured to it, and do not necessarily go thither, unless they are married women, and accompany their husbands. The others, though nominally allotted to a particular estate in India, when they arrive at Mauritius are at liberty to choose to go to any other estate, accompanying the man or men allotted to that estate. Thus we saw, when visiting the Immigration Office to witness the distribution of immigrants, women allotted to a particular estate, and sitting in the yard with the people about to proceed thither; and when the time came for them to be made over to the manager of the estate, or the person appointed to receive them, if a woman declared her preference for some individual going to another estate, and desired to accompany him, she was allowed to leave the band to which she had first been allotted, and to proceed with the one of her choice.

Choice of estates by women on their allotment.

In 1838 notice of Home Government attracted to disproportion of sexes.

Indian Act 15 of 1842. No regulations under Indian Act 15 of 1842 as to proportion of women.

2832. The disproportion of sexes attracted the notice of the Home Government as long ago as 1838, and at the end of 1840 there were but 200 females, though about 19,000 male coolies in the island. It was therefore enacted in the Indian Act 15 of 1842 that, before a vessel with immigrants could sail from India, the master should obtain from the Protector of Emigrants a certificate that the rules as to the requisite proportion of women had been complied with. Lord Stanley informed the Governor of Mauritius that Despatch, 22nd January 1842. the Home Government expected that the Governor-General in Council would frame regulations for maintaining a due proportion of sexes.

We do not find, however, that these regulations have ever been framed.

Inducements to women immigrants held out by Government of Mauritius.

2833. The Government of Mauritius, with a view to introducing more women, held out inducements to those who brought one woman to every four men; and when the Ordinance No. 15 of 1843. Legislature thought that immigration should be checked, though they lowered the rate of passage-money that they would pay for male immigrants to £4 a head, they continued what they paid for women at the same rate as formerly, viz. £7 a head.

Proportion of sexes 1843 to 1855.

2834. From the resumption of immigration in 1843 to the end of 1855 an average of one woman to four men introduced was the result of the working of the immigration system.

Suggestion of the Protector in 1851 for the encouragement of female immigration.

2835. Mr. Hugon, the Protector, in 1851 suggested that the encouragement for the immigration of married women and their families must be given in Mauritius itself, and that the first encouragement should be to give security to the immigrants in their rights as fathers and husbands which they hitherto had not enjoyed.

Letter to Colonial Secretary, 14th August and 27th Oct. 1851.

System of bounties upon married women.

The result was, that a sum of £1000 was included in the Colonial Budget for 1853 to pay a gratuity of £1 to those immigrants who, having returned to India, should come back to the colony with their lawful wives, or should bring married females from their own villages, or married women whose husbands were already in the colony.

Bounties upon married females discontinued.

2836. The bounties were discontinued in 1865, upon a recommendation made by Mr. Chasteauneuf in 1863, then Acting-Protector, on the ground that Government were defrauded by false declarations of marriages. Mr. Beyts approved of this, hoping that the immigration of females would not thereby be affected; but he has since changed his opinion upon this, as upon many other subjects, and thinks it advisable to revert to the system; the Immigration Committee of Council have also recommended it. This has not yet, however, been carried out.

Questions 2393, 2395.

Immigration Report for 1862, paragraph 10.

Questions 2312, 2314, 2399, 2400.

Action of the Home Government in 1855 relative to the proportion of females.

2837. In 1855 the Home Government insisted upon the proportion of one woman to three men being maintained in each ship bringing immigrants to the colony from the 1st January 1856; and Lord John Russell, then Secretary of State for the Colonies, intimated that an increased proportion would be progressively required.

Secretary of State to Governor of Mauritius, 25th May, 1855.

Scale of increasing proportion of females suggested by Governor Higginson.

2838. The Immigration Committee of Council expressed their ready concurrence in this proposal; and Governor Higginson suggested the following scale:—

1856	. . . . .	33
1857	. . . . .	35
1858	. . . . .	40
1859	. . . . .	45
1860	. . . . .	50

per cent. of females to be introduced.

Should this proportion not be adhered to, the number of the male immigrants to be sent in the following year was to be reduced proportionately.

2839. This scale seems to have been, on the whole, observed, for, though in 1859 and 1860 the proportion of females fell below the rate fixed, still in previous years it had been rather in excess of it.

Women. How proportion of 25 per cent. only allowed in 1869.

2840. This falling off in 1860 is not, however, to be attributed to the excess of females which were imported in the previous years; for, in the Report of Emigration Commissioners for 1861, it appears that—

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"the proportion of females to males was to have been raised in 1860 to 50 per cent., "but, as in the convention with the French Government by which the immigration "from British India to Réunion had been permitted, the proportion of females was "fixed at 25 per cent. only, it necessarily followed that, to put the British colonies "on an equality with Réunion, no severer rules should be applied to them.

"The emigration agents were therefore authorised to send immigrants with no "larger proportion than 25 per cent. of women; but they were at the same time "instructed to make the proportion as large as they could."

Mr. Beyts's proposal in 1869, that as the planters were required to conduct immigration subject to moral principles, the public should pay the expenses thereof.

Report to Colonial Secretary, 29th September, 1869.

2841. In 1860 Mr. Beyts suggested, as a means of facilitating immigration, that one-half the expenses of introducing females should be assumed by Government at the charge of the public treasury, on the ground that the compulsory importation of a fixed proportion of females was a rule dictated by Government, for motives of morality and public policy, and was imposed upon the introducer of immigrants, less for his individual advantage than for the benefit of the community at large; and he, on the same grounds, recommended that the public treasury should be charged with the bounties paid for the introduction of married females.

Concurrence of the Secretary of State.

Despatch No. 34 of 1861.

2842. These suggestions were submitted by the Governor to the Secretary of State, who approved of them on the distinct understanding that all other expenses of the immigration should be defrayed by the planters.

1860 to 1866.

2843. From 1860 to 1866 the minimum proportion of women to be shipped as emigrants was fixed at one-fourth; but within the last year the Secretary of State for India and the Colonies, after much consideration, determined that it should be raised to thirty-three per hundred.

1869.

Representation by Government of Mauritius as to difficulty of obtaining proportion of women.

Opinions of the Madras and Indian Governments as to the proportion of women to emigrate.

2844. In September 1869, the Government of Mauritius represented to the Government of India that the emigration agent at Madras experienced extreme difficulty in obtaining the required proportion of females, even though confirmed prostitutes were admitted as part of the complement.

Letter of Secretary to Government of Madras to Secretary to the Government of India, No. 1606, 26th Nov. 1869.

2845. The Government of Madras, to whom the subject was referred, reported that they were averse to any further reduction of the minimum proportion of the female immigrants, believing that if fitting efforts were made the requisite number of women of low caste, but not necessarily prostitutes,

might be recruited; and remarking that in India, as in European countries, emigration offered to many women means of escape from a life of prostitution.

Relaxation of the rule of the proportion of women.

The Supreme Government concurred in these views; and it was determined that the proportion should be maintained; but, by Indian Act 6 of 1869, they permitted the Local Government of Calcutta, in cases of emergency, to allow any vessel to leave Calcutta, though the proportion of women embarked on board such vessel was not in accordance with the established rules.

The Home Government allow ships to leave with less than the proportion, on condition the balance be restored by subsequent shipments.

2846. Further pressure, however, was used by the agents for Guiana, Trinidad, and Jamaica; and parties in England interested in the success of emigration to the West Indies also lent their aid, and the Secretary of State for the Colonies subsequently agreed to relax the rule to such an extent, that ships might be despatched with less than the prescribed proportion, on the condition that the proportion should be made up either before the close of the season, or in the first ships of the following season; the number of male immigrants being reduced until the balance was restored.

1870.

Suggestion of agent at Madras as to engaging women at wages.

2847. On the 19th December 1870, and 8th February 1871, the Emigration Agent at Madras wrote to the Protector in Mauritius, pointing out, among other things, that the premiums formerly paid to immigrants had been abolished, and suggesting among other remedies that women be engaged in India on wages at three rupees a month.

The Council disapprove of the agent's suggestions.

Minutes of Council, page 78, 2nd May 1871.

Report, 5th April 1871.

These letters were referred to the Immigration Committee, who reported that from the general reluctance manifested by women to enter into engagements in Mauritius, they were inclined to infer that insisting upon their engaging themselves before they left India, would rather tend to increase than reduce the embarrassment of emigration.

Protector's opinion that no necessity for law similar to that of Trinidad.

2848. Mr. Beyts had previously, on the 29th March in that year, given it as his opinion, that it was not necessary to pass in Mauritius any law similar to the one enacted in Trinidad, as none of the females who come from India as immigrants arrive under indenture, and the few who consent to work after having emigrated, do so without entering into written contracts.

Madras agent again urges engaging women for wages.

2849. Again on the 1st November 1871, Dr. Conran reiterated his request, declaring that, unless some inducement were offered to them, he could not obain the requisite proportion of women; declaring that women, both from Vizagapatam and Cocanada had, on their arrival at the depôt, been clamorous for a fixed rate of wages to be given to them at Mauritius, as women at all the French islands were put on wages, and Mauritius was the only place where they were not.

Suggestions of Madras agent for facilitating emigration of females.

2850. He suggested, that if women on arriving at Mauritius did not like to enter into service as indentured, they might free themselves without cost, on making a declaration to that effect before the Protector. He also forwarded a copy of the proceedings of Government about the manner in which women were to be examined by the Protector and Magistrates, and he declared that there seemed to be a necessity for offering to intending female immigrants, prior to their embarkation, a fixed rate of wages for a certain number of years, subject to the cancelling of the agreement, if the emigrants wished it, at any time after their arrival in Mauritius.

Recommendation of Immigration Committee, but no action.

1871.

Reiterated complaint of Emigration Agent as to difficulty of recruiting women.

Minutes of Council, 1872, p. 40.

2851. The Immigration Committee to whom this letter was referred, proposed that Dr. Conran's suggestions should be adopted; the report was laid upon the table, but no further steps appear to have been taken in consequence.

Governor Sir Arthur Gordon's opinion as to the future of immigration to Mauritius.

2852. So likewise, on the 25th May 1871, the Agent for Mauritius at Calcutta wrote, saying that he, in common with the other Colonial Agents, continued to experience great difficulty in procuring a sufficient number of women of any class from any district.

This, the Protector of Immigrants suggested should be referred to the Secretary of State, with a view to obtaining some relaxation of the order, which, however, the Governor declined to do, saying that he could not undertake to advocate such a relaxation, and adding,—

"the moral which this and similar letters bring home to my mind is, that we "ought to look the increasing difficulties attending the supply of Coolies fairly in "the face, realise their amount, and prepare for the inevitable and probably not "distant day, when Coolie immigration to this Colony will wholly cease,"

and consequently, immigration continues with an authorised proportion of thirty-three per cent., or one woman to two men.

Present proportion, one woman to two men.

Females may contract for work, but do not.

Some females work on estates.

The women rationed on some estates.

2853. As we have mentioned above, female immigrants are not liable to service under contract, and though Ordinance 16 of 1862 authorised contracts being passed with female immigrants, yet they seldom enter into any engagements to labour either on or off estates, though several of them work both on the estate on which they live, and also on the neighbouring estates.

2854. We find that on some estates the women receive rations like men, though not working.

Women on estates—on "Union," on "Stanley."

2855. Our own enquiries on estates showed us, that at "Union," in Flacq, women work and receive pay, but no rations; at "Stanley," in Plaines Wilhems, women who choose to work are employed during the "Coupe" at the rate of sixpence and one pound of rice a day; they always insist on their wages being paid weekly. At "Cluny," in Grand Port, the women who work are paid at the same time as the men, and when absent have their wages cut, though they do not work under indenture.

On "Cluny."

On "La Rosa."

2856. At La Rosa," in Grand Port, those who work receive 1s. and three mugs of rice a day, and always insist on weekly payments.

On "La Gaieté" and "Bénarés."

2857. At "La Gaieté," in Flacq, they get no pay, but half-a-ration of rice; and, at "Bénarés," in Savanne," they get ten cents a day and rations of rice.

On "Mon Choix."

2858. On "Mon Choix" in Pamplemousses, they asked why they need work, as they had enough to do at home, and they got their rations. It appeared probable that domestic work was quite sufficient for them, as in the evening we met them with loads of grass on their heads, the fodder of their cattle and goats.

Such work done on some estates by women.

2859. From the returns we received from the planters, though they have evidently misunderstood the question, it is very clear that on some estates much work is done by women, as at "Queen Victoria" and "Bonne Mère," in Flacq, the returns show 171 women on the former and 54 on the latter, working under verbal engagement; so also in "Rivière du Rempart," 19 on "Mare Sèche" and in Savanne, on "St. Aubin," 75; showing that there is no insuperable objection among women to working, even not under engagement, though we have, on our visits to estates, found many women who repudiated the idea of work.

"Queen Victoria" and "Bonne Mère."

"Mare Sèche" and "St. Aubin."

Mr. Rouillard's opinion as to women being an attraction.

2860. Mr. Rouillard appears to concur in the opinion of the Acting Procureur-General before noticed, and thinks that the women have some influence to draw men to or from estates.

Vol. II. Question 7.

Opinions regarding women expressed by Messrs. de Charmoy and Martin.

2861. Mr. de Charmoy suggests the increase of females as a means of preventing unlawful absence, and Mr. Martin answers us, that men with females seldom absent themselves, while he considers women one of the greatest causes of absenteeism.

Question 14,565.

Mr. Poulin's statement.

2862. Mr. Poulin informed us that, as women left the estate, so men in the same gang with them went also; for he had observed that, when a woman returned, so frequently, several men who deserted about the same time she left came back also.

Question 14,265.

Number of women should be increased.

2863. It is therefore very clear that the number of women should be increased, for the influence of the women over the men here shown is a disgrace and not a credit to the colony; and although an extraordinary case was brought to our notice of the means used by a wife to restrain her husband, a labourer on "Stanley" Estate, in Plaines Wilhems, from absenteeism, we cannot quote it as creditable to either party.

Under instance of a man being kept from absenting himself by his wife's influence.

The husband showed us several scars upon his body and legs, and being asked to explain how they were caused, he informed us that his wife had bitten him at different times in these several parts. The proprietor of the estate, the Honourable Mr. Antelme confirmed his account, and informed us that the virago, when on one occasion the man came bleeding to him complaining of his wife, admitted the impeachment and pleaded, that as he absented himself from the estate and left her without money or rations, she was compelled to punish him for his misconduct, a proof of the influence of women which, in so good a cause, we wish had been shown in a more civilised manner.

Questionable nature of the influence exercised in this case.

2864. But there is yet another evil arising from the paucity of women; we refer to the traffic in girls and the dishonest practices to which this gives rise.

Betrothals in India.

2865. We are aware, that in their own country when a betrothal takes place, which it does at a very early age, the parents of the future husband pay to the parents of the daughter a certain sum of money, varying in some places according to the caste or rank of the contracting parties, in others, according to their wealth; and it is a point of honour, though not always observed, to fulfil that betrothal. In Mauritius, when a betrothal takes place, it is apparently not so strictly observed, but the effects of its non-performance are frequently more serious.

Betrothals in Mauritius.

Callahia's case.

2866. Thus we find in Grand Port, that Callahia had been betrothed in Port Louis to Vencatriloo about two years before, when he gave her parents the sum of 300 rupees: her father and mother procrastinated in producing her act of birth, without which she could not legally be married.

Grand Port, Case No. 9, 28th July 1865.

Meanwhile the parents left Port Louis and went to live at "Quatre Cocas" in Flacq, and asked their daughter to come and visit them: she did not return to Vencatriloo: he went in search of her and found her at "Mon Désert," in Flacq, where she was living with another man; he waylaid her one morning and stabbed her in several places, from which she died: he was convicted of the murder and sentenced to death,

but the sentence as usual was not executed, but commuted to twenty years' imprisonment.

Mooneah's case.

2867. In another more recent case at Rivière du Rempart, Changoor had brought up Mooneah for the last ten years, but her mother sold her to another, Soodun, for $10; she went to Port Louis and lived with Soodun for about two months. Changoor then went and complained to the manager, who told him he would get Mooneah back as she had been sent for, but Changoor said he would kill her; the manager told him he was wrong, and instead of, as might have been done elsewhere, taking him into custody and having him bound over to keep the peace, he advised him to leave her and to take another woman.

Appendix L 15. Rivière du Rempart, No. 200, 15th July 1870.

Her mother asking another $5, she (Mooneah) persuaded Soodun not to pay it, and her mother having obtained a warrant against Soodun, he was arrested, and Mooneah returned to Changoor.

About a week after her return, Changoor, without any apparent provocation attacked her with a cane-knife, and then ran away to Edceah's house, where Soodun's sister Jummerun, a great friend of Mooneah's, lived with her step-mother Edceah. He assaulted Jummerun and Edceah, as well as Saunky who tried to arrest him, and he afterwards escaped: he then gave himself up to the police, and Jummerun having lingered to the 15th July, died, upon which he was committed to the assizes for the murder of Jummerun and for assaulting two others.

Changoor guilty of murder, but reprieved.

He was found guilty of the murder of Jummerun and sentenced to death; the sentence was commuted to twenty years' imprisonment.

Husbands very negligent about their wives.

2868. On the other hand, it must be confessed, that the husbands are very negligent in the case of their wives.

Yellapah's case.

2869. A petition was brought to us by one Yellapah, a labourer on "Labourdonnais" Estate, complaining that his wife was harboured by one Soodeen, and would not return to him. It appeared that in October 1866, he complained to the Magistrate of Rivière du Rempart upon the subject, and it was proved on the trial that he went to India about three years before to recruit men, leaving his wife, as he informed the manager, in Soodeen's charge; that Soodeen had paid his passage back from India, and that Yellapah had lived for a month in Soodeen's house after his return, but had then gone away leaving his wife there, and six weeks after had returned and claimed his wife, when she refused to go with him, alleging that he had not paid Soodeen the money he owed him, but Soodeen made no objection, and desired him to take his wife.

The Magistrate accordingly very properly dismissed the suit.

Mercenary consideration influencing Indians in marrying.

2870. But though there is this rank immorality on both sides, still we sometimes find that there is a feeling of repentance, though perhaps the cause of it may be sometimes mercenary rather than virtuous, as in consequence of a petition presented to us we found one Seewool-bolaky, who had kept Lallmonee for fourteen years, at last desired to marry her, not, we are sorry to say, repenting of their evil life, but to secure in the event of the death of either of them their property to the other.

Letter from Protector, 18th November 1872.

The case came before us in consequence of Lallmonee not having an Act of Birth, without which she could not legally be married, and the Act of Birth could not be given to her without a certificate from the Protector.

No charges brought against planters of licentiousness with immigrant women.

2871. We fortunately do not find charges in this colony brought against managers and overseers for cohabiting with immigrant women, the wives of labourers on their estates. Whether this may arise from the general immorality of the island, as noticed by Colonel O'Brien, in his letter quoted above (paragraph 2770), or there be other reasons for it, we have not been able to discover.

Overseer Dardenne beaten by immigrant for intriguing with his woman.

2872. One case, however, has come to our notice, tried in Pamplemousses, in 1865, in which an emigrant, Ramsing, having found the chief overseer, "Dardenne," in his hut, in connection with his wife, assaulted and severely punished him; but the Magistrate, finding that Ramsing had not been legally married, though he and his wife appeared to consider that they had been so, sentenced him to imprisonment for three days and a fine of $5, remarking that, had the complainant been legally married and the accused been killed, the former would have been justified.

1860 to 187

Returns from the Supreme Court of cases against Indians. 1st, Murder. 2, Unnatural crimes.

2873. In the Appendix we have a Return of the charges of murder tried against Indians in the Supreme Court from 1st January 1860 to 31st December 1871, together with sentence passed upon them, showing 23 cases in the 12 years; and also another Return, for the same time, of cases of unnatural crimes tried in the same Court.

Appendix L 13. Appendix L 12.

2874. It does not appear to us, whatever may be said on the part of the planters to the contrary, with these Returns, and the instances we have given above, that the con-

Condition of Indians in Mauritius not morally superior to condition in India.

dition of the labouring population in this colony is morally superior to what it was in their own country.

Want of means of intellectual improvement.

2875. So also with regard to their intellectual superiority, we are at a loss to discover what means the Indians have, after coming to this country, of cultivating their intellect.

Intercourse with Europeans in India likely to be as beneficial to Indians as their intercourse with Mauritius planters.

2876. We have found but two schools for adults, the one at "Bel Etang," in Flacq, and the other at "Astræa," in Grand Port; but both have since been closed. They had but 14 or 15 adult scholars between them. The former had been given up in consequence of its not paying, and the latter was closed on the departure of the schoolmaster for his native country, and thus (for children we shall treat of in another place, see Chapter XXVIII.) if the immigrants, after a few years' residence in this colony, appear to the planters and those employing them to be more intelligent, we have no hesitation in saying that exactly the same would be the result in their own country, from a prolonged intercourse with Europeans.

2877. The men have not acquired really more knowledge. They had as much knowledge of their work, and of what concerned and interested them, when they came to this country as they have now. The only difference is, that after the lapse of time they understand what is said to them by Europeans, or the Europeans have acquired their language, and, consequently, intercourse between them is facilitated; while the planters may perhaps think that the immigrant who has acquired a knowledge of their Créole patois, and can make himself understood, which he could not do two years ago, is intellectually superior to the newly-arrived immigrants.

Indians in much the same state in Mauritius as in India.

2878. In other respects the Indians appear to us intellectually very much in the same state that they are in their native country.

Conversions to Christianity.

2879. We have been unable to ascertain the number of them that have been converted to Christianity.

Christianity among the Indians.

There is a church, not yet completed, in Port Louis, in which they have service in Tamil in the morning, and Hindoostanee in the evening on Sundays, attended by a small, but apparently devout, congregation, with a service very well performed by an Indian and a German minister. Besides this, there is St. Mary's Chapel in Port Louis, and Indian services in all the district Protestant churches; and in the Roman Catholic churches the services are, of course, common to Indians as well as others.

Roman Catholic chapel on "Stanley."

2880. On "Stanley" Estate we saw a Roman Catholic chapel built for and by the immigrants in their camps; but, on the other hand, on "Stanley," as well as on several other estates, there are Hindoo temples.

"Hindoo" temples.

There is also a large Hindoo temple in the suburb of Port Louis, on the Nicolay Road, of which Rajaruthnum is manager, and another at Terre Rouge, of which Sinnatambou is manager. At this latter temple the festival of the goddess "Yellamah" is annually celebrated in the months of August and September.

Festival of "Yellamah."

We did not visit the temple during the festival, which lasted ten days, but we were given to understand that the scenes exhibited there differed very little from what might be seen at the festival of "Yellamah," at any temple of the goddess in the southern Mahratta country.

Though many of these temples are well and solidly built, and equal to the majority of those built in country villages in India, the idols in them are very inferior, some of them being as rude as the wooden ones which are to be seen in Maori temples in New Zealand. In fact, we do not recollect having seen a single temple in which there was an idol carved in an artistic manner; but, under a tree on the estate La Barraque, in Grand Port, there was a statue of Hooniman, artistically carved in black stone. We could not ascertain where it came from; but neither the stone nor the carving appeared to be the product of the island.

The Mahommedans.

2881. The Mahommedans have four mosques in Port Louis. We are not aware of any mosques existing in the districts. We must not be surprised at this, as the majority of Mahommedans are merchants, and reside in Port Louis, the minority being labourers on estates; for while the Hindoos, according to the Census of 1871, amount to 132,652, the Mahommedan population amounts only to 41,575, being 31·3 per cent. of the Hindoos. On the other hand, though the Mahommedans are in the minority, the only native festival generally observed in the Island, and that, strange to say, among the Indian immigrants, appears to be the Mahommedan festival of the Mohurrum, or, as it is termed in Mauritius, the "Yamsè."

The Mohurrum.

2882. This festival, we understand, in former days was honoured by the presence of the Governor, the military authorities, and many civil functionaries; but of late years it has very much diminished in splendour, not only from not being countenanced by the personal presence of the authorities, but because, instead of there being Taboots or Ghoons (as they are termed in Mauritius) only in Port Louis, they are now to be found

on almost every estate, being supported far more by the Hindoos than by the Mahommedans.

Pagan exhibition at "Stanley."

2883. We were present at a festival on the "Stanley" Estate, the property of Mr. Antelme, on the 2nd January 1873. This festival, though apparently celebrated by the Hindoo in honour of the "Bonne Année," was thoroughly Pagan in its nature, and far more resembled the "Hoolie" in India than any New Year festival in a Christian land. The votaries paraded with music and long skewers, intended for swords, thrust through different parts of their skin, and finally completed the disgusting orgie by running over, or by some (apparently more intoxicated than the rest) walking in an unconcerned manner over burning ashes.

In fact, excepting the obscenity and obscene pictures, the throwing the "Goolalee," or red powder, over everybody they meet, which enhances the disgrace of that festival in India, the scene at "Stanley" might well have been taken for the vernal festival of the Hindoos at home.

Burial-grounds.

2884. Both the Mahommedans and the Hindoos appear to bury their dead in the same burial-ground; and we do not find that either the one or the other religion has appropriated a ground to itself, though overtures have been made by the Mahommedans to have a place set apart for themselves in the "Bois Marchand" burying-ground.

They appear to hesitate in carrying it out, in consequence of their being called upon to pay for the ground.

Burning the dead.

2885. Attempts have been made by Hindoos to burn their dead, and permission has been granted at Grand Port for their doing so.

Appendix I. 16. Procureur-General's letter, No. 252.

The last occasion was in April 1869; but it having been reported to the Procureur-General, he, on the 18th May, requested the Magistrate in future to abstain from granting such permission to Indians.

The Magistrate reporting it mentioned that on former occasions

> "great disorder was the result of the assembly, the Indians having indulged in "drinking during and after the ceremony, and a struggle afterwards took place "among them, in which they committed very reprehensible things."

2886. It is not probable that among the natives who emigrate to this colony there are many, if any, with whom it is a point of religion that their bodies should be burned, so probably none of their prejudices are injured by its being prohibited; but otherwise it would be a matter of regret that so easy and complete a mode of disposing of the dead, which ought to be done in the country, at a distance from houses and the inhabited parts, should be interfered with in an island so small, and in which space free from impurities is so much required.

General conclusion not satisfactory.

2887. In all of this, however, we see nothing to congratulate ourselves upon the intellectual superiority acquired by the Indians by emigrating to Mauritius.

Chapter XXVII.—*Social Condition.*

Wealth.

2888. We will now proceed to consider the social condition of the immigrant as regards the wealth he possesses.

Comments of the Chamber of Agriculture upon the Draft of Indian Act, No. 13 of 1864.

2889. We have already mentioned (Chapter XXV., paragraph 2497) that in their letter of the 30th December 1863 (enclosure in Governor's despatch to Secretary of State, No. 7 of 5th July 1864) the Chamber of Agriculture, in commenting upon the draft of the Act passed by the Government of India as 13 of 1864, said that they were not prepared for the violent innovations therein contemplated

Minutes of Council, page 228.

> "on a system which has been in force for so many years, and which has brought so "many thousands of immigrants to enjoy health, comfort, and prosperity in this "Island, of which, we doubt not, His Excellency, when he has had time to make "himself more fully acquainted with the facts, will be able to bear testimony."

Comments of the Immigration Committee of Council upon the Draft of Indian Act, No. 13 of 1864.

2890. The Immigration Committee of Council, on the 28th December 1863, in their comments upon the draft of that Act, declared that by the Act

> "not only will the material prosperity of the colony be seriously compromised, but "the immigrant will be debarred the undoubted right he has of bettering his own "condition."

Sir Henry Barkly's opinion in 1866 as to the advantages of emigration to the natives of India.

2891. Again, on the 4th September 1866, when Sir Henry Barkly might have been expected to be well acquainted with the state of the immigrants in Mauritius, he wrote to the Secretary of State upon the subject of emigration from Bombay,

Despatch No. 210 of 4th Sept. 1866, paragraphs 5 and 6.

> "the result, so far as the Coolie is concerned, will be simply to prevent him quitting "Bombay for a healthier country and carrying his labour to a better market."

And, he added, concerning the system of recruiting, that the new Act had driven the intended immigrant into the hands of the contractors,

"instead of leaving recruitment in the hands of return Coolies, whose aim was to "induce their friends and relations to come and share the advantages of better "wages and exceptionally favourable legislation."

And he went on, in a passage already quoted (paragraph 2499), to draw a comparison between the Indian in his own country and in Mauritius, very much in favour of the latter, and concluded his observations with the statement that, when he is free to return to India, he for the most part prefers to remain a resident in Mauritius.

Views of the Chamber of Agriculture.

Pamphlet, page 35.

2892. At the present day Dr. Icery, in his pamphlet, says,

"I am sure I interpret your thoughts for, equal to, and, I may say, above the re- "spect we entertain for the laws inscribed in our Code, we have all here respect "for that moral law which calls upon us to endeavour, by every practical reason- "able means, to improve the condition of the men whom we have invited from their "own country to fertilize our fields, and to maintain the prosperity of the colony. "It is by persistence in this equitable sentiment, as well as through the wise and "just spirit, of which the authorities of the colony have given proof, that the "Indian immigrants are to-day placed in a condition very greatly superior to that "which they had in their own country.

"Such a result could not be accomplished in a day. It has been the work of "time, and a consequence of the accord which has always reigned between the Go- "vernment and the planters, an accord which, thanks to the goodwill of all, has "permitted the attainment of successive improvements, of which, legislation hur- "riedly imposed, would have been powerless to have obtained the realization."

2893. We have seen how the planters have performed their parts towards the immigrants in the Chapter upon *Work and Wages*. We will now proceed to consider the "Wealth" which the immigrants have amassed, and the mode in which it has been done.

2894. From the Estates' Returns we find there are 201 estates on which the immigrants have stock. The stock consisting of

5,669	cattle,
123,228	fowls,
12	sheep,
25,724	goats,
22,780	pigs,
4,759	other stock.

No returns from some estates.

Some returns not definite.

This includes mules and horses; and in some cases cats, pigeons, Guinea-pigs appear to have been included to swell the account. From seven estates we have been able to obtain no information at all; and from others the Returns have been "Fowls innumerable."

Returns not tested.

In one case, "St. Antoine" Estate, the Return is made of 300 pigs, with a note that in the month of February there were 660.

2895. Of course we have not been able to test these Returns, and therefore give them for what they are worth, which, if they prove nothing else, at any rate give a very good reason for some unlawful absence by labourers on those estates, where they work for ten hours, including meal time, every day except Sunday, which single day would not of itself suffice for tending animals, supposing these Returns to be correct.

Free pasturage.

2896. To feed these animals, on 199 estates, it appears from the Returns they are allowed pasture free, and on four estates pasturing cattle is not permitted.

Free garden ground. Prohibition on nine estates.

2897. In like manner, on 194 estates garden-ground is allowed to the immigrants free, though they do not always avail themselves of it; and on nine estates it is prohibited.

Gold and silver ornaments not included in the wealth.

Sirdars' wives bejewelled.

2898. This does not include the wealth possessed and worn upon the persons of the women in the shape of ornaments, of which it is impossible to assess the value, though on the estates we have seen several women, mostly belonging to Sirdars, literally loaded with ornaments, which, we conclude, the laws would declare the property of the man, as the probabilities are that the legality of the marriage would not be established.

Houses.

Tin cans of shabbiest kind.

2899. With regard to the houses, our opinion of them will be found in the chapter upon "Dwellings;" but, we may remark, that though tin cans of the shabbiest and frailest kind, which would not be seen in the poorest ryot's house in India, are generally used by the immigrants in Mauritius for their food and water, we yet have seen on some estates, copper and brass lotahs and platters, much the same as we should see in houses of people belonging to the same class in India.

Live stock and ornaments not only the property of labourers.

2900. But the live stock on the estates, and the ornaments upon the women, are not the only property the labourers on estates possess.

Wealth.

Savings Bank's Report.

Thirteen hundred and fifty-eight (1358) agricultural labourers, according to the Savings Bank's Report for 1871, had deposited £32,142 10*s.* 3*d.* in the Government Savings Bank, giving an average of £23 13*s.* 9*d.* per man.

Depositors mostly persons not on estates.

2901. But of these thirteen hundred and fifty-eight, several are included who are not labourers on estates, for, on examining the Return received from the Savings Bank, giving the names of the labourers, arranged according to districts in the colony, we find, for instance, that in Moka, of the one hundred and fourteen depositors returned, forty-one only appear as belonging to an estate. So in Black River, they give sixty-six depositors, of whom twenty-four only appear as belonging to sugar estates. And in Port Louis, of the one hundred and one depositors, of course, there is not one belonging to a sugar estate, though some are labourers in the service of the dock and gas companies.

Appendix M 2.

Deposit book entrusted to Accountant of some estates. "Trianon." "Bénarés."

Confidence in the proprietor of "Bénarés."

Difficulties in depositing and drawing money.

2902. On some estates the deposit-books are entrusted to the Accountant by the immigrants, as at "Trianon" and one or two others; while at "Bénarés," not only do the labourers entrust their deposit-books to the Accountant's custody, but, further, make deposits, not for the Savings Bank, but for Mr. Constantin to take charge of. Thus, while twelve labourers and one Sirdar had deposited money in the Savings Bank, thirty-five labourers and five Sirdars deposited money with Mr. Constantin. This not only shows their perfect confidence in the proprietor, but also that they avail themselves of the greater facilities furnished by depositing their money with their master; for, though he allows them no interest upon their deposits, while the Savings Bank gives interest at 5 per cent. per annum, or ½*d.* per mensem upon every 10*s.*, yet the difficulty attending the depositing into, and drawing money from, the bank, proves a great bar to the Indian immigrants availing themselves of it.

Branch Banks.

Distance of Savings Bank a difficulty to Indians.

Loss of 1 day's work.

Work and wages.

Need of holidays.

2903. For, although branch banks have been appointed at every district court (where they are held by the Cashier), no person can make a first deposit unless he appear in person; and as the district courts are ten, twelve, and thirteen miles from some estates, indeed, nineteen miles from one of them, and many of them five or six miles off, no man can go to make a first deposit with the district Cashier without losing at least a day's work; for, as we have noticed before, in the Chapter upon *Work and Wages* (paragraph 1602, there are no holidays given on an estate of which a man can avail himself in order to make a deposit in the bank, and that may in some measure account for the agricultural Indian immigrant's assuming that the Savings Bank's Return of depositors is correct, having only increased from eleven hundred and ninety-four in 1861, to thirteen hundred and fifty-eight in 1871.

Unnecessary to go into rules of the Savings Bank.

2904. The greatest number of agricultural labourers, according to the Savings Bank's Return, who ever had deposited money in the bank in one year, was in 1869, when there were fifteen hundred and eighty-two depositors.

2905. It is unnecessary for us to go into the details and rules of the Government Savings Bank and its branches.

Depositors on "Trianon," "Providence," and "Bénarés."

2906. We have, however, inquired into the state of the depositors on the three estates, "Trianon," "Providence," and "Bénarés," which we ourselves have visited.

2907. On the first estate, "Trianon," we found twenty-seven labourers and two sirdars had accounts with the Savings Bank. Of these, seven had not completed their five years' industrial residence; all the others were "Old" immigrants.

Appendix M 3.

Of those seven,—

Depositors from "Trianon." Mulloo.

Mulloo deposited £28 in the bank, his yearly wages being £5 10*s.* 1*d.* He does not appear to have kept any stock, but he worked hard, for he was only two days sick and thirteen days illegally absent.

Soomar.

Soomar, a Guardian, had deposited £4, and had made a previous deposit of £6, his wages during the five years' intermediate time amounting to £6 12*s.* He kept no stock, but he had never either been sick or absent.

Bussye.

Bussye deposited £6, his wages yearly being £5 5*s.* 7*d.* He kept no stock, and had been absent only one day.

Chuttersing.

Chuttersing had a previous deposit of £5, and a recent deposit of another £5. His wages during the intermediate time were but £3 5*s.* 8*d.* He had three goats, but had been sick only four days and illegally absent eight.

Boorun.

Boorun deposited £10, his wages being £5 12*s.* 11*d.* annually. He had been thirteen days sick and thirty days absent, and he had no stock.

Hurkoo.

Hurkoo deposited £8. His wages were £5 6*s.* 7*d.* a year. He had no stock and had been sick one day and absent six days.

Mudhut.

Mudhut deposited £3, his annual wages being £5 0*s.* 7*d.*, he having no stock, and having been sick six days and absent three days.

2908. From this Return there is every reason to conclude that there are other means

available to immigrants of making money besides the stock they hold and the wages they receive on the estates.

"Providence." 2909. On "Providence" Estate four men and three Sirdars have accounts with the Savings Bank; but all these are "Old" immigrants, and have cows and other stock.

Female sirdars. Sirdars and usurers. 2910. At "Providence," of the three Sirdars enumerated, two of them are females. One has £93 16*s.* 11*d.* in the bank, and the other £63, besides cows, goats, and pigs; but there is no occasion for scrutinizing their accounts, as Sirdars appear, by general consent, to have other means than their wages of making money.

Depositors from "Bénarés." 2911. On "Bénarés" too, all the labourers who had deposited money with the Savings Bank were "Old" immigrants, as were also all those who had lodged their money with Mr. Constantin, with the exception of Ramgoolam, who arrived on the estate on the 12th October 1870, and had lodged with him $15, his wages having been $28·88 cents, and he having been twenty-three days sick and eight days absent. He had no stock.

Ramgoolam.

Hossenboccus. We may also mention that Hossenboccus, who had been fourteen years in the country, had £30 in the Savings Bank and $ 52 ($19 and $33) with Mr. Constantin.

Objections have been made to the Savings' Bank, arising from the difficulties and impediments thrown in the way of withdrawing money from it: the precautions are no doubt necessary, and it probably would not be safe to suggest any relaxation of them, though they must necessarily tend to prevent some people from availing themselves of the advantages of the Savings Bank, which they otherwise would have done.

2912. On the 13th of February 1869, Mootooveeren petitioned Government for an order to enable her to withdraw on her own and her children's account £10, which remained of a sum deposited in the Savings Bank by her husband Coolen, who had died some two months before; the manager of the bank reported that Coolen had deposited £15 0*s.* 10*d.* in the Savings Bank, and had made a will in favour of his wife and child, had died a few days after, and consequently, the widow was fairly entitled to that money under the will: but, that in case he should subsequently have made another will in favour of some one else, the Savings' Bank Ordinance required that a delay of three months should elapse after the death of the depositor, before the money deposited could be withdrawn.

Appendix M 38 and 39.

2913. A few days after Coolen's death, his widow appeared at the bank, accompanied by other Indians, to claim payment of the deposit. The manager, however, had strong doubts from the appearance of the persons who accompanied her, that any money he might give would not remain long in her possession; he therefore desired her to call again alone on a future day, which she did, and the manager, judging from her appearance that she required some assistance, ordered £5 of the deposit to be paid to her, and directed her to call again on the expiration of the three months, when the succession could be arranged, it being his intention in the mean time to consult with the Protector of Immigrants upon the subject: the Governor accordingly informed the petitioner, that the matter was in the hands of the Protector of Immigrants, who would see that the portion due to petitioner and her child would be paid to them.

2914. There are two petitions given in the Appendix, one from Beeharry dated 30th June 1869, and the other from Sandhen, dated 6th July 1869; the former claiming property in the Savings Bank left by his first cousin Samoolah, and the latter claiming money left by his brother Callec, which show the difficulty petitioners have in proving their relationship, and also the inutility of the Immigration Office as at present administered in any attempt to discover the relationship of Indian immigrants.

Appendix M 35 and 40.

It may possibly be too much to expect that the Immigration Department should possess information from which they could at once declare the men were first-cousins; but there ought not to be any difficulty in their discovering whether men were brothers, even though these did not come to Mauritius at the same time and in the same vessel.

2915. In difficulties of this kind arising among the inhabitants of Mauritius generally, the authorities are assisted by family councils; these are composed of six people with the district Magistrate, or the Master of the Supreme Court, as president. The members are, we are informed, chosen three from each side of the family (father's and the mother's); or, should there be no relations, three intimate friends of each side of the family, and the master and Magistrate have the right of challenging any member of the council, though we understand no very strict enquiry is ever made as to their connection with the family. We find, however, from a report of the Protector of Immigrants, dated the 10th of July 1869, upon the petition of Nagapah, a job contractor, who represented that his minor brothers and step-brothers had not a sufficient number of relations in the colony competent to form a family council; the Protector of Immigrants when called upon to form a family council refused to do so, and under Ordinance 31 of 1867 took upon himself, to act as their guardian. In respect of the guardianship of minor immigrants a family council is not required, the law having appointed the Protector guardian to Indian orphans; but difficulty might be experienced in other cases, according to the law of the colony a family council is required, if the choice of such a council be closely restricted to relations, either of the paternal or maternal house, or to intimate acquaintances.

Wealth.

Explanation of the means men have for obtaining money.

2916. In explanation of the means men had of obtaining money beyond their wages, the manager of Bénarés informed us:

1st. That some men absent themselves from work and go and work elsewhere, looking after cattle, working in the garden and in other ways for other men, who, to remunerate them for it, pay them higher wages than they get on the estates.

Indians' wives cook for other men.

2nd. That, as we have said before, men allow their wives to cook for other men, for which they receive a rupee a-head a month.

3rd. That men buy a cow or ox for perhaps $10, and after feeding it upon canetops and lees of sugar, sell it in a short time for $20, without spending any appreciable sum upon it.

Keeping of animals—tending to explain men's absences.

2917. This keeping of animals, having to cut forage for them, and also cutting firewood for themselves, will, as we have said, account in some degree for their absences.

2918. We have already noticed the money made by the women and by selling, or as it is more commonly called, obtaining dower for their daughters' marriage.

Money made by women.

Remittances.

2919. Upon the recommendation of Mr. Marsh, during his mission to India in 1865 (letter dated 13th July 1865, paragraph 48), an arrangement was sanctioned, similar to what existed in favour of the emigrants to Natal, of allowing remittances of money to be made from the colony to Madras by the immigrants through the Emigration Agency. This Mr. Beyts, in his remarks upon Mr. Marsh's letter, recommended, as it was desirable to encourage remittances through the medium of the Government Treasury, and was likely to lead to the better attainment of the savings remitted or taken to India by returned Coolies.

System of remittances to money sent by those remaining in colony.

2920. Availing ourselves, therefore, of this means of ascertaining the wealth of immigrants on estates, we sent for the remittance lists, so as to ascertain the amount of moneys sent by the immigrants of this colony to India, either to be delivered to them on arrival, or to be paid to an assignee there; for the remittance list in this colony has never been restricted to the remittances of Coolies, but all Indians returning to their country have also been permitted to benefit by it.

Protector's Letter, 15th March, 1867. Appendix M 4.

Treasurer's Return. Appendix M 7.

2921. The sums have been very various, as appears from the Treasurer's Return of moneys paid into his office by immigrants for transmission to India:—

In 1866	£3186	8	0
1867	5843	12	0
1868	4548	6	0
1869	1705	16	0
1870	2032	16	0
1871	1993	12	0
1872	4734	8	0

and as shown by the Protector's Return.

2922. Mr. Elliott has since sent us a report of the Coolies who have returned to India in the three last ships; one for Madras, another for Calcutta, and a third for Bombay, showing the following amount of savings which the Coolies declared to him they were taking from the Island in coin, drafts, or remittance notes—

"Nimrod." By the ship "Nimrod" for Madras, on the 22nd July 1873, 190 Coolies) including men, women and children), in coin £1161 6*s.*, and remittance notes £133.

"Allum "Ghier." By the "Allum Ghier" for Calcutta on the 14th August, 269 (including men, women and children), in coin £4291 17*s.*, by draft £120, and remittance notes £509 8*s.*

"Fathe Salem." By the "Fathe Salem" for Bombay on the 5th September 1873, 160 Coolies (including men, women and children), in coin £2368, and remittance notes £169.

Not all agricultural labourers on estates. Enquiries.

But these not being all agricultural labourers on estates, we have made enquiries, as far as we were able, in order to ascertain what sums were remitted in the year 1872 by actual agricultural labourers on estates, and also to account for their having amassed it.

Remittances on estates. Return for 1872.

2923. This Return shows, rupees 47,344 (£4734 8*s.*) remitted to India by ninety-eight immigrants, of whom thirty-five only were labourers on estates, and they remitted but 8,940 rupees (£894), a small proportion upon the whole sum sent.

Details.

2924. Of these thirty-five, we have ascertained that only four remitted to anybody but himself, and that in no case was a remittance made by a man who had not served his

Wealth. Remittances.

full time of industrial service, and that the highest amount remitted by any one of them was £80, the others varying from £2 to £40.

Means by which the money remitted was acquired. Usury, &c.

2925. The [illegible]y which they acquired it have been differently accounted for: some by usury, some by keeping animals, some by handicraft work: one was schoolmaster, and five could not be accounted for.

But by comparing their earnings with the Estates' books, the sums did not exceed the money they had earned by their labour.

Money acquired by a disreputable woman.

2926. One woman remitted £16, but she proved to be a widow, reputed to have money, and one who after her husband's death increased it by leading a disreputable life.

2927. Of those who made their money by usury, we find an instance how money can be made.

Andankee, of "Petite Rosalie" Estate.

Andankee, the "Caissier."

Andankee, a labourer on "Petite Rosalie" Estate, took £50 to India by remittance through the Immigration Depôt: he went by the nick-name, on the estate, of "Caissier;" he made his money by usury: he appeared at the pay-table on pay-day and almost every other Indian on the estate had money to pay him: the rate of interest which he charged was threepence-halfpenny a rupee per month;* he lived on his ration of dholl, and sold his rice, salt, and oil.

Mannick, of "Goodlands" Estate.

£100 lent to manager.

Money lending.

2928. So Mannick on "Goodland's" Estate did not work as field-labourer, but was employed about the yard and rarely absented himself.

He once lent the manager of the estate £100.

2929. So also Lutchmindoss and Mohundoss, names which sound very much like those of a money-lender, lent their money at sixpence per rupee per month,† and they kept animals as well as lent money.

£12 remitted by an Indian who kept an evening school.

2930. There is one, however, Akhay, who remitted £12, and who made it by keeping an evening school for adults, at "Astræa" Estate, as we have mentioned above, which however, was attended by six or seven men, and brought him in one rupee a month per head.

Remittances made by representatives of nearly all trades in the colony.

2931. Of the other men who have made remittances, there are representatives of almost every trade in the colony, and the amount remitted by them will be found to vary from the £12 remitted by the labourer on the estate, to £440 remitted by a stable keeper, £140 by a lime-burner, £160 by a carrier, £130 by a proprietor, and £410 by a wood-seller, £145 and £200 by traders; so that when we hear that £4734 8 were remitted by the immigrants to India in the last year, we must not imagine that the remittances, or even an adequate proportion, were made by the labourers on estates, though they were made by Indians, and probably by men who had begun as labourers, but whose wealth was made since they were enabled to follow other pursuits.

Immigrants who have completed their industrial residence.

Census, 1871. Taxes paid by immigrants.

Callings of Indians.

2932. With regard to the immigrants who have served their industrial residence, we have a table given in the Appendix showing the occupation of the Indian population, furnished to us by the acting Treasurer; a statement of the number of immigrants who have paid direct taxes, that is, taxes upon carriages, carts with springs, carts without springs, horses, mules and dogs, and also another of those who have been assessed for sanitary rates.

Appendix M 11.

Appendix M 9.

These will show that the Indian population take out 58 per cent. of the number of licences, and pay 32 per cent. of the amount; they also show what the callings of the Indian immigrants generally are in the colony.

2933. Thus in the learned professions there is but one, and that man is a *Battiara*, or general agent.

Indians in the Civil Service.

Of the 2013 civil servants, there are 442 shown in the Census Report as Indians, that is, persons of unmixed Indian origin, and we annex a list of 110 persons now in the public service which we have received from the Colonial Secretary as a list, to the best of his knowledge, of all persons in the service of Government who are of Indian origin; but he informs us that, to the best of his belief, none of them came here originally as immigrants; police constables and peons are not included in the list; and we are therefore at a loss to account for the 442 Indians in the Government service, especially as we find that no record exists from which authentic certified lists, such as we require, could be furnished.

Indian, not necessarily immigrant, tradesmen.

2934. Of high-class traders there are but 13, none of whom are immigrants: of retailers of spirits 186, and hotel-keepers 21; this does not mean what we understand in England by an hotel-keeper, the probability being that not one of the 21 persons has a bedroom to dispose of or fitting shelter even for a horse; but they are mostly shopkeepers who take out an hotel-keeper's licence to enable them to keep their shops open till a late hour, and to sell spirits on Sundays: petty traders 1963; the greater part of that trade, therefore, is in their hands.

* Viz., 170 per cent., reckoning the rupee at 2*s*.

† 300 per cent.

Wealth. Artizans.

2935. Artizans number 1304; the greater part of this work is also in their hands, while of the hawkers, 5270 are Indians, 400 only belonging to the general population and Chinese.

Fishermen. General Population, and Chinese.

2936. On the other hand, the general population and Chinese number 390 fishermen, whilst the Indians number only 111.

2937. Of licences to kill game, none were taken out by Indians, though planters and proprietors take out licences enabling Indians, as their gamekeepers, to kill game; nor have any Indians taken out licences as distillers, or as compounders or rectifiers of spirits.

Few Indian fishermen.

Indians who possess vessels, flying boats, &c.

Municipal tax.

2938. Although the Indian fishermen appear so few on the Returns, the Colonial Customs Report shows that there is one Indian owner of a vessel; there are forty possessing plying boats, and one is owner of five lifting lighters. For these latter no duty is paid.

2939. The proprietors of the plying boats are not immigrants in the strict sense of the term, but Bombay men, who have come here as sailors and traders. These boats pay no licence or tax to Government, but they pay £4 16*s*. tax and 10*s*. for every oar-man to the Municipality.

Population Return.

Only two large estates belong to Indians.

2940. The population Return shows eleven planters amongst the Indians and 314 independent proprietors and landowners. Only two large estates are held by Indians: the one in Pamplemousses, "Mon Choix," belonging to the heirs of Ramtohul, and the other, "Bon Espoir," Rivière du Rempart, held by the heirs of Tirimondy.

These we have mentioned more particularly in the visits to estates.

Abbé Lacaille's measurement.

2941. In the Appendix will be found a statement showing that, according to Abbé Lacaille's measurement, the Island of Mauritius contained 432,680 arpents of land, or 451,300 English acres.

Appendix M 13.

Landowners. Division of land. By whom held.

This is divided into—

Crown lands, 34,560, of which 33,360 are uncultivated;
Roads and railways, 33,840;
Estates, 365,341;
Market gardeners, 5491;
Towns and villages, 12,500;
Land in other people's hands, including the Curatelle, 29,568.

Surveyor-General's opinion.

2942. Mr. Connal, Surveyor-General, informs us that he does not think there is any land which is not in the hands of somebody, as land does not long remain vacant. Somebody is sure to step in and take possession of it, with or without a title.

2943. Of the Crown lands we find that 577,950 square yards, worth £1060 4*s*. 6½*d*., have been sold to Indians between 1862 to 1871, and that 155,523 square yards have been let to Indians at an annual rental of £92 2*s*. within the same period.

Appendix M 15.

Tables from Receiver of Registration Dues.

Indians' investment in real property.

2944. From the further tables received from the Receiver of Registration Dues, we have ascertained that a sum of £87,568 has been invested by 3100 immigrants in real property from 1860 to 1871, and that a further sum of £5907 has been invested by Indians whose number could not be ascertained, making a total of £93,475 spent upon real property by Indians during those eleven years.

Appendix M 19.

Purchase of land by Indians in Port Louis.

2945. Another table shows us that from 1864 to 1871 342 Indians bought land from other parties in Port Louis at sums varying from £10 and under to £600, and that four Indians have sunk sums varying from £841 to £2225 in purchase of land in the town of Port Louis.

Land purchased by Indians in the country districts.

2946. In the country districts the purchase of land by Indians during the same eight years was very considerably more than in Port Louis; 1877 Indians bought pieces of ground for sums varying from £10 and under to £600; while ten Indians purchased land for sums varying from £960 to £9800.

Ground leased by Indians to other parties. Ground leased by Indians from other parties. Estimated value of land leased.

2947. Two thousand five hundred and eighty-three Indians leased ground to other parties from 1864 to 1871 at monthly rentals varying from 4*s*. and under up to £35, and 2673 Indians leased land from other parties at the same rate during the same period.

Appendix M 20.

Four Indians, however, have rented ground from other parties at a rental of from £37 10*s*. to £115 4*s*. per month.

The estimated value of the ground thus leased from and by Indians during the period, 1864 to 1871, is £122,000.

Figures are only approximate.

2948. We must, however, remark that the above-quoted figures from the Returns of the Receiver of Registration Dues are only approximate, as no distinction is made between the different sections of the population in the Receiver's Office, and the ticket numbers of immigrants are not always mentioned in the papers presented for registration.

Wealth. Mr. Finniss's covering letter.

Letter from Receiver of Registration Dues, No 77. 30th November 1872.

2949. Mr. Finniss, in his covering letter forwarding these Returns, says:

Wealth. Mr. Finniss's statement as to Tables.

"I have endeavoured, as far as I have been able in the tabular statements "appended to each Return, to separate the immigrants from the non-immigrants "by extracting the items which I believe not to concern the former.

"These items I have distinguished by the mark × in the Return. But being "guided entirely by my own personal experience and appreciation, I cannot "guarantee the correctness of the results, although I believe them to be a fair "approximation."

Registration dues.

2950. Table D shows the amount of registration dues paid by the entire population for the year 1871. Mr. Finniss has made an estimate showing the amount paid by the

	£
General population to be	17,580
and	
By the Indians	1,000
Making a total of	£18,580

Indians contributed £1000 in 1871.

Appendix M 16. Letter No. 44.

Sales by auctioneers.

Item B, says Mr. Finniss, includes—

Mr. Poupard's estimate.

"the duties on sales by auction, which I estimate at about £1000. One of these "gentlemen (Mr. Poupard), the largest seller of mules and horses, which are the "principal source of revenue under this item (immigrants, as a rule, do not purchase "other property at auction), at my request, consulted his books and informed me "that he estimated that the immigrants in that year were purchasers of about a "quarter of his sales.

"Taking this as my basis, I arrive at the figure of £250."

Land taken possession of with all legal form.

2951. The above Return relates only to land which has been moreover taken possession of with all legal form. There is much land besides this transferred in this colony by what is termed "Sousseing-privé." This may be drawn up by either of the parties to the deed, by an attorney-at-law, or a general agent; but to be valid and legal it must contain the names, surnames, domiciles, and professions of the contracting parties, the conditions upon which one party sells and the other party takes the land, must be dated and signed by the contracting parties, and there must be as many original copies of the deed as there are contracting parties.

"Sousseing-privé."

Requirements of "Sousseing-privé" to be valid.

It is what the civil code terms a syn-allagmatical act, and it becomes a nullity unless there are, as mentioned above, as many original copies of the deed as there are contracting parties.

Cost of drawing-up. Notary's tariff.

2952. An act of this kind drawn up by the parties themselves of course involves no expense. When drawn up by an attorney-at-law the cost is "de gré-à-gré," that is, not fixed according to any tariff, but left to be settled by convention, but if drawn up by a Notary Public, the cost is regulated by a special tariff (Ordinance No. 19 of 1856).

Notarial privileges.

The original or "Minute" from which the act is drawn remains in the hands and custody of the notary, the *Expédition* or copy being paid for at so much per folio as fixed by the above-mentioned Ordinance. The tariff is considered very high, especially with reference to small and insignificant acts, which has generally prevented immigrants availing themselves of the services of a Notary Public. They, consequently, draw up deeds themselves, or employ some other persons to make them.

Tariff considered very high.

Necessity of Registration.

2953. These deeds need not be registered, whilst the notarial acts must be, but these *sousseing-privés* may be opposed by third parties, and, therefore, registration of all deeds is necessary as soon after their being signed as possible, so that the date of registration might appear upon them, which is considered the "date certaine,"* the true date of the transaction.

Consequences to the Indians in trusting to "Sousseing-privé."

2954. The consequence of trusting to these "sousseing-privés" is that the acts are incomplete and invalid, and the immigrant who trusts to them, in which, however, he does not differ from the general population, not only loses his money, but exposes himself to unnecessary and tedious litigation.

The same consequences arise for the general population.

2955. A case of this kind has been brought to our notice by Beeharry, who appears to have purchased a piece of land near "Industrie" Estate, and upon the land which he considered he had purchased, he had planted brushwood and cus-cus.

A case in point. "Industrie" Estate. Beeharry's case.

One of his neighbours, Mr. de Latour de St. Ygest, claimed a piece of the land, and cut down the brushwood and cus-cus, for which Beeharry sued him. It appeared

Appendix M 22 to 25.

that a few months before, Mr. de St. Ygest had employed a sworn land surveyor to lay down the boundaries of the land, and that having respect to the quantity purchased by Beeharry, he laid the boundary stones for the proper quantity in a direction at right

* "Date certaine": legal date of a document with regard to third parties.—Explan. Ord. No. 19 of 1868.

angles to that which Beeharry claimed. Beeharry's deed not containing the specific boundaries except a "balissage" 12 feet wide (the piece of land had been several times in litigation with the proprietors of that estate "Industrie"), and the presumption of law being that the boundaries fixed by a sworn land surveyor are correct, unless proved to be erroneous, rendered Beeharry's claim (if a good one in law, which, however, it does not appear to be) if followed up, only a source of further expense.

Wealth.

Coally's case.

2956. So, likewise, the case of Coally shows another difficulty to which the purchasers

Appendix M 26.

Land at "Camp Diable."

of land in this Island are subjected. He held a piece of land in "Camp Diable," which is surrounded by "Riche Bois" Estate, the property of Mr. Hewetson, and possessed a right of way through Mr. Hewetson's property. This right

Right of way.

of way Mr. Hewetson, or rather his manager during his absence, stopped up, according to Coally's statement, with a view to oust him from the property. He, however, gained his cause, both before the Magistrate and also before the Bail Court.

Similar attempts by Mr. Hewetson on "L'Etoile."

2957. These are not cases confined to immigrants only, for a similar attempt was

Question, Vol. II. 1801.

made by the same party against a Créole lady, named Clavette, on another estate of his, called "L'Etoile," in Flacq, and with no better success.

Sookun's case.

2958. On the 25th of October 1867 the Surveyor-General laid before Government an

Appendix M 27.

"Acte de Vente" and a summons, together with a petition from two Indians, Booluk and Pundoo, who with another, named Sookun, had purchased a piece of land for $100. Sookun and Booluk were indebted to Ramen, and he obtained judgment against them, and in execution had his debtor's property, the land in question, "licitated."* An appraiser examined the land, and reported that it could not be divided in kind, and that he valued it at $125. It was then put up for sale at the bar, when no offer was made; but on a subsequent day it was knocked down to one Mulliapa for $25, the costs of sale ($206) being at his charge."

Legal costs in Mauritius.

The proceedings, the Procureur-General, Mr. Sholto Douglas, said,

"appeared to have been regularly taken, but the costs are scandalously high.

"The result of the licitation was that the purchaser paid to Ramen, as creditor "of Sookun and Booluck, two-thirds of $25, and that Pundoo, the party most to "be pitied, received only the remaining third."

Mr. Douglas adds:

"I am not aware that anything can be done on the matter now in behalf of the "Indians."

Case of Sunkur v. Tankoor.

2959. The most recent case, Sunkur *v.* Tankoor, shows either great defect in the law, or great fraud in carrying it out.

2960. Both plaintiff and defendant were Old immigrants, and Sunkur in his plaint before the Bail Court on the 14th of May 1873, alleged that having in 1864 purchased from Tankoor an undivided part of 10 acres of land at Pont Praslin, and the land having been sold by licitation, he, Sunkur, had not obtained his just share of the price, and that Tankoor still owed him $282·25 with interest and costs.

2961. Mr. Justice Gorrie, before whom the case was tried, in a judgment given on

Appendix M. 28.

the 14th of June 1873, entered very minutely into the details, tracing the procedure which had been adopted step by step. He characterized some as having been taken under abolished Articles of law; some as being unnecessary; some as having been done simply to increase the costs; and in regard to one step in particular, he found that provisions of Ordinance 19 of 1868, to cheapen and simplify the procedure connected with land transfer,

"had been treated as so much waste paper."

2962. The proceedings being purely technical, and connected with the system of land transfer under the French Codes and local Ordinances, do not come within our purview. It is sufficient for us to deal with the circumstances of the case, which are that certain immigrant labourers, having a claim for $142 upon a small landowner in the district of Pamplemousses, sold their claim to Tankoor and other Old immigrants, whose attorney proceeded forthwith, by an action of ejectment, to turn out the original owner.

2963. This was done at the cost of $703·95, the property being bought in by Tankoor and others, holders of the claim, for $3000.

2964. Sunkur, the plaintiff, then purchased Tankoor's share at a total price of $900; paying cash $575, the balance to be paid with interest at 9 per cent., whenever Tankoor proved he had paid his share of the original price, and Sunkur appears to have entered into his rights as owner of the one-fourth of the property.

But Tankoor never having paid what he stipulated of the original price, Sunkur

* The sale of property belonging to two or more joint owners.—Explanation of terms used in Ordinance No. 19 of 1868.

Wealth. Cost of legal proceedings. Sunkur v. Tankoor.

retained the balance of his purchase-money, and applied to the Master of the Supreme Court to have the ten acres held in common sold, and the price divided.

2965. This was done at an expense of $442·70, the purchasers being Tobalsing and Najoorheea, two of the co-owners, at a nominal price of $3390.

2966. No money was paid, and no division of even the nominal price was made among the owners.

2967. After this, in 1866, an application was made to a Judge in Chambers to appoint a notary to divide the price by a Deed of Partition, and the notary was duly appointed.

2968. While this appointment was still un-recalled, but before anything had been done by the notary, an application was made in 1869 to the Master of the Supreme Court to divide the price of the last $3390, which had been nominally tendered by Tobalsing and Najoorheea in 1864, by the proceeding called an "Ordre." *

2969. This was done at an expense of $345·84, but the Master did not actually divide; he only ruled that the co-owners should get their share according as might be determined by the Deed of Partition which the notary above-mentioned was to draw.

2970. Sunkur, therefore, got nothing by this costly procedure but to be referred back again to the notary.

2971. To the notary, therefore, all parties went, and a Deed of Partition was at length made, professing to fix the rights of the co-owners; but the notary is alleged to have made the mistake of assuming that Sunkur was bound to pay the balance of his price, together with interest at 9 per cent., although Tankoor had never paid the proportion of the original price which he had undertaken to do, in consequence of which the property was burthened with heavier mortgages.

2972. At this stage the judgment sets forth that

> "by overlooking the true state of affairs between the parties, the notary had at "one swoop reduced the share of Sunkur from $675·72 to $85·66; the cost of the "Deed of Partition, all of which, as well as those previously incurred, amounting "to $439·43, became charges upon the property."

2973. And this difficulty now presented itself:

At first there was a nominal price, but no formal settlement of the shares of the co-owners; now, after a settlement of the shares, such as it was, had been made, it was found that the price was wholly illusory, that Najoorheea was dead, and Tobalsing unable to pay, and that the sale by licitation had to be performed afresh. This was done by a proceeding called "Folle Enchère."†

2974. The first public sale having proved abortive, Tankoor now became the professed purchaser for the sum of $3150.

2975. We are told in the judgment that the law does not allow a new formal division of the price where a re-sale of this kind has taken place, but simply requires the master to make an adjustment of the amounts to suit the altered value of the new sale price, should it be different from the former.

2976. In this instance, however, the Judge found that

> "the rectification to all intents and purposes was a fresh "Ordre," and an "Ordre" "more expensive than the original of which it is a rectification.
>
> "The only real creditor in the matter was Charles Henry Smith, who had "obtained the assignments of the claims of the attorneys and notary, and also the "earlier claim of the same kind, in the name of Jean César.
>
> "All that the Master had to do was to call the creditors and the few joint "owners who had claims on the price with as little delay and expense as possible, "but the very reverse had taken place, and the wise provisions of the Ordinance "have been treated as so much waste paper."

2977. The costs of the re-sale and rectification of the division of the price amounted to $485·49.

2978. Although there had thus been a rectification, the error alleged to have been committed by the notary had not been rectified, not improbably, as the Judge says,

> "because the same attorney acted for Sunkur and Tankoor."

2979. Thus Sunkur in 1871, seven years after his purchase finds himself minus his $575 actually paid in cash, minus also his one-fourth share of the ten acres, which now

* The process by which the sale price is distributed among creditors according to the ranking of their claims.—(Explanation of terms used in Ordinance No. 19 of 1868.)

† Public re-sale, before the master, of an immovable property for non-execution by an adjudicatee of the conditions of his adjudications. Adjudicatee, the purchaser of an immovable property sold by public competition before the master.—(Explanation of terms used in Ordinance No. 19 of 1868.)

Wealth. Cost of legal proceedings. Sunkur v. Tankoor.

wholly belong to Tankoor, with only a "collocation"* or claim against the purchaser for $45·70.

2980. The charge upon the land valued at $3150, entirely created by legal costs, is at present $2139, and although an amendment of the last division of the price as between the two litigants has been ordered by the Judge, it is very doubtful whether, in the face of the transactions legally completed, Sunkur will be able to obtain justice.

2981. We have also ascertained that the professed purchase by Tankoor was not for himself alone, and that two of the original owners have still undivided shares of the land with him, and that a new sale by licitation is as necessary at the present moment to fix the rights of the co-owners as it was when these proceedings commenced in 1864.

2982. This decision has given rise to a good deal of comment in the newspapers, but the writers have not denied the fact that Sunkur, after purchasing for $900, the greater part of which he actually paid, a share in a property, should ultimately have to receive only $45·70. This, the 'Commercial Gazette,' of the 7th August 1873, declares to be a lamentable result, and one which the writer admits may well excite surprise. He, however, contends that most of the proceedings in this case took place under the old law, which is now no longer in force, and that in future sales the same thing cannot occur.

It is still, however, admitted that the system, even after the reforms recently made in it, is one that occasions a considerable amount of expense, which, when small properties are dealt with, is out of proportion to their value.

2983. But, as we have said before, the laws under which these transactions took place are equally applicable to the general population and to the immigrant; but with this case before us, we doubt whether, in changing their native country for Mauritius, the immigrants can be congratulated upon the manifest advantages they have gained.

Beebeejaun case.

2984. Another case, brought to our notice by Beebeejaun, shows how, in order to avoid the heavy expenses of litigation, the door is open to fraudulent dealings, and temptations are held out for the commission of fraud.

2985. On the 8th May 1872, an Indian woman, by name Sonah, duly authorised by her husband Doopun, entered an action against Dabeesing, an Indian Créole of Mauritius, for the recovery of $235·24, due as her share of the amount received by Dabeesing from the owner of the "St. André" Estate, for sugar conveyed from that estate to Port Louis by the carts and mules of both Sonah and Dabeesing. The Court declared itself incompetent to try the case, which was one of a "Société en participation," in which the amount to be divided between the parties exceeded that for which the Court had jurisdiction.

2986. On this judgment being given, Sonah applied to the Court the same day by her counsel, declaring that there had been a mistake made by the attorney in charge of the case, and that a new action would immediately be filed, and he therefore prayed that a provisional seizure should be made of the mules and carts of Dabeesing, and that he, Dabeesing, should be appointed guardian of the seizure to avoid the costs. The application was granted, and the seizure made in the afternoon of the same day, but Dabeesing not being present his mother, Beebeejaun, was appointed guardian of the seizure.

2987. Eight days afterwards, Sonah's attorney swore that a mistake had been made in drawing up the "précipe" in the former case, and that Sonah's claim against Dabeesing was for having conveyed a certain quantity of sugar from "St. André" Estate to Port Louis in her carts and by her mules, and that though he had been paid for the work he had not accounted to her for it. The next day a plaint to that effect was drawn up, and after several sittings judgment was given on the 9th August 1872, for Sonah, in the sum of $226·60 and costs; the provisional seizure made on the 19th June 1872 being declared good and executory.

2988. Dabeesing appealed, but the judgment of the lower Court was confirmed.

2989. On the 21st November 1772, Beebeejaun gave notice that she claimed two of the mules, two of the carts, and the harness that had been seized, as her property. Her claim was dismissed, the only proof of ownership being her own assertion.

2990. Sonah, therefore, took out a warrant against Beebeejaun to levy the costs incurred by her in the suit brought by Beebeejaun, and, upon that, a mule was seized, when Goodceah, an Indian girl, the concubine of Dabeesing, entered a suit, claiming the mule as hers.

2991. In this case it was proved that Goodceah was a minor, unassisted by her father

* Admission of a creditor to receive payment out of the sale price.—(Explanation of terms used in Ordinance No. 19 of 1868.)

Ith. ecjaun's

in his capacity as administrator of the property of his minor child. The claim was dismissed, and the seizure declared good and executory.

2992. On the judgment of the lower Court, as maintained above, being affirmed on appeal, the sale of the mules, carts, &c., seized on Dabeesing having been duly advertised, the usher went to Beebeejaun and claimed from her the delivery of them. She said that two of the mules had died. The usher lodged an information against her for embezzling two mules, two bridles, and a leather strap. Judgment was given against her, and she was further condemned to pay a fine of £10 with costs, as it was clearly proved she had wilfully and fraudulently made away with the mules. In fact, the Magistrate says he never saw a case in which fraud was more evident than in all the above-mentioned cases of Dabeesing and his mother, Beebeejaun.

Temptation to Indians to embezzle and to engage in litigation.

2993. Our own opinion upon the procedure shown in this case is, that no system of law can hold out greater temptation to the natives of India to embezzle property or to engage in continued litigation, than one which allows property to be seized in the premises of the mother of the defendant, and not to be taken care of by the Court, but left in the custody of the defendant's mother, her son residing with her; as in India, before seizing property under these circumstances, it would be necessary to prove that the son had an undivided right to the property.

Amendments required in legal procedure.

2994. But these laws affect the Old immigrants, and affect them only in common with the general population, and therefore only come within the scope of our commission as showing what the immigrants, together with the other inhabitants, are subjected to; it is not our duty to suggest amendments upon this subject.

Villages. Suggestion of the Secretary of State. Report of Immigration Committee, 7th June 1847.

2995. With a view to obtaining an adequate and permanent supply of labour in the colony, it was suggested by the Secretary of State as early as 1847, to establish Indian villages. His despatches 38 and 44 upon this subject were referred to the Surveyor-General and the Surveyor-General's Report to the Immigration Committee, who at their meeting of the 7th June 1847 reported, that the experience acquired of the habits and disposition of Indian labourers did not justify a hope that bringing down village communities from India, or establishing them by any artificial means in Mauritius would prove successful; that the great tendency of the immigrants was to withdraw themselves from the cultivation of the soil and the cane, and devote themselves to labour of a lighter, more attractive and profitable kind.

2996. The Indians preferred petty traffic, huckstering, rearing goats, pigs, and poultry, and the Committee feared that the introduction of Indian communities would increase the number of a class already too considerable, without adding to the class of field-labourers.

The Committee thought, that no rent or annual payment would oblige the greater, or any considerable part of the community to seek employment in field-labour.

Villages objected to.

Indian labour could not be depended upon.

They objected to the village also as likely to afford shelter to deserters and absentees, and urged that, as an unusually large proportion of this body would be non-producers, it being only contemplated that part of the time of the productive portion should be devoted to field-labour, the colony could ill-bear the additional burden that would be thrown upon it; that if the planters could reckon upon the continued and effective labour of the community, there was scarcely an estate in the Island that would not gladly give up a fitting site for a village; but as the labour could not be depended upon, the surrender of any portion of their land could hardly be expected even for an experiment.

Want of Government land for establishing villages.

2997. Recourse therefore must, in their opinion, be had to Government land, or land purchased by the Government, and the Report of the Surveyor-General showed how few were the sites, and how small the extent of ground was then available for such a purpose in the possession of Government, and how expensive would be the purchase of a sufficient quantity of land in places where Government did not possess any.

Conclusion of the Committee.

2998. Yet, in the face of this difficulty which they had shown of finding suitable sites for Indian villages, the Committee wound up by saying, that they considered it not impossible, at some future period, when the demand for labour might be more nearly supplied, and the tide of immigration have become more natural, the views with regard to the formation of Indian villages might be realised, and the proposition of bringing communities from India might be carried out, if it continued to be necessary and desirable for the contemplated end.

The Council of Government concurred in these conclusions. Secretary of State again calls attention to question.

2999. This Report was concurred in by the Council, the subject for the time being allowed to drop.

3000. In July 1851, the Secretary of State again called the attention of the Govern-

Despatch No. 99, 8th July 1851.

ment to the establishment of Indian villages, as a means of securing a resident labouring population.

3001. This despatch, the Governor on the 8th October 1851, referred, together with a minute upon the subject, to the Immigration Committee.

Villages. Governor Higginson's minute upon the subject.

3002. In this minute Governor Higginson remarked, that—

Proceedings of Council, No. 25, 8th October 1851, paras. 7 and 8.

"Immigration may aptly be termed the very life-blood of this now improving "colony, and I feel satisfied that my advocacy is not needed to urge the "Council and the public to secure the uninterrupted flow of this organ "of vitality, not only for the more pressing exigencies of present ex-"istence, but for future health and enduring prosperity; and, I fear, "these great and salutary objects can hardly be thoroughly attained, until some "means are devised for converting the present transient and uncertain system of "immigration, into one more approaching colonization and settlement, leading to "the creation of a resident labouring population, which seems indispensable to per-"manent security.

"Happily, the existing state of public finance will justify the expenditure which "may be requisite for attempting this highly important purpose, and it is my firm "conviction that a portion of our surplus revenue could not be more advantageously "or judiciously applied."

Report of the Immigration Committee in Council.

3003. We have been unable to find the Report made upon this subject by the Immigration Committee, but it is very evident that, whatever it was, it produced no result, for nothing further appears to have been done with a view to establishing villages, until, in the year

Minute of Council, page 249.

1868, Sir Henry Barkly adopted a suggestion for the amelioration of the sanitary condition of Port Louis, by the establishment of Indian villages outside the town, with a view to relieve its surplus population.

Question remained in *statu quo* until 1868.

Sir Henry Barkly's proposed scheme.

Suggestion of the General Board of Health.

Guarantee of a moderate rate of interest on invested capital. 6 per cent. for a period of 12 years on a sum not exceeding £25,000.

3004. He proposed to the favourable consideration of Council, a scheme suggested by Mr. Donald Stuart with that object, and at the suggestion of the General Board of Health, that it would be expedient for Government to go the length of guaranteeing a moderate rate of interest upon any capital that might be invested in such an undertaking. He recommended that a guarantee of six per cent. should be offered for a period of twelve years, upon a capital not exceeding £25,000.

Referred to the Finance Committee.

3005. This was referred to the Finance Committee, who, after considering the plans submitted to them, reported their opinion, that with a view to obtaining reliable information upon the subject, the Surveyor-General should be required, after consultation with the Protector of Immigrants, to submit a plan of a model Indian village, accompanied by plans and specifications; but they further suggested, as perhaps the most attractive as well as the most economical way of establishing Indian villages, that the Government should erect one model building and invite the immigrants to build others after that model upon ground previously marked out, and to offer them at the same time such advantages as regards rent and tenure as would induce them to build for themselves with the aid of prison labour, and thus realize the desired object; in case it should be difficult to find a company ready and willing to erect such villages under terms not onerous to the Government.

Surveyor-General required to submit a plan of a model Indian village.

Government to erect one model building and invite immigrants to build others.

Report adopted; but no trace of action in the matter.

3006. This Report was read and adopted, but we do not find that any measures were taken towards obtaining the Surveyor-General's and Protector's plan, or towards the erection of a model building by Government.

This plan would only relieve surplus population of Port Louis.

3007. It will be observed that this latter plan, proposed after the great epidemic, had the object only of relieving the surplus population of Port Louis, and would be a village initiated by immigrants, with the sexes in no greater proportion than they are at present, and, therefore, a plan that would in no way benefit the Island, except by removing the Indians from various parts of Port Louis to one spot in the suburbs.

Plan of removing whole village communities from India.

3008. Propositions had formerly been made which contemplated the removal of whole village communities from India to Mauritius. This would probably have introduced an adequate proportion of both sexes; but it might not have greatly increased the number of agricultural labourers, nor have contributed to place more *cheap labour* at the disposal of the planters, the great object they have always had, and still hold in view: but as it is evident that there is no space in the Island which would serve for an Indian village,

Census Report, pp. 6 and 7.

as that must contain both land fit for cultivation, and also pasturage for cattle, it is very evident, that the idea of colonizing a country already more thickly populated than India, from India itself, cannot be entertained.

Colonization of Mauritius from India cannot be entertained more now than formerly.

3009. Lastly, we have to consider the estates and property acquired by immigrants in Mauritius, and left by them at their decease.

Up to 1845 Indians were subject to the general laws. Vacant estates. Ord. 9 of 1838.

3010. Until 1845 the estates of immigrants were subject to the general laws of the colony, and were administered, as all other estates were, under Ordinance No. 9 of 1838.

Protector's action.

3011. On the 29th August 1844, the Protector of Immigrants wrote to Government, stating that, although there had been 1560 deaths, the money and property of the

Vacant estates.

deceased had only been remitted to him by the Civil Commissaries in six cases, and all these were from Savanne.

Governor's Circular, No. 318, May 8th 1844, to Civil Commissaries.

3012. The Governor, upon that, issued a Circular to the Civil Commissaries, impressing upon them the necessity of ascertaining, as correctly as possible, the amount of money and effects left by Indian labourers, and the amount of wages due to them.

Law of November 1844.

Ordinance passed on 24th February 1845.

Ord. 3 of 1845 remained in force until Ord. 13 of 1857 was passed.

Requirements of Ord. 13 of 1857.

3013. On the 18th of November 1844, the Officer second in command presented a draft Ordinance, simplifying the administration of the estate, effects, &c. of labourers dying intestate in the colony. This Ordinance was passed on the 24th February 1845 as No. 3 of that year, and continued in force until it was re-enacted with trifling alterations as Article 29 of the General Ordinance No. 13 of 1857, for amending the law as to the curatorship of vacant estates, the present law upon the subject.

3014. This provides that the Curator, upon the authority of the Treasurer, and without any legal previous formality, may take possession of the estate and effects of immigrant labourers dying intestate, immediately on receiving information official or otherwise, of such death; and it requires the Officer of the Civil Status in the districts, without delay, to notify the death of an immigrant to the Curator, who shall take immediate possession of all his effects.

3015. It further requires every person on whose estate or premises, or in whose service an immigrant labourer should die, on declaring the death to the Officer of the Civil Status, to deliver a note or inventory, in writing, of all the property of every kind, wages and other assets, which he knows to be due to the deceased, and this the Officer of the Civil Status is required forthwith to forward to the Curator. In the case of persons dying in the town of Port Louis, the above report is to be made directly to the Curator, who shall make further search and enquiry for other effects and property of any kind, and if any be discovered, he shall present an inventory of it to the Treasurer.

But no such provision is made empowering the Curator to search for property of the deceased when dying employed on a Sugar Estate.

How disposed in the country districts.

3016. The Curator, with the authority of the Treasurer, shall cause all the property of the deceased immigrants to be sold by auction in a summary way, and in the country districts the Treasurer shall appoint such person or persons as he shall think fit to sell the property, and 4s. only for each sale shall be the sum they shall be entitled to receive.

How sales may be effected.

3017. These sales may be made either in the place where the immigrant died, or at any place which may be thought more convenient, with or without previous advertisement, except articles of jewellery of gold and silver, which shall be sold in the manner provided for the general population.

Stamp and registration not required in reference to Indian intestate estates.

3018. All acts, inventories, and writing required under these articles are exempted from the duties and formalities of stamp and registration.

How real estates are to be realized.

3019. And lastly, any portion of real estate appertaining to any intestate immigrant labourer shall be sold by auction in the manner provided for other real estates administered by the Curator.

Report of Acting Protector of Immigrants on the law (1859), page 10, para. 63.

3020. Regarding the law, the Acting Protector of Immigrants, in his Report upon Immigration for 1859, says there are special provisions of law framed by the Legislature, with a view of allowing the estate of deceased immigrants to be taken charge of and administered with as much economy as possible.

State of the matters soon after 3 of 1845 was passed.

Despatch No. 231, 22nd Nov. 1847.

3021. It would appear, however, that soon after the first enactment was passed (3 of 1845), the amount of property left by Indians dying intestate had attracted the attention of the Secretary of State, for in 1847 he directed a half-yearly Return of the property left by immigrants dying intestate to be sent to the Presidency from which they came, and the amount to be remitted thither at stated intervals.

Suggestion made in 1852 by the agent at Calcutta.

Sums unclaimed should be applied to return passages of invalids, and means furnished to reach their homes on landing.

3022. And afterwards, in 1852, the agent at Calcutta, in a letter dated 1st April, referred to the large sums of money which had accumulated from time to time in the Bengal Treasury, belonging to the estates of Indian immigrants dying intestate, and which, he suggested, as they had not been claimed, and were not likely to be claimed by any parties entitled to them, should be applied to the return passages of Indian invalid immigrants, and the granting of means to enable them to reach their homes on landing.

Report of [illegible] on the above.

3023. The Committee of Council, to whom this letter was referred, reported that as part of these sums had been remitted from Mauritius for the purpose of being handed over to the relatives of deceased parties, they ought not to be appropriated by the Indian Government if the relatives could not be found; and that there did not seem to

be a more appropriate use for them than that suggested by the agent, for the main objections to the grant of return passages had been the pernicious influence which they had upon the settlement of immigrants in the colony, by exciting and keeping up the prospect of return to India at a definite and early period.

Those funds ought not to be appropriated by the Indian Government.

3024. In paragraph 101 of his Report upon his mission to India, dated 21st August 1861, Mr. Beyts reports that large sums of money had been realised in India from the estates of Coolies who had died at sea on their way back to India, and remained unclaimed. He suggested that statements ought to be sent regularly to the Government of Mauritius, showing what property had been so secured, the names of Coolies in whose possession it had been found, and such other particulars as might lead to the discovery of parties at Mauritius, who might be lawfully entitled to lay claim to such property.

3025. We might be led to expect from this suggestion that intestate estates had, in Mauritius, been the subject of the most jealous care, both by the Protector and the Curator of vacant estates. We shall, therefore, now proceed to examine how the law has been carried out, and whether the objects above referred to have been obtained.

3026. As regards the property of deceased immigrants sent to India:

Mr. Beyts's evidence.

Questions 2539, 2560.

Mr. Beyts informs us that no property, nor its value, has ever been sent to India within his knowledge; that the rules under Ordinance 31 of 1867 require a detailed list of all vacant estates taken possession of (under Article 29 of Ordinance 13 of 1857) to be sent by the Curator at the beginning of every month to the Protector of Immigrants, the list to set forth, as correctly as possible, the name and immigration number of the deceased, the place of his death, his age at the time of his death, and a precise description of the property taken charge of by the Curator; and, further, requires every such list to be translated into the Indian dialect and conspicuously posted up in the Immigration Office.

Alludes to Rules under Ord. 13 of 1857.

Law never observed.

Questions 2462, 2467, 2468.

Questions 2470-78, 2480, 2473, 2474, 2475, 2477, 2488.

3027. We learn from Mr. Beyts's evidence that the Returns are duly received from the Curator, but that until lately, as in many other cases in this Island, the law has never been observed. They have never hitherto been translated into any of the Indian dialects, though since the above rule was brought to his notice by the Governor, a few months before, he had had the Returns translated into Tamil, and was then having them translated into Hindoostanee—written in "Nagri" character. That they were not translated into Mharatta or Guzeratee, as the Mharattas and Guzars form a minority in the colony, though, being thrifty and intelligent, they were more likely to have property than the others; that the unclaimed property remained in the hands of Government, and the proceeds were never forwarded to India, although we find that the Register of Immigrants brought in every ship combined a column with the name of the next of kin. Yet Mr. Beyts told us the object in making this column was not to allow fathers and sons to be separated on their arrival here. Our impression, however, is, that the column was inserted with a view to recording who the next of kin was in India, in the event of the immigrant dying abroad and his property being sent to his native country.

The Governor directed the Protector's attention to a certain rule.

Proceeds never forwarded to India.

Register of immigrants.

Question 2458.

The Monthly Reports not so complete as they might be.

3028. Mr. Beyts does not consider the Monthly Reports as complete as they might be, having in one month received only three cases of property recorded to be vacant for the whole Island. He, however, gives it as a probability and not as a certainty, that the number of deaths, where wages were due, had been more.

Result of the Commissioners' visits to estates.

3029. We, however, from our visits to estates, and from what we learnt there, can safely assert that none of the property left by immigrants dying on estates is handed over to the Curator. The answer we received, wherever we found an immigrant had died with wages due to him, was, invariably, that the money due had been handed over to his wife, the Sirdar of his band, or to his comrades to defray the expenses of his funeral; and what particularly struck us in our visits to the estates was, that though we heard of the cattle and money amassed by the Indian immigrants, we never found that one possessed of either cattle or money beyond the wages due ever died, or, at least, that no such death was reported to the Curator of Vacant Estates.

3030. But in this, as in most other cases, the Government is no more a strict observer of the law than are the planters, for, from the 18th September 1867, to the 27th June 1870, the Surveyor-General has applied to Government to pay to the nearest relations of deceased labourers, who worked in his employ, the amounts due to them at the time of their decease, instead of, as he ought to do, make the property over to the Curator of Vacant Estates, and let him determine who the nearest relation should be.

3031. There is, however, one exception to be found to this procedure on the part of the Acting Surveyor-General in the case of Osudally, who died with a sum of £2 1s. 3d.

Vacant estates.

due to him by Government. The Acting Surveyor-General applied on the 18th of March 1868, for sanction to pay the large sum of £1 6*s.* to Peerbuccas as the amount expended upon Osudally's funeral, and to pay the difference, 15*s.* 3*d.*, to the Curatelle. Appendix M 31.

These proceedings Government sanctioned without any comment.

Extract from Curator of Vacant Estates' Book. How the accounts are kept.

3032. We give in the Appendix a copy from pages 74–85 inclusive, of the account kept by the Curator of Vacant Estates of those estates he and his predecessor have administered from 1859–71, showing a balance of £2238 1*s.* 8*d.* Appendix M 32.

Accounts.

3033. These accounts are kept in the same way as Mr. Picquenard found to be adopted when he joined the office ten years ago. There is no index to them, no debtor or creditor side to accounts. The names are all written on one side, and if there is any payment the name is written on the opposite page, but there is no separate sheet devoted to each individual. The balances are made up at the end of each year, and the account shows the net balance to the credit of every estate at that time. Question 737. Vol. II. Question 706. Vol. II.

The loose way in which the accounts are kept.

3034. It is hardly possible to conceive a set of accounts more loosely kept than these, or accounts which could possibly give less information.

3035. The Curator is satisfied with the account as he receives it from the District Cashier. He always examines the accounts, but never takes the trouble to verify them with the books on the estates, as he has no power to do so. Questions 698-4. Vol. II.

The consequences of the Curator having no power to make any enquiry.

3036. The consequence of the Curator having no power to make any enquiry, but being obliged to content himself with the Return he receives from the District Cashier, became very manifest in 1866 and 1867, when in the former year 8000 people died, and but 56 estates were sent for administration, and in the latter 24,000 of the Indian population died, and only 78 estates were sent to be administered.

Mortality in 1866 and 1867.

Of Indian labourers on estates.

Mr. Picquenard's Report to the Treasurer.

3037. Mr. Picquenard reported this through the Treasurer-General to the Colonial Secretary, observing that during the year past, with the exception of Savanne, there had not been any other districts in which there was one declaration made by employers to the officers of the Civil Status, that wages were due to a deceased labourer at the time of his death, and as it was not customary to pay labourers punctually every month, he thought that in most cases at least one or two months' wages must be due to deceased immigrants at the time of their death. 7th February 1868.

Mr. Picquenard's suggestion for the recovery of this money.

3038. With a view to recover the money then due, he thought the planters should be compelled to submit their pay-lists to the Stipendiary Magistrates of their district on a certain day, to be fixed by the Magistrate, when the Curator, or a person deputed by him, might attend to ascertain the amount due to Indians who had died on their estates, and that in future a similar course should be pursued every month after the 15th of the month; and that in both cases the Magistrate should make a judgment of the amount found to be due, and the planter be compelled to pay it forthwith into the hands of the Curator. Questions 693-96. Vol. II. Question 750. Vol. II.

This plan considered inquisitorial.

3039. This plan was thought too inquisitorial, and it was held that some other means should be tried before adopting the measure proposed, but neither one nor the other was ever done. Indeed, it is difficult to imagine how this reform, or any other, could be carried out in this office, where the Curator has all the vacant estates in the Island in his charge, and has the assistance of one solitary clerk on a salary, at present, of £100, but which might be increased to £150.

Difficulty of carrying out any reform with the present assistance at the disposal of the Curator.

There is, however, another man, not belonging to the office, but appointed whenever there are sales to be made to carry them out.

Another person deputed to attend sales.

3040. When property is taken charge of, it generally is placed in the custody of the Inspector of Police, as in the case of Mootien a goldsmith, who died on the 5th April 1867. He died intestate, and the District Clerk desired the police to take charge and possession of the property for the Curatelle. Appendix M 30.

Property often taken charge of is generally placed in the custody of the Inspector of Police.

The case of Mootien.

3041. The effects, however, were not sold until the 2nd July 1868, when they realised $18·72, which was entirely absorbed by the costs of guardianship and sale; the Usher receiving $1—that is, the person deputed to effect the sale, and whose fee is limited to 4*s.* Mr. Brownrigg, the Inspector of Police, foregoing his claim from 5th April 1867, to 1st January 1868, charged, for the care of the property from that day until the 13th of June, $45·50, and only received $17·72, making a total of $18·72 for which the property, consisting of

The effects sold realised $18·72.

The whole amount plus is absorbed by the costs of guardianship.

10 boxes.

A quantity of old tin watering-pots, empty hog's-lard boxes, rusty tools,

Vacant estates.

2 pairs of bellows,
2 vices,
2 earthen pots,
1 brass pot,
3 iron pots,

was sold, four of these articles being bought by Mr. Brownrigg.

3042. We received, on the 23rd September 1873, from Mr. Rajaruthrum a memorandum of the sale of personal effects of the late Millapoor Monisamy, which produced $630·82. The law expenses were as follows:—

	$	c.
District Magistrate's costs . .	22	25
Guardianship	14	20
Translations	5	00
Costs of detongrais . . .	446	56
Victor	80	80
Garachund	52	50
Ackroyd	10	00
	$630	51
Balance . .	0	31

The above did not cover the whole of the legal expenses; and the remainder was paid from the sale of Monisamy's jewels, which gave $877·52; and when all legal expenses had been paid, there remained a balance of $11·53. We must recollect that these costs and payments were made from the estate of an educated Indian; and we need not then be surprised at what we have seen above as the result of the sale of Mootien's property.

3043. On the 21st of June, 1871, a petition was presented to the Governor by one Jaunkee, a cowkeeper and gardener, setting forth that about four months before, having been seized with madness, he left his three female children, and about £44 of property in his hut, and went wandering about the country; that he was apprehended by the police and taken before a Magistrate, who released him; and that on his return home, he found his children but none of his property, as that had been taken possession of by the Curator of Vacant Estates. Appendix M 34.

3044. The Curator reported that he had been informed by the District Clerk, that in consequence of a Report from the Inspector of Police, that Jaunkee had disappeared from his residence on the 15th November, 1870, and possibly had met with foul play; leaving two cows, and property in his hut, with no one in charge, except some Indians, who declared Jaunkee owed them several months' wages; the Magistrate had desired the seals of the Court to be placed upon the articles, and a guardian had been placed in charge of the animals. That on receiving this Report, the Curator applied to the Procureur-General, who informed him that there did not appear at the present stage of the case to be any person besides himself entitled to administer the estate, and he therefore advised the Curator to take charge of it, and inform the Protector of Immigrants of what he had done.

It, however, appeared, that the children, on finding that their father did not return, had gone to live with their grandmother.

3045. Mr. Beyts, the Protector, instead of taking charge of the minors as their guardian and administering the estate, which he should have done, informed the Curator he had no objection to his realising the estate, which the latter consequently did, and having sold the property, realised therefrom £8 12*s.* 4½*d.* The Usher's fees and expenses, however, amounting to £8 3*s.* 8*d.*, leaving a balance of 8*s.* 8½*d.* for the benefit of the children.

3046. The Governor, Sir Arthur Gordon, after receiving the Report of the Curator of Vacant Estates, to the following remarks of Mr. Marsh, the Assistant Colonial Secretary,—

"The petitioner, I gather, abandoned his children and property, suffering from "temporary insanity; had the Curator not been put in possession of his goods they "would have been stolen,"

added these strictures—

"which would have left Jaunkee none the poorer, for the whole proceeds of the "forced sale of his goods has been swallowed up by the expenses, except $2. "I had better make no memorandum in this case, for if I did, I should express "myself somewhat strongly.

"The petitioner I suppose must be told that everything has been done in due "course of law, and with the most punctilious observance of all legal formalities."

Vacant estates.

The Assistant Colonial Secretary thereupon told the petitioner to apply to the Curator, who would pay him the proceeds of the sale of his effects, less the costs.

3047. We hardly know who is the more to be pitied in this case, Jaunkee, who lost all his property, or the Governor who was compelled to give him such an answer.

3048. In contrast with this we may mention, as rather more satisfactory, the answer the Officer administering the Government was able to give in September 1871 upon a representation made by Mr. Maroussem, that an Indian on his estate, by name Satrye, who died on the 2nd August; Mr. Maroussem had, in consequence of the death, had the man's hut searched, when some moveable articles and a sum of money in a box had been found: during the search, however, one Jokun appeared, and stated that he and Satrye together having saved money had hid it in a tin box in the floor of the hut, and said he could point out the spot, and that the box contained $81: search was accordingly made in the spot pointed out by Jokun and the box was found. It contained $81 85 cents, of which Jokun claimed half. Mr. Maroussem had handed over the whole to the Curator, but wrote to the Governor requesting that one-half of it might be made over to Jokun. The Curator thought that, under the circumstances, Mr. Maroussem's request might be complied with; because he added, Jokun might have appropriated to himself the whole amount without any one knowing it: and, upon the Procureur-General's opinion, the Officer administering the Government ordered that on Jokun and Mr. Maroussem's putting in an affidavit of the facts disclosed in the petition, and filing it with the Curator, the Curator should make over half the sum found to Jokun.

Mr. Picquenard submits it must be a "*cas de force majeure*." He was sick when Mootien's death was reported.

3049. The law, as we have before mentioned, requires, that the auction should take place in a summary way: in explanation of the delay in the sale of Mootien's property, from 5th April 1867, to 2nd July 1868, Mr. Picquenard submits that this must be considered as a "cas de force majeure," the consequence of the trying circumstances through which the colony at that time passed, when in his office in particular five efficient clerks might have found occupation: for, when Mootien's death was reported to the office, he was absent, suffering from the effects of a fracture of his elbow, subsequently to which he had an attack of the prevailing fever, and left Port Louis in a dying state; and before he returned to his office, convalescent and worn down by fever, his clerk—who had been attacked by the same fever and lingered for some months—died. That Mootien's property escaped his notice until the ensuing year, when his attention was recalled to it, either by the Inspector of Police, or the District Clerk.

Mr. Picquenard's information as to the amount charged.

3050. With regard to the amount charged, Mr. Picquenard informs us, that it is according to the tariff attached to Ordinances 34 and 35 of 1852; but, as in those Ordinances no mention is made of fees to be allowed to persons left in charge of Articles not seized, it has always been the custom to assimilate such persons to the guardianship of Articles sealed, and to remunerate them according to the scale of fees allowed to the latter.

Schedule of the Ordinance.

3051. The Schedule of the Ordinance says:

"The fees of any person appointed to keep possession of, and answer for goods "seized, shall be as follows:—

"For the first fifteen days, 2*s.* per day; afterwards, 1*s.* per day. The fees allowed "to any person left in charge of seals affixed by the Magistrate may be one-half of "the above rates."

Mr. Brownrigg's claim under the tariff.

3052. Under this tariff, Mr. Brownrigg would evidently be entitled only to 1*s.* for the first fifteen, and 6*d.* for the following 167 days, amounting to £4 18*s.* 6*d.* or $ 24 62 cents, which would, nevertheless, have absorbed the whole proceeds of the estates: but Mr. Picquenard, in explanation of this higher and more exorbitant, not to say illegal, charge, says he does not remember one instance in which a Guardian of Seals was allowed for his fees half the amount granted in the tariff for goods seized. His bill has always been taxed 2*s.* for the first fifteen days and 1*s.* for the following days; and that it is paid on the taxation of the District Clerk; as he looks upon the bill taxed by that officer as a bill of costs taxed by the Master of the Supreme Court; and, he had always paid the total amount so allowed, without questioning whether each item had been properly charged in the bill.

Mr. Picquenard's explanation of the charge.

Mr. Picquenard's inquiry of some district clerks.

3053. He has inquired of some district clerks why they allowed these sums, and they told him that it was owing to the fact that no one would accept to be guardian at the reduced rate of half that price, inasmuch, as even at the full rate now allowed, they find it sometimes very difficult to procure a guardian. This is another proof of how in this colony the laws are set aside at the option of one officer, with the connivance, or rather with the positive sanction, of another.

Difficulty of procuring a guardian.

Appendix M 30.

Chapter XXVIII.—*Education.*

Plan of inquiry.

3054. We have commented above (Chapter XXVI., *Moral and Physical Condition*, paragraphs 2875 to 2878) upon the intellectual improvement alleged by Dr. Icery as taking place in Indians by their emigration to Mauritius. Our remarks, however, then applied only to adults; and it now remains for us to show what facilities are afforded to the immigrant labourers for the education of their children, and how far they avail themselves of the same.

Non-confirmation of Ordinance of 1857.

3055. We also briefly mentioned (Chapter VI., paragraph 384) how, in the year 1857, an Ordinance was passed which rendered the education of children compulsory; and we will now proceed to describe the circumstances which led to the non-confirmation of that Ordinance.

1857.

Education of the lower orders recommended by Secretaries of State.

Governor Higginson brings the matter before the Council.

3056. The importance of education, and the duty of the Colonial Government to pay regard to the moral and social improvement, as well of the Indian immigrant population, as of the emancipated negroes; and the necessity of instructing them in the English language had been repeatedly dwelt upon by successive Secretaries of State; but no active measures were taken towards the establishment of any scheme for the education of the Indians, until the administration of Governor Higginson, whom we find within a few weeks of his assumption of the government, drawing the attention of the Council to the value of education as the

Mr. Gladstone to Sir W. Gomm, Despatch No. 38 of 14. 5. 46.
Lord Grey to Sir W. Gomm, Despatch No. 38 of 29. 9. 46; No. 57 of 26. 11. 46; No. 73 of 31. 12. 46.
Circulars of Lord Grey of 26. 1. 47; 20. 9. 47.
Lord Grey to Governor Higginson, Despatch No. 99 of 8. 7. 51.
Minute of Governor Higginson of 25. 2. 51, para. 9.
Minute of Council of 26. 2. 51.

"best prevention of crime and the surest guarantee of social order."

Nothing, however, appears to have been done beyond granting in 1852 a sum of £200 for an experimental school for Indian children on an estate in Savanne, the proprietor of which afforded accommodation free of charge; an experiment which proved abortive; and on the 22nd March 1854, we again find Governor Higginson referring to the subject in a minute to the Council, and in which he recommended to their favourable consideration the proposal of the Mauritius Church Association to establish a school in Port Louis for elementary education in the English and Tamil languages, and also for the training of teachers to be afterwards employed in the schools, which it was hoped might, with the assistance of Government, be opened on estates in the rural districts; the presence in the colony of the Rev. Mr. Hardy, a Missionary of great experience in Southern India, affording a favourable opportunity for the experiment.

The Mauritius Church Association.

Minute of Council, 22. 3. 54.

Minute of Council of 25. 4. 55.

3057. This minute was referred to the consideration of a special Committee whose report was submitted on the 25th April, in the following year.

Report of a Committee of Council. Statistics.

3058. They reported that out of 23,500 Créole children who were of an age to learn, only 5500 were learning at all; and of these 1649 were receiving a higher kind of education; leaving to 3850 a lower kind of education, and to 18,000 no education whatever: to these were to be added 5500 Indian children. They remarked upon the indifference of parents, both Créole and Indian, to the value of education, and recommended that education should be rendered compulsory, and that the number of schools should be increased. At the same time, they deprecated the institution of schools for the exclusive benefit of Indian children.

Compulsory education recommended.

Indians' schools deprecated.

Para. 24 of Report.

Sir W. Molesworth's views.

Sir W. Molesworth to Governor Higginson, Despatch No. 4 of 2. 8. 55.

3059. Sir William Molesworth concurred in the views expressed in the Report, and could see no reason why planters engaging Indian parents should not be compelled to take care that the children of their labourers attended some Government schools, if such were situated within a certain distance from the estate.

Governor Higginson's views.

Minute of Governor Higginson.
Minute of Council of 31. 10. 55.

3060. The Governor, however, differed from the Committee on the question of separate schools for the Indian population, fearing that any system, under which a language other than the vernacular were made the vehicle of instruction would prove a failure.

The Committee against separate schools for Indians.

Report of the Special Committee.
Minute of Council of 20. 2. 56.

3061. The Committee, on the other hand, adhered to their opinion that the separation contemplated by the Governor of the Indian and Créole children, would tend to foster the exclusive habits of the former, and perpetuate the divisions between the races, and thereby prevent the fusion of the immigrant population into the mass of inhabitants, which should bring about a resident agricultural population, and render Mauritius independent of immigration, with its accompanying difficulties and expenses.

1857.

The Immigration Committee not in favour of Native teachers immigrating.

Reference to the Secretary of State.

Rejoinder of the Special Committee.

Ord. 21 of 1857. Compulsory attendance.

Teaching in French. English to be taught.

Hours of attendance at schools.

Punishment for keeping children from school.

School fees.

Children in service.

Governor Higginson's opinion of 21 of 1857.

Governor Higginson's visit regarding it.

Ord. 21 of 1857 confirmed.

Objections of the Indian authorities.

Lord Stanley's suggestion for an optional system accepted.

3062. A suggestion from the Secretary of State that the Emigration Agents should be instructed to send a number of native teachers proportional to that of emigrants, met with no favour from the Immigration Committee.

Mr. Labouchere to Governor Higginson, Despatch No. 43 of 25. 1. 56.
Report of Immigration Commissioners, No. 8 of 1856.
Governor Higginson to Mr. Labouchere, Despatch 86 of 8. 5. 56.
Mr. Labouchere to Governor Higginson, Despatch No. 157 of 12. 8. 56.
Report of the Special Committee. Minute of Council of 7. 1. 57.

The Governor referred the question to Mr. Labouchere, who remarked that the answer should depend on whether the greater proportion of children were likely to remain in Mauritius, or to return to India. The Committee insisted that though the labour of the Indian immigrant was most essential to the prosperity of the colony, the advantages they received in return were more than an equivalent, and therefore it was not too much to desire that their children should be educated in the dialect, viz. French—spoken by the great majority of the tax-paying classes of the colony.

3063. Governor Higginson therefore desisted from further opposition, and in the month of July following, Ordinance No. 21 of 1857 was passed:

Article 2. "By it all boys between the ages of six and twelve, and all girls "between the age of six and ten inclusive, were obliged to attend school, if residing "within a distance of one and a half miles therefrom."

Article 5. "The French language was to be the medium of instruction; but in "every school English was to be taught."

Article 5. "Attendance was to be three hours daily during five days in the week, "except in the case of sickness or other good cause, and certain hours were to be "fixed during such hours, in which religious instructors of any denomination might "attend, and give religious instruction."

Article 7. "Persons keeping children from school were, for the first offence to be "bound on their own recognizances for a sum not exceeding £5, and on repeating "the offence—

Article 8—"were liable to a fine or imprisonment."

Article 9. "The school fees were not to exceed sixpence per month for each "child."

Article 10. "If the child were in service, the master or mistress was declared "liable for the school fee, which might be retained by them from the child's wages."

Governor Higginson to Mr. Labouchere, Despatch No. 141 of 4. 8. 57.

3064. Such were the main points of this Ordinance, which Governor Higginson submitted for confirmation on the 4th August. He greatly regretted the provision making the French language the medium of instruction, and also the absence of all responsibility upon employers (save that imposed in Article 10) for conformity on the part of their labourers to the requirements of the Ordinance, which he feared would necessarily render the schools less popular and less attractive to the immigrant population, and would enhance the difficulties of putting the law into beneficial operation.

Mr. Labouchere to Governor Stevenson, Despatch No. 91 of 31. 12. 57.

3065. The Ordinance was confirmed, subject to some trifling amendments to meet certain objections, which were made against it by Dr. Collier, the Roman Catholic Bishop of Port Louis.

3066. But there remained one body who had an important voice in the matter, and to whom no reference had so far been made, viz. the Court of Directors of the East India Company. These entertained no objection to compulsory education in the abstract; on the contrary, would have rejoiced at it, had it not been coupled with the condition of receiving instruction through the medium of a language to the Indians, foreign and unknown. They denied the right of the colony to force a system of education upon the Indian children from which their mother-tongue was excluded, and they refused to admit the theory that the benefit which the Indian labourers derived from the system of immigration preponderated so greatly, if at all, over those accruing to the colony, as to support the argument built upon it by the special Committee, and by which they had justified the measure.

Lord Carnarvon to Governor Stevenson, Despatch No. 237 of 16. 6. 59, and enclosures.

3067. Lord Stanley, as Secretary of State for India, in deference to these opinions of the late Court of Directors, thought, that the most satisfactory mode of settling the question would be to render the attendance of the Indian children at school optional, instead of compulsory, as it appeared to him unjust to subject the children or their parents to conditions of which they were not apprised at the time of their quitting India. Lord Carnarvon, though not agreeing with Lord Stanley, nevertheless regarded his opinion as entitled to peculiar consideration, and therefore reluctantly acquiesced.

The Ordinance consequently was never put in operation, with what effect upon the intellectual condition of succeeding generations of the Indian population we will now describe.

Vide Annual Report, for 1871, of the Inspector of Government Schools, appended to Minutes of Council 1872.

3068. Taking the month of April in 1871 (that is, the date of the last census), we find from the Report of the Inspector of Government Schools that there were 33 Créole, and 18 Indian Schools, making a total of 51 Government Schools in the colony. It will be to the latter that our remarks will chiefly apply, as more especially concerning the Indian population: for, though some may occasionally attend the Créole Schools, such attendance is the exception rather than the rule.

Census statistics.

3069. By the Returns of the Census taken on the 11th of April, the number of Indian children between the ages of 5 and 14 amounted to:—

Boys	21,035
Girls	18,077
Total	39,112

while the attendance at the Indian Schools during the same month is reported to have been as follows:—

Boys	794
Girls	35
Total	829

Very small percentage of Indian children at school.

We thus see that the number of Indian girls receiving elementary education is but nominal, whilst the centesimal proportion of boys is also deplorably low, viz. 3·774 per cent.

Proportion of estates' children at school.

Appendix U 8.

3070. We are unable to state what proportion of these were at that time children belonging to Sugar Estates; but, from a Return furnished to us at the end of 1872, by Mr. Comber Browne, the Inspector of Government Schools, we find that, out of a total of 836 * pupils on the School Roll, 263 only were children of residents on the Sugar Estates.

Inquiries of the Inspectors of Immigrants.

3071. If from this statement we turn to such information as was procured on the actual estates by the Inspectors of Immigrants, we shall find that their Reports, although often vague upon this subject, fully bear out the general truthfulness of Mr. Browne's Return.

Pamplemousses.

3072. We find that in the district of Pamplemousses, out of 2925 † children returned by Captain Blunt as residing on the 33 estates visited by him, 48 only are reported positively as attending any schools, whilst on two estates ("Antoinette" and the "Vale") the Report is general, viz. that

"a few attend the Government School near."

Grand Port.

3073. In Grand Port,‡ out of 4583 children returned by Mr. Jenner, 18 only are reported as attending school.

Flacq.

3074. In Flacq, out of 3728 children returned by Mr. Caldwell as resident on the 21 estates visited by him in that district, 75 are reported as attending school: of which number 20 are from the estate "Bel Etang," where there is an evening class attended by both men and boys, who pay a fee of 2*s.* per month to a Créole master, who teaches reading, writing, and arithmetic, with religious instruction.

Schools kept by natives.

3075. On some few estates, too, there is a humble school kept by native teachers, who obtain a precarious livelihood from such pupils as they are able to attract: such as we found at Terracine in Savanne, where a Madras Indian was instructing a class of 15 children, of whom one only was a girl, in reading, writing Tamil, and in the rudiments of cyphering.

School at "Terracine."

Visits to estates. Appendix B 37.

Planters' Returns as to number of schools.

3076. In answer to the questions addressed by us to the proprietors of estates shortly after our arrival, twelve only returned a school as existing on their estates. Into these schools we inquired through Mr. Seed, but found that, except in the cases of "Bel Étang" and perhaps "Bonne Mère" in Flacq, the school was no more than nominal. On three estates, "Belle Rose," "Côte d'Or," and "Bon Espoir," they had ceased to exist for a considerable time before Mr. Seed's visit, without the proprietors being aware of the fact: whilst at "Riche Marre" the school had fallen into abeyance, owing to the

* This Return is incomplete, as no Returns were received from the schools at Terre Rouge, Rose Belle, Nouvelle Découverte, and Long Mountain Road.

† The numbers given in this and the two following paragraphs include the children of all ages; not, as those in paragraph 3069, the number of children of school-going ages only.

‡ This total is incomplete, as on four of the estates no return of the children is given, viz. on "Deux Bras," "Mon Désert," La Barraque," and "Virginia."

schoolmaster being at that time employed at work in the mill from 4 A.M. to 6 P.M., which left him no time for teaching.

Results of Mr. Seed's inquiries.

3077. We append the information collected for us by Mr. Seed. This shows that the average attendance amounts to about 10 children: that girls scarcely attend at all: that after 10 years of age the children are, as a rule, put to work, and attend no more; that the teachers are invariably Madras men; and that in only one case does the estate in any way contribute towards the support of the school.

Appendix U 8.

Rations given to teacher at Constance."

3078. This solitary exception is at "Constance," in Flacq, where Dr. d'Arifat gives the teacher his rations, as Dr. Icery, also, when at La Gaieté, contributed to the support of a school on that estate, so long as the school lasted.

Question 8471.

3079. In all the other cases the schools are supported entirely by the Indians themselves, who pay fees ranging from 1*s.* to 2*s.* 6*d. per mensem*, to which in some cases is added a small contribution of rice, dholl, and occasionally oil.

3080. As a rule, then, it may be said that these schools are tolerated rather than encouraged by proprietors; and, therefore, it is but right to make special mention of those two proprietors who we find have made an attempt to introduce a better state of things:—

Mr. Macpherson's school.

1st. Mr. Macpherson of Cluny in Grand Port, who, in his answers to our printed Questions, stated that on several occasions he had tried to establish a school, but could not induce the parents to send their children regularly, and so the school fell through for want of scholars:

and,

Mr. de Chazal's school.

2ndly. Mr. de Chazal, who, together with his family, appears to take a personal interest in the moral welfare of the children of his Indians, which we can only regret is not more generally seen throughout the Island: they themselves instructing the children in reading and writing, and giving religious teaching on Sundays, which Mr. de Chazal describes as having been attended with very good results, for, although few have come actually to profess Christianity, Mr. de Chazal succeeded in suppressing the riotous festival of the Yamsé, while regular marriages became more frequent in his camp.

Vol. II. Questions 458 to 476.

Vol. II. Question 466.

Grants in aid, under Ord. 6 of 1856.

3081. Besides the Government Schools, power is given by Ordinance No. 6 of 1856 to the Governor in Executive Council to

> "authorize the payment out of the Colonial Treasury of any sum not exceeding "£75 per annum as a contribution towards the maintenance of each and every "school set apart for imparting Elementary Education to the poorer classes: "Provided (*inter alia*) that an equivalent amount be raised by voluntary con- "tribution and applied to the annual support of such school:

and by the same Ordinance (Art. 2) it is ordered that every school so aided shall be subject to the Inspection of the Government Officer.

Number of schools receiving grants in aid.

3082. Accordingly, under this Ordinance we find that in the year 1871–72, there were 30 schools belonging to the various religious denominations receiving grants in aid from the Colonial Treasury. Of these, 21 were schools under Roman Catholic management, 8 were under the Church of England, and 1 was connected with the Independent persuasion. The total sum which had been voted for these grants was £1800, of which £1118 had been assigned to the Roman Catholic schools, £545 14*s.* to those of the Church of England, and £75 to the Independents' school; thus leaving a balance of £61 6*s.* unappropriated. Of these 30 schools 26 were for the general population and 4 for Indians.

Appendix No. 1 to Minutes of Council, No. 22 of 1872.

Amount of grant in aid.

Number of Indian pupils.

3083. It is impossible to state precisely the number of Indians under instruction in these schools, but Mr. Comber Browne reported that out of the 2171 pupils on the roll for the month of May 1872, 167 were Indians or Indo-Mauritians; but he added that the true number must be somewhat in excess of this figure, as in most schools there are to be found, amongst the Créoles, children of Indian extraction.

Reasons for small number of Indian children at school.

3084. We do not think that we shall be very wide of the truth if we take 1000 to be about the average number of Indian children who are receiving education out of a total of nearly 40,000: a state of things which cannot be regarded otherwise than as most unsatisfactory. It is not difficult to ascribe reasons which tend to produce this result:—

1st. The indifference of the Indians themselves and their insensibility to the advantages derived from education.

2ndly. The indifference, and, possibly in some cases, the hostility, of employers to the question.

3rdly. The fact that, at a very early age, children can make themselves useful by doing light work on estates: and, consequently, Dr. Icery told us, parents prefer to send them into the fields, as, even though they may not receive any wages,

> "when they are not able to work in an effective manner, they receive full "rations like the men;"

Vol. II. Questions 11, 15, 229, and 442.

a statement in which he is corroborated by Messrs. Rouillard, Naz, and Pitot.

Lord Stanley's plan a total failure.

3085. It is therefore quite plain that the course recommended by Lord Stanley, as above mentioned, of leaving the education of their children optional with parents, has proved a total failure; and such it will, we fear, continue to be, unless the Government should interfere and take up the question, as they did in 1857.

Feeling of the planters regarding education.

3086. Few persons would, we hope, be found in Mauritius to agree with the proprietor in Black River whom Mr. Mitchell reports as expressing himself thankful that there was no school near his estate, as he considered a little knowledge a dangerous thing; but rather should we hope to find them agreeing with the liberal sentiments expressed by the Hon. Mr. Naz, who stated that, if only the Government would provide teachers, his partner and he would immediately supply a suitable building for a schoolroom; and, he thought he could assure us, that all planters who could afford it would do the same with pleasure.

Appendix Q 87.

Vol. II. Question 235.

Mr. Naz.

Mr. Hardy.

3087. Mr. Hardy declared to us, that the best labourers on his estate were those who had received some education, and that he had not

Question 14,196.

> "an unable man among them."

Mr. de Chazal.

3088. Mr. de Chazal declared that the best band of labourers on his estate at St. Antoine was the band of children, the scholars of his Sunday School.

Vol. II. Question 467.

Vol. II. Question 14.

3089. Mr. Rouillard admitted that the children remaining neglected about the camps of estates were a nuisance.

Mr. Rouillard.

3090. In fact, all the witnesses whom we questioned upon the subject admitted that the present state of education among the Indians was unsatisfactory, and expressed themselves desirous to see it improved, if only some way could be devised by which it might be done.

Vol. II. Mr. Naz, Questions 232 and 233; Mr. Rouillard, 13; Mr. Pitot, 444.

Mr. Pitot's fears of over-education.

3091. Like Mr. Pitot, we should deprecate anything like over-educating; but we do not entertain even the fear of that honourable gentleman lest their learning should be turned to evil purposes, as we can hardly suppose that the very moderate amount of learning necessary to enable persons to read a notice on a ticket, or to write a little, would conduce to any more extensive system of forging papers than is possible now through the medium of professional letter-writers and battiaras: while we feel perfectly certain that the hardship of the New Labour Law has been considerably enhanced by the deplorable and almost universal ignorance of the Indian and Créole constables, who could not read the papers, the regularity of which they were called upon to decide; and, further, that numberless disputes between masters and servants would be obviated were the latter able to read before signing the contract under which they are to be bound.

Vol. II. Question 444.

Vol. II. Question 445.

3092. The two chief difficulties to be surmounted, in any general scheme for the education of the Indian population in Mauritius, appear to us to be:—

1. To decide upon what is to be the medium of instruction; and,
2. The procuring of competent teachers.

Which language to be medium of teaching.

3093. With regard to the medium of instruction we have seen that it was owing to the Legislative Council insisting on the French language being the medium that the Court of Directors of the East India Company raised the objections which led to the non-confirmation of Ordinance No. 21 of 1857. There can be no doubt but that the language in most common use in Mauritius among all classes is the Créole *patois*. This, however, is a barbarous and corrupt jargon, utterly useless to any one beyond the narrow limits of Mauritius, and wholly unsuited to be a medium of instruction. We thus are reduced to the alternative of recommending either English or the native dialects of India.

Objections to use of native language.

3094. This latter was the course advocated by Governor Higginson, and such, under ordinary circumstances, would be that which we should prefer, did we not see difficulties for which we are unable to suggest any satisfactory solution. Thus, if the Indian languages are to be taught in the elementary schools, every teacher ought to be acquainted at least with Hindustani, Tamil, and Telugu; while persons whose native language is Mharatta or Goozerattee are to be found in almost every camp. Considering then the difficulty which there appears to exist in obtaining even the comparatively

small number of persons possessing the proper qualifications to act as Interpreters in Courts of Justice, of which we shall have more to say hereafter (Chapter XXX., *Magistrates and their Courts*, paragraph 3397 and following), we should almost despair of the possibility of obtaining the much larger number of persons who would be required for school teachers, even though the qualifications of the latter need not be so high as those of the interpreters.

Bishop Royston's opinion.

3095. It is but right, however, to add that some, who from their position should be able to form a sound opinion, think that this difficulty is by no means insurmountable. Of these, we may name the Right Rev. Dr. Royston, the Anglican Bishop, who, though but recently arrived in Mauritius, is acquainted with India. Dr. Royston advocates teaching Indians through their vernacular alone, and rendering this compulsory; while instruction in English or French should be optional and on additional payment. He thinks that the attendance of children might be required from 6 to 9 or from 7 to 10 in the morning; thus leaving the rest of the day open to them to earn something at field labour. Vernacular books, he informed us, are now easily obtained, and he does not apprehend a lack of native teachers qualified to use them aright.

Mr. Comber Browne's scheme for training teachers.

3096. Mr. Comber Browne, the Government Inspector of Schools, on the 4th of June, 1872, submitted to Sir Arthur Gordon a scheme for training Indian teachers in the colony itself (and which will be found appended) at an institution to be established in connection with the Normal School; and he thinks that

Appendix U 10.

> "The epidemic having closed many avenues at one time open to intelligence and "enterprise against the youth of the colony, many young men of Indian extract, "speaking, in some cases, in addition to their own vernacular, both English and "French well, would now gladly accept any reasonable inducement held out "by which they might in time secure sure and adequate remuneration for their "services as teachers;"

and he estimates £8 per mensem as a sum sufficient to secure a seven years' service.

Mr. Wright's recommendations.

3097. The Reverend W. Wright, the Civil Chaplain at Mahébourg, who is at present discharging the duties of Professor of Hindustani at the Royal College, in a letter to Sir Arthur Gordon of the 27th June 1872, advocates, on the other hand, the introducing of teachers for the Indians from India itself; but we fear that the qualifications, which he describes as necessary to constitute efficiency, would be sought for in vain, unless at a much higher rate of remuneration than is likely to be obtained in Mauritius.

Appendix U 11.

Schools to be of the Indian style.

3098. In one point, however, we fully concur with Mr. Wright, namely, that the schools should be of the Indian style, and not of the European; for, however much we may admire the handsome buildings at the Orphan Asylum, which would do credit to any similar institution in England, we cannot but feel that such buildings involve an expenditure wholly uncalled for in dealing with children whose after lives will probably be spent in straw huts; and, therefore, we should deprecate any such expenditure in the case of the buildings intended for Indian schools.

If not vernacular, then English, to be the language for teaching.

3099. Should the difficulty, however, of procuring suitable teachers of the vernacular dialects prove greater than those who advocate this system expect, we think that English should be the medium of instruction. English is the language exclusively in use in the proceedings before the Supreme Court, and that in which all the tickets and official documents of the Government are printed; and in default of being able to educate the Indians in their own language, the next best course is, we think, to educate them in the language of the Empire of which they are the subjects, and which may be of some use to them should they ever return to their native land—a contingency, the probability of which should always be borne in mind.

Compulsory education recommended.

3100. Lastly, we must repeat our strong conviction that any general scheme for the education of the Indians can be undertaken successfully only by the Government. We believe that, as a rule, the planters would acquiesce in such a law, and would be willing, as those examined before us assured us, to aid by providing suitable premises; for among the great expenses incident to the carrying on of a large sugar estate, the providing of these would form but an insignificant addition to the ordinary expenditure. But what the planters will, we feel sure, *not* do is, to risk incurring the odium (whatever there may be) of enforcing attendance, from fear of offending their men and so preventing their re-engagement. We believe that, if this responsibility could be borne by the Government, the chief difficulty, so far as the planters are concerned, would, as a rule, be obviated; and, considering the amount of compulsion that has in times past been exercised upon the Indian population of Mauritius with the object of repressing vagrancy, and which has been attended with comparatively little success. We do not think that any objection ought to be taken to the compulsory carrying out of a measure which ultimately will, we feel satisfied, do more to reduce the Indians to order and to

repress their "erratic tendencies" than has been obtained by the whole system of Tickets, Permits, and Passes, the description of which has occupied so large a space in this Report.

Benefits expected from education.

Chapter XXIX.—*Police.*

We have already (Chapter XI., *Enforcement of the Labour Law*) examined both the General Orders in force in the Police as well as various District Orders and Memoranda, and have shown the effects produced thereby. We will in the present chapter endeavour to describe the men by whom these orders were to be carried out, for it is obvious that such a law as Ordinance No. 31 of 1867 invests an unscrupulous man with an almost unlimited power of causing annoyance—annoyance in many cases of so serious a nature that we can readily believe that most persons exposed thereto would gladly offer and pay a bribe to a constable, in order to escape it, and therefore, unless the Police of Mauritius were composed of exceptionally upright and high-minded individuals, it was hardly possible, humanly speaking, that these powers should not be abused; and, even could it be proved to be composed of persons of this character, we might still doubt, as does Captain Blunt, whether

Great powers entrusted to the police.

Question 3059.

The Reformatory.

> "any Police Force in the world . . . could have put such an Ordinance into "operation without inflicting injury;

and, we further agree with him, that, with such a force as that of Mauritius, the difficulty was vastly increased, as we shall proceed to show.

Twenty-seven Nationalities comprised in the Force.

3101. The total strength of the Police Force in February 1872 amounted to 887 men, of the most different races; and the Force contained in its ranks men belonging to no less than 27 nations, which may be classed as follows:—

Appendix H 11.

From the United Kingdom	223
" Colonies and Dependencies exclusive of Mauritius	21
Other Europeans, and Americans; consisting of 12 different nationalities	101
Créoles of Mauritius and its Dependencies and Bourbon	213
Indians and other Orientals, Malagasy . .	329
	887

The Indian constable described by Colonel O'Brien.

3102. In order to judge of their respective qualities, and thereby to form an estimate of their trustworthiness, we do not think that we can do better than describe them in the words of Colonel O'Brien himself, as we find them expressed in official reports made by him on two different occasions, at a considerable interval of time. The first being in the Report upon the allegations of Mr. Kerr, at the second reading of Ordinance 31 of 1867 (see paragraph 469 and following), in which, after expressing great doubts as to the possibility of the existence of any general oppression by the police of the immigrant population, from the many checks in force, and his determination to punish severely any such cases if they should come to his knowledge, he drew the following picture of an Indian as a constable:

Appendix F 27.

> "The Indian it must be remembered is essentially a 'Jack in office,' the lower in "position the greater, if only 'pour se faire valoir' will be the efforts on the part "of its occupier to presume on it, he loves the exercise of power, more especially "if he can combine with it profit by extortion, so that if the argument applies to "the nation generally, it does so doubly here, where instead of being a selection "from the respectable classes, as in India for the police, I am obliged to fill the "ranks of the Indian constables from the mass of the immigrant population itself, "hence I am doubly strict and careful on this point, on which the only suggestion "I can make is, that, prior to passing sentence, the Magistrate be instructed to "inquire and investigate any valid complaints made by prisoners as to the manner "of arrest or to the treatment they subsequently received."

The Mauritius constable described by Colonel O'Brien.

3103. In April 1870 he submitted confidentially for the consideration of Sir H. Barkly the result of his 2½ years' experience as the head of the Police Force, in the course of which he dilated upon the increasing difficulty he found in obtaining suitable men as recruits.

Appendix J 10.

> "The class I get consist of some few old soldiers attracted by advertisements in

The Mauritian constable described by Colonel O'Brien.

"the Indian papers, mainly of foreigners, and the most of the sailors in the harbour "or what is vulgarly known as the 'loafers' about a large port; men who must "be trained from first to last. I do not mean to say that there are not many "exceptions, but as a class the men now offering are most inferior: if good, they "are deficient in education; if educated, they are mostly drunkards or men of bad "conduct.

"The European police are called upon to furnish more non-commissioned officers "in proportion to its strength than most other bodies; further, it is obliged also to "supply sergeants and corporals for the Créole and Indian portion of the force, as "none of the latter, and but few of the former, possess educational qualifications "sufficient, neither as a rule can these classes be trusted.

"The Créole constables are necessary from their knowledge of the country, lan- "guage, &c.; they, however, as a rule, are not to be depended upon, they are lazy, "untruthful, slovenly, incapable of discipline, and they would be, I fear, useless in "a serious rising. They are careless to a degree, and cannot be trusted where self- "interest and family ties are concerned. As their necessaries of life are far less "than those of the Europeans, they are, relatively, far better off than their white "comrades, and I would be inclined to advocate a reduction in their salaries were "it not that such is the aversion to the police amongst the Créoles, a class that I must "to a certain extent maintain that I have till lately found great difficulty in obtain- "ing respectable men of this description for the force; recently, I am happy to "say, however, a far better stamp of men have come forward, and I trust, ere long, "this prejudice will disappear from this portion of the population.

"Indians: a great amelioration could be effected in this class, who are now "almost entirely recruited from men who serve in the first place as labourers in "the department, and therefore consist of the mixed races and castes imported into "Mauritius with which they are too intimately connected, and with whom they "participate in vice and want of caste; they are, as a rule, liars and venal, and "though much smarter, more sober than the Créoles, and less likely to be influenced "so much by family ties, yet they all have their price and could not be depended "upon, should any outbreak in the Indian population take place. Hence, though "for detective purposes and the ordinary duties of country districts this class should "be retained yet for town, for the treasury, the guarding of prisoners, and as a "check upon the Indian population generally, I would be glad to see this Island "follow the example of Hong Kong, and have a reserve of say 80 or 100 Sikhs "(Murotees if possible), of whom a portion, say half, might be armed, and form a "portion of the general reserve.

Remarks of the Police Inquiry Commission.

3104. We have searched in vain in the Report of the Police Inquiry Commissioners for any expressions condemnatory of the force, at all approaching to those just quoted; and it is difficult to see how, upon the evidence given before them, the Commissioners could have made a milder remark, consistent with the truth; than that,

Appendix H 1, para. 151. "it appears that the Officers and Non-commissioned Officers are of "opinion that the Constables make use of the powers conferred on "them at times, to arrest and annoy Indians by examining their papers out of "spite; that cases have occurred of their making unscrupulous use of their powers; "and that a great deal of annoyance and vexation does occur:"

and, it certainly would have been very extraordinary if such cases did not occur in a force, nearly five-eighths of which is composed either of

"Jacks in office, who love the exercise of power, more especially if they can combine "with it profit by extortion,"

and who

"the lower their position will only make the greater efforts wantonly to presume "on it;"

or of persons who

"cannot be trusted where self-interest and family ties are concerned."

Remarks of the Police Inquiry Commission confirmed by the Royal Commissioners.

3105. We think that the truth of these remarks in that report have been fully corroborated by our own inquiry; and we cannot therefore admit the justice of Colonel O'Brien's reasons for dissenting therefrom, unless we are to believe that the character of the force underwent a complete transformation in the twenty months which intervened between April 1870, when he made his report to Sir H. Barkly, and the assembling of the Police Commissioners in December 1871, during only ten months of which he was in the colony.

Questions 5527, 5529.

We must, however, in justice to Colonel O'Brien, emphatically notice the condition of

the police quarters at the Central Station at Port Louis, which we visited shortly before leaving the Island, and which we can only declare to be, in our opinion, unfit for human habitation.

Police barracks unfit for human habitation.

We believe that Colonel O'Brien has, on more than one occasion, called the attention of the Government to this matter, and we learn from a Report, submitted by a Special Committee of the General Board of Health to that body on the 13th of August 1873,

Action taken by Colonel O'Brien.

Appendix H 46.

that a correspondence took place in 1867 upon the subject between the Inspector-General of Police, the Chief Medical Officer, and the Government, and that various recommendations were then made with a view to ameliorate the sanitary condition of the police barrack in question. Very little, however, has been done

Recommendations made in 1873.

"partly because a considerable portion of the police force has been located during "a part of the interval in the Line Barracks, but chiefly, it is supposed, from want "of available funds."

Very little done.

The Committee above mentioned visited and examined the premises on several occasions, the result of which visits we give in the words of their Report.

Report of the Special Committee of the Board of Health, 1873.

"Certain of its members have passed through the barrack and the cells in the "early morning, on occasions when there have been from seventy to eighty prisoners "confined in the latter, and before the usual morning cleansing had been effected. "The flooring of the barracks above the cells is old, and the seams open in several "places, and through these, as also by the windows, the barrack rooms are more or "less permeated by the noxious emanations from beneath. These are added to by "the foul smells which often arise from an untrapped drain having an opening into "one of the cells, under the floor of which it passes, with the drainage of the "adjoining yard and stables to the nearest street drain. The latrines are situated "in the adjacent corner.

Rooms permeated by noxious emanations.

Foul smells from an untrapped drain.

Latrines.

"And from holes made in the yard at the last visit of your Committee, there is "reason to believe that the soil of the yard has become soaked to a considerable "degree with organic matter.

Although our visit was made late in the afternoon, at an hour when the prisoners had but just been locked up for the night, we can fully corroborate this description, and we can readily imagine the horrible state of the atmosphere in the barrack room, during the night, and in the morning before the cells are first unlocked.

Royal Commissioners' experience corroborates Board of Health's Report.

We have only to express our hope that the suggestions made by the Committee for the improvement of this state of things may be acted upon; as under existing circumstances we certainly cannot feel any surprise at the difficulty experienced by Colonel O'Brien in obtaining respectable recruits for the force under his command.

Improvement necessary to enable police to recruit good men.

3106. But to return to the consideration of the police force as it is: apart from the New Labour Law, there is a class of laws in force in Mauritius, which invest the police with certain powers, which are of such a nature as to be peculiarly liable to abuse if exercised by an unscrupulous person, and, to expose such unscrupulous persons, if any there be, to strong temptation, so to exercise them, viz. the duty of taking contraventions; and which formed one of the charges advanced against the police by Mr. de Plevitz, when examined before us, when he stated that

Taking contraventions.

Question 893. "There are laws which are framed for the population at large osten- "sibly, and which are used with the greatest rigour against the Indian "alone."

and which he pronounced in his opinion to be

"absurd."

Appendix H 12. 3107. Reference to the contravention list will show that there are no less than ninety-eight offences for which offenders

Ninety-eight offences.

"may be taken in contravention"

or, in plain English, summoned to appear before a Magistrate, and, on conviction, fined. Many of these will be seen to be of a trifling and petty nature such as in the case of drivers

"neglecting to remain at the heads of their animals,"

or of,

"driving animals in a vehicle not on springs out of a walking pace."

or driving a cart

"with illegal axletrees or tires;"

and a number of others equally trifling, and which might be very well overlooked altogether, except in cases in which mischief had arisen from neglect to conform strictly to the requirements of the law. But, in order that the law might be enforced with the greater zeal, in one case at any rate (Ordinance No. 28 of 1866, Article 94) a portion of the fine is by law awarded to the informer or to the detecting officer.

Taking contraventions.

3108. It is obvious that the law relating to this class of offences, many of so minute a character as to render it difficult even for an educated European to understand them, must bear with greater severity upon the ignorant or illiterate Créole or Indian.

3109. Whether these laws were designed originally with the view, as asserted by Mr. de Plevitz, of pressing with exceptional hardship upon the Indian portion of the community, may not at this distance of time be susceptible of proof or be very important: whether these laws have been practically converted into a means of oppression, or extortion, or have been vexatiously and unscrupulously put in motion, is eminently so; and, we shall, therefore, first examine how far the views of Mr. de Plevitz have, at any time, been held by other persons who might be presumed to be well acquainted with the colony; and, afterwards, we shall give some instances illustrative of the action of the police in this respect.

3110. We may pass over the cases mentioned by Sergeant-Major Warren before the Police Commission, of a sergeant of police entering a Chinaman's shop, with a constable having a pint bottle of rum in his pocket, and then procuring the conviction of the Chinaman on the charge of selling rum under proof, as having happened so long ago (1860); and, for the same reason, the case in which the agent of an Inspector of Police took a cap with him into a shop, and, in order to prove that a person had been drinking there on a Sunday, swore before the Magistrate that this cap belonged to the man who he had found in the shop drinking, and who had run away leaving his cap behind, whereas the Inspector knew it was his own servant's cap which had been taken there; and only notice in detail some few cases of which we find written records.

Evidence taken before the Police Inquiry Commission, Ans. 411 and 415.

Mr. Robertson's opinion.

3111. In January 1865, Police Corporal Thurstin was condemned by the District Magistrate of Plaines Wilhems to a month's imprisonment for assault and larceny committed by him and an Indian Constable, named Govinden, upon an Indian named Brojobookhan; and who, after sentence, petitioned to the Governor for a remission of the same, alleging that it had been procured by means of false evidence. The petition was referred, for his report, to the Magistrate, Mr. Robertson, now the senior District Magistrate in Port Louis, and one of the oldest English residents in the Island, and he concluded his report with these words:—

Appendix H 13.

> "The records of the District Court unfortunately show but too many cases of "abuse of power by the agents of the Police Force and by men previously of good "character. This may result from their frequently being placed at isolated posts, "and the great power the Revenue Laws place in their hands."

Armoogum's case.

3112. In the month of June 1866, a petition was sent to the Procureur-General from one Armoogum, a hawker of jewellery, praying for inquiry into the conduct of two constables of Mahébourg, named François and Bonaffaire.

Appendix H 15.

It set forth that, shortly before, he had been arrested by them at Mahébourg under pretext that his licence to hawk jewels was not *en règle*; that, a few hours after the arrest, they asked for money to release him, and that he gave them $7, and pledged a jewel to obtain another dollar in order to make up the $8 demanded by them.

The Petitioner further stated that he had represented his case to the Inspector of Police (Mr. Rice) on the 5th June, praying for an inquiry before the District Magistrate, but, that no steps had been taken towards the institution of such inquiry, and that his witnesses had been arrested on frivolous pretexts, by the same two constables.

3113. This Petition was referred to the Acting Inspector-General of Police, and, by him, to Mr. Rice. On the 28th June, the latter reported that Armoogum had made a similar complaint to him some time previously, and that, from inquiries which he had made, he had found it to be false, and therefore had referred him to the District Magistrate. The Petitioner was, he affirmed, simply the tool of one Pierre Ange, who was acting for a band of notorious thieves, several of whom he

Appendix H 15. Inspector Rice to the Acting Inspector-General, Letter No. 76 of 28. 6. 66.

> "had caused the constables, referred to in the Petition, to arrest for an extensive "robbery of jewels a few days *prior** to the date of this complaint. I have "obtained a warrant for the arrest of Armoogum, under Article 297 of the Penal "Code for making a false denunciation in writing."

3114. On the 13th July Mr. Rice reported more fully on the case. He had, he said, been informed on the 3rd June by a Madras man in his pay, that a band of Indians were about to prefer a complaint against police constables François and Bonaffaire, and that the Indians Ramsamy and Chellumbrun Pillay would serve as witnesses. He therefore went and saw these men, the first

Appendix H 15. Inspector Rice to the Acting-Inspector-General, Letter No. 88 of 13. 7. 66.

* The italics are ours, and are not in the original.

Taking contraventions. Armoogum's case.

of whom stated that he had promised to give false evidence in support of a complaint against the constables that he was really present when they had stopped and examined the papers of Armoogum, but that they had neither arrested him nor received any money from him.

Chellumbrun Pillay made a similar statement as to the falsity of the contemplated charge, adding, that it was got up to get rid of the constables, who were always arresting some of their party. Mr. Rice warned them to say nothing to Armoogum, so that he might proceed to bring his complaint.

3115. Two days later (on the 5th of June) Armoogum came to Mr. Rice with his complaint in writing, which was to the effect:—

> "that several days previously he was stopped by the two constables on the public "road near Beau Vallon, that they, after having examined his licence and jewelry, "stated the latter was not properly stamped, and that unless he gave them eight "dollars, they would arrest him and take him to the station; that he gave them "seven dollars, being all the money he had, that they still threatened to take him to "the police station unless he gave them one more dollar; whereupon, Ramsamy, "who was present, offered to advance him one dollar upon a silver ring, which he "accepted and handed over to the constables, after which they set him at "liberty."

On being asked why he had allowed a week to elapse before making his complaint, he said he was afraid of the constables. He also stated that

> "Ramsamy, Chellumbrun Pillay, Arnassalon, and Petty Permall were present "when he paid the money to the constables."

3116. Mr. Rice then went and—

> "Saw Arnassalon and Petty Permall, and the former stated he was present in the "shop when the constables examined the licence, &c., of Armoogum, but that no "money was asked for or received by them, he had been asked to give false evidence "against the constables.
>
> "Petty Permall said he knew nothing about the affair beyond having been asked "to serve as a witness."

3117. It certainly appears very strange to us that Mr. Rice should have omitted to mention further that Chullumbrun Pillay was arrested on the 7th; one, or at most two days, *after* Armoogum made his complaint, and not *prior* thereto, as stated in his letter of the 28th of June, and that on the 8th the arrest of Petty Permall followed, and on the 9th that of Armoogum Putten (also subsequently a witness in the case against the constables), with two other men, Canardy and Samynaden.

These men remained in police cells until the 16th, when the very serious complaint was lodged against them of administering poisonous drugs "calculated to cause death," and of larceny, from four Indians, of whom one was Arnassalon, and on the same day they were released on bail to appear on the 25th.

Their cases seems to have been postponed until the 2nd of July and again until the 3rd of August, but under what circumstances the record is entirely silent; and on the last named date the case was struck out, we presume, because no one appeared to prosecute, and no evidence appears on the record, a curious termination to a charge of so serious a nature.

Dossier, No. 801 of 1866. District of Grand Port. Appendix H 15.

3118. In the meantime, however (on the 28th of June), Mr. Rice had lodged a complaint against Armoogum for having made "a false denunciation in "writing;" under Article 297 of the Penal Code, which came on for hearing on the 4th of July, when the witnesses were the two constables, Ramsamy and Arnassalon, who gave such evidence as would probably have secured the conviction of Armoogum had not the case been dismissed on a legal technicality.

Dossier, No. 865 of 1866. District of Grand Port. Appendix H 15.

3119. Two days afterwards Armoogum lodged an information before the District Court against the constables for swindling and extortion, which was heard on the 16th, and on the 18th; and on the 30th Mr. Dupuy, the Magistrate, delivered his judgment, by which the two accused, François and Bonaffaire, were committed for trial at the Assizes.

Dossier, No. 892 of 1866. District of Grand Port. Appendix H 15.

3120. Four witnesses had appeared besides the complainant Armoogum, viz., one Naraina Pillay, Armoogum Putten, Petty Permall and Chellumbrun Pillay; the last three of whom had, as we have seen, been arrested, and had at the time the charge of administering poison hanging over them.

3121. The chief point of divergence in the evidence was, relative to the arrest of Armoogum, the witnesses for the defence, Arnassalon and Ramsamy, both declaring that after the examination of Armoogum's box the constables went away from the shop

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of Arnassalon, and that Armoogum remained behind; whilst the witnesses for the prosecution, Armoogum, Naraina Pillay, and Armoogum Putten, all said that when the constables left the shop, Armoogun and Ramsamy followed them, and that the payment was made between the shop and Mahébourg, through the medium of Ramsamy; in which case, therefore, Ramsamy would be the person, of all others, next to the constables themselves, who would have the greatest interest in suppressing the truth; while it is singular that Arnassalon was one of the persons for attempting to poison, whom the three witnesses, Chellumbrun Pillay, Armoogum Putten, and Petty Permall were, as we have seen, subsequently arrested by Mr. Rice, but which charge fell through in a manner not accounted for.

3122. Chellumbrun Pillay, though he saw nothing of the occurrence itself, corroborated the statements of the other witnesses by devising that on the same evening Ramsamy had come to his house, in which Armoogum was stopping, with the bangle (called silver ring in Mr. Rice's letter above quoted), which Armoogum had given him in pledge for the eighth dollar required by the constable to release him.

3123. Petty Permall's evidence does not appear to tally with that of Naraina Pillay and Armoogum Putten, as he stated the constables left the shop as he himself was leaving; that Armoogum remained at the shop; that he did not see them return, and that he went back to his own shop and made entries in his books.

As, however, we learn from the cross-examination of Arnassalon that the shop of Petty Permall is not exactly opposite that in which the occurrence took place, though not far off, it appears to us that the constables might have returned and done all that was alleged against them without Petty Permall's seeing it.

3124. The evidence in such a case, in which the witnesses on both sides are Indians, is almost always conflicting in its details; but considering the persistence with which Armoogum pressed his case, the arrest of his three witnesses on a very serious charge which was allowed to drop, immediately after he made his complaint to Mr. Rice, and the interview of the latter with them; the misstatements of Mr. Rice respecting the date of the arrest of the three men; and that although upon the Procureur-General's refusal to prosecute the constables, he warned Armoogum and his counsel that, as it was competent for them to do so, unless they prosecuted the constables to conviction, he should lodge a new information against Armoogum for a false and malicious complaint, and against his witnesses for perjury, he never did carry out his threat: we are of opinion that the charge against the constables was substantially true, and is a forcible example of the extortion which has been sometimes practised by the police in Mauritius under cover of the Revenue Laws, as asserted by Mr. Robertson.

3125. The next authority to which we shall refer must be admitted to be indeed high, as it is no other than that of one, who for more than ten years filled the post of Procureur-General, the first Law Officer of the Government.

Opinion of Mr. Dickson, many years Procureur-General.

3126. Mr. Dickson, who retired from that office in 1867, writing in July 1868 from Glasgow to Mr. Adderley upon certain reforms then contemplated in sundry laws of Mauritius, expressed the following opinion as to the system of contraventions, and the conduct of the police in taking them.

The Duke of Buckingham to Sir Henry Barkly. Despatch No. 246 of 17. 8. 68. Enclosures.

"There is a great number of Ordinances creating penalties for petty contra-
"ventions of regulations, as to roads, markets, Revenue and Sanitary
"matters and some others. Many of these regulations are so minute
"and elaborate that it is a difficult (*sic*) even with good intentions to
"avoid a breach of them. They are inappropriate in a country where
"the greater number of the inhabitants are of Eastern origin, and un-
"able to read any European language. The consequence is that the labouring
"population are frequently arrested for petty offences unknown in this country or
"in their own, and as they seldom pay the fine imposed on them they have to be
"imprisoned. This is a great hardship to them. Indirectly it produces the serious
"evil of demoralising them by frequent imprisonment for what they do not regard
"as criminal acts. And it arises in them the feelings that the law is vexatious
"and oppressive.

"(38.) It also happens that the police get a share of any fines that are recovered
"in these cases; and this makes them very keen, and sometimes far from
"scrupulous in securing conviction. The time of the police might be better
"employed.

"(39.) Besides, the offenders in these petty cases increase the number of prisoners
"in the gaols, who are very numerous in proportion to the population.

"Upon these considerations I had resolved on returning to the colony to carefully
"review the whole of the laws and petty contraventions, and endeavour to simplify

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"the regulations and reduce as much as possible the number of petty offences
"under them.

"I take leave to suggest that this should be done."

Sir H. Barkly to Earl Granville, Despatch No. 57 of 5. 3. 69.

Opinion of Sir Henry Barkly.

3127. In answer to which Sir H. Barkly wrote as follows:

"29. There is much force likewise in Mr. Dickson's strictures on the tendency
"of the numerous petty contraventions created under the Revenue, Sanitary, and
"Road Ordinances, aggravated as it must be by a share of the fines, in such cases,
"being awarded to Police Constables, to fill the Colonial Prisons with offenders,
"who really do not belong to the criminal class.

"It is, however, a difficult problem to decide how those habits of regularity,
"order, and cleanliness, which are so deficient among the ex-apprentices and Indian
"immigrants, are to be inculcated otherwise than by pecuniary penalties, and
"unfortunately so little shame is attached by them to imprisonment that they
"generally prefer it to paying the money, even when they could easily do so.

"30. The arrangement as to the police is undoubtedly open to objection; and
"soon after my arrival here I tried to substitute the plan adopted in Australia of
"carrying a moiety of all penalties recovered by such instrumentality to the Police
"Reward Fund, instead of letting it go to the individual informer. It was objected
"that the pay was so low in Mauritius that intelligent and energetic Europeans
"competent to fill the posts of Inspectors and Non-commissioned Officers would
"not remain in the force, but for this extra inducement, and that the activity to
"which it gave rise was for the public good. As I was not in a position to remodel
"the whole of these laws on the subject of penalties, I have contented myself with
"giving orders that prosecutions shall not be instituted without the sanction of
"the Chief Officer of the District, and with mitigating the penalties on petition,
"in cases where I thought the police had been too sharp; but the regulations as
"to sign-boards, of licensed dealers selling liquors on Sundays, names upon carts,
"&c., &c., though usually copied from English statutes, are, it can hardly be ques-
"tioned, ill-adapted for Chinamen and Hindoos, and I shall be very glad to see
"them carefully revised by the Legislature."

Appendix H 16.

Opinion of Mr. Andrews, Collector of Internal Revenues.

3128. That Sir H. Barkly had for some time been aware that the police were not above suspicion, we learn from a correspondence which took place just three years before between Mr. Andrews, the Collector of Internal Revenues, and Colonel Macdonald, the Acting Inspector-General of Police, in which the former requested that the police should abstain from interference in certain petty contraventions which would, he said,

"be conferring a considerable boon on the licensed trader by stopping most vexa-
"tious proceedings which at present tend to diminish the Revenue."

3129. Colonel Macdonald appears to have entertained some doubts as to whether he could lawfully accede to the request; and the question was referred to the Procureur-General, upon whose opinion Mr. Andrews observed *inter alia*—

"The power now vested in the police opens the door to abuse by extorting
"money on alleged contraventions, while prosecuting acts which in no way damage
"the Revenue, and in many instances are committed in sheer ignorance."

Appendix H 16. Minute of Sir H. Barkly of 27. 3. 66.

Opinion of Sir Henry Barkly.

and on the following day Sir H. Barkly added his minute, which commenced with these words:—

"There is no doubt that many cases of vexatious interference occur through
"police constables prosecuting the technical contraventions referred to."

Appendix H 17.

Opinion of Mr. Andrews, Collector of Internal Revenues.

3130. But if such practices existed in 1866 they existed also two years later; as, in May 1868, we find a correspondence, in which Mr. Andrews again drew attention to the manner in which the police took contraventions; which he represented as tending to diminish the Revenue; in the course of which we find him taking this opportunity of stating that, whilst complaints have been made by him as to the interference of the police in similar cases where the Revenue was

"in no way augmented by such zeal, but on the contrary diminished; for instance,
"by prosecuting a shopkeeper for not having the letters on his sign-board of the
"exact dimensions required, and all such petty annoyances; cases which should
"be left entirely to the Internal Revenue Department;"

he repeated an acknowledgment of the great assistance rendered by the Police Officers to his Department in carrying out the distillery laws.

Appendix H 18.

3131. In September of the same year we find the conduct of the police censured by Sir Henry Barkly in the case of At Heem, a Chinaman at Pamplemousses, who had been fined £6 5*s*. and costs for selling rum on a Sunday. This,

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however, the man had at first refused to do; and had only yielded after some time to the pressing importunities of an agent of the police, who had been, as Mr. Douglas, the Assistant Colonial Secretary, expressed it:—

"endeavouring to induce people to break the law in order that they may profit "by it;"

which was no sooner done than the Sergeant and his Constable, who were on the look out, rushed in and caught At Heem in contravention.

Colonel O'Brien's circular in 1870.

3132. And that similar practices still continued two years later, we assume from the fact that, in September 1870, Colonel O'Brien issued a circular which Appendix H 20. stated that it had been brought to his notice that numerous cases had recently occurred of Police taking licence contraventions in

"a manner that is vexatious to the public and useless in its end;"

he wished it clearly understood that while the exertions of the Department were to be in no way relaxed in carrying out the various laws strictly and impartially,

"he did not wish the men to be employed in bringing before the Magistrates what "are but *quibbles*; a course that throws discredit on all."

Case of the hackney coachmen.

3133. This very proper instruction from the Inspector-General does not unfortunately appear to have met with universal attention from his subordinates, for two months later, we find that a complaint from the Municipal Inspector of Hackney Appendix H 21. Carriages was forwarded by the Mayor of Port Louis to the Inspector-General, of the manner in which the hackney coachmen and drivers of carrioles on the Place d'Armes were vexatiously taken in contravention by a certain Sergeant Anderson; the pretended contravention consisting in the driver of a carriage having left his box to arrange the harness of the horse; a proceeding against which the Municipal Inspector had remonstrated, as being an interference with his own duties; but notwithstanding this, Sergeant Anderson had, he stated, sent two detectives to the carriole stands to

"take contraventions of drivers leaving the box to rub harness and dust the "ponies," &c.

Case of Sergeant Aston at Flacq.

3134. In the month of June 1871, too, we find Inspector Shellam writing from Flacq to the Inspector-General about a Sergeant Aston who had been reprimanded Appendix H 22. by the Magistrate (Mr. Baudot) for bringing trifling contraventions, particularly against the fishing laws, and who had told him that he had so very little confidence in him that he could not believe his statements. Mr. Shellam therefore solicited the removal of Sergeant Aston from the district fearing lest possibly—

"he might be a principal witness in a case of a serious nature, which would be "damaged through his mere presence in it."

He thought that Sergeant Aston might discharge his duty better in any other district but—

"he believed that in Flacq he was heavily in debt, which might perhaps cause "him to magnify a petty and insignificant contravention so as to be allowed to "bring them before the Court, when a mere warning would suffice to put a stop "to them;"

and, when examined before us, Mr. Baudot confirmed this by stating that at that time the police were in the habit of bringing complaints of a very frivolous Question 12,812. nature, which had led on another occasion to his administering a severe rebuke to a Sergeant.

Mr. Didier St. Armand to Procureur-General, Letter No. 40 of 9. 8. 71.

3135. In the month of August following we find Mr. Didier St. Armand, in the course of a correspondence with the Procureur-General relative to a very paltry dispute with Mr. Seed, then Police Inspector of the district, making the following statement:—

Statement of Mr. St. Armand.

"I have had latterly to rebuke the police severely for the great loss of time "given to petty paying contraventions, the absence of real Police work, the very "unsatisfactory way in which their inquiries were conducted, the erroneous ideas "about general warrants."

General concurrence of testimony.

3136. We thus see three Magistrates, the Collector of Internal Revenues, an Ex-Procureur-General, and the Governor, at different times during the last eight years making or admitting the same general charge against the police, of unscrupulous or vexatious use of their powers in regard to taking contraventions.

Tire contraventions.

3137. Among these there is a class of cases known as "Tire contraventions," which arise under Ordinance No. 33 of 1858; for the making and repairing, and for the police superintendence of public roads; the 13th Article of which, enacts that—

"the tires of the wheels of all two-wheeled carts and carriages used for the con-"veyance along the main or branch roads of goods, wares, and materials of any "kind whatever, shall not be less than three inches and a quarter.

Taking contraventions. Tire contraventions.

"(2) The foregoing provision is not applicable to small carts, the load in which "does not exceed 1000 pounds,"

and the last paragraph renders contravenants liable to a fine not exceeding £2 sterling.

3138. But, although the Ordinance thus went the length of exposing any person to be stopped upon the road and to have his load weighed, it neglected to provide what we should have thought was inseparable therefrom, viz. that there should be weighing bridges at convenient intervals along the road; and hence, Mr. de Plevitz cites this law as one which is vexatiously enforced by the police, and by means of which they are able to extort money from Indians, who, sooner than undergo the annoyance to which the Police are able, under cover of this law, to subject them, are ready to conciliate the Officer by the payment of a bribe to let them escape.

Evidence of Mr. de Plevitz.

3139. Many Old immigrants, Mr. de Plevitz, tells us, are wood cutters, who, after Question 327. cutting a load of fagots in the forest, bring it down for sale, when,

Question 328 et seq.

"on passing a Police Station the Sergeant stops the cart and pretends they "are in contravention for having their carts over loaded. Generally they "have in their carts from four to five hundred small bundles of wood. They are "obliged to unload and reload their cart, so that the wood might be weighed, and "they are thus kept several hours. The Indian cannot complain, as such is the law. "If, however, they pay a small sum of money to the police, the Sergeant will not "stop them, but let them go on."

Should they, however, not do so, the following curious proceeding takes place:—

"They get all sorts of weights. They go here and there all over the district and "get what weights they can."

They use

"any scales they can get in the neighbourhood. There is no law that they must "have a scale of their own . . . . . and when they want one they have "to borrow one. The way in which they weigh the bundles is to take out ten, say, "at random, and weigh those. He does not tell them what they weigh, but makes "up his account, and then says,—your are in contravention."

Sergeant Cimiotti's evidence.

3140. If from the evidence of Mr. de Plevitz we turn to that of Police Sergeant Questions 4668 to 4696. Cimiotti, whom we questioned upon the subject, we shall find it in a great measure corroborating the statements of the former; for he admitted the weighing of the wood in scales, which he was obliged to borrow, none being supplied by the Police Department, and that on several occasions money had been offered to him by Question 4682. Indians to avoid being taken in contravention, which he had taken, but had always *brought* up before the Magistrate, as, by doing so, he "he thought he could show the men to be more guilty."

Return showing the names of members of the Police Force reported for taking bribes. Appendix H 27.

3141. The Sergeant had not, however, always been so scrupulous in the early days of his career in the Police Force, as we find that on the 9th of December 1867 he was fined £2, and confined to Barracks for a month by the Inspector-General for "Receiving a Bribe;" and which, but for the length of time which has elapsed since the occurrence, might have induced us to suspect that the share of the fine which he would obtain from the conviction of the contravenant exceeded the amount of the bribe offered by the Indian.

Evidence before the Police Commission. Answer 66. Appendix H 1.

3142. He used, he also stated, three scales weighing 50 lbs. each, besides some smaller which he borrowed from a friend; and he declared that the process of unloading the cart, weighing the wood, and reloading, occupied nearly 10 minutes; an assertion which however, we cannot believe; but even if we did, the trouble to the Indian of being compelled to unload and reload his cart might very easily induce him to offer a bribe in order to be spared it; a probability freely admitted by Inspector Bell when examined before the Police Commission.

Appendix H 23. Dossiers, Nos. 997, 999, 1000, of 1872.

3143. We also found the same course followed in Plaines Wilhems, when we examined Mr. Jollivet, the Magistrate of that District, upon a number of cases of "Road Contravention" tried by him; and at the trial of three of which on the 28th of August 1872, the Chairman of the Commission was present in Court.

The evidence was that the "party who had taken the contravention had taken and "weighed ten bundles of wood at a time; and he proceeded in that manner until "the whole contents of the cart were weighed. He found 400 lbs. beyond the "allowable weight. He had used a 50 lbs. spring scale," which he had hung from a pole, one end of which rested on the cart, and the other on a man's shoulder, a manner of weighing which, however, did not satisfy the Magistrate, who dismissed the case.

Vol. II. Question 1364 et seq.

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Appendix H 23. Dossier, No. 885 of 3rd July 1872; No. 928 of 19th August 1872. Appendix H 23. Dossier, No. 1567 of 27th December 1872. Vol. II. Question 1390 to 1394. Appendix H 23. Dossiers, Nos. 139 and 140 of 1873.

3144. In two out of five (5) other cases, the defendants admitted the charge, and their cases were disposed of without further inquiry or proof. One was decided in the absence of the defendant, also without inquiry further than the information set forth upon the summons, although that information contained a statement which, in itself, was sufficient to have cast a doubt upon its accuracy, and should, therefore, have been carefully investigated; more especially as the defendant had not appeared. Two others were tried on the 13th of February 1873; one of which was dismissed as not proved, and in the other, one of the two defendants was discharged, and the other was fined 8s. and costs; though, it is impossible, from the Record, to arrive at the ground of the judgment in either case.

3145. It is somewhat remarkable that in seven of these eight cases, Sergeant Anderson, whose proceedings in Port Louis we mentioned above, appears as the complainant; from which we infer that that officer has as great an aptitude for detecting minute contravention as had the officer whom Mr. de Plevitz saw at Terre Rouge *weighing a Chinaman* who was riding on his cart, together with his goods, so as to make out a contravention; or as Sergeant Cimiotti, when he prosecuted one Faustain at Pamplemousses for carrying on the trade of a saddler without a licence; for which Faustain was fined £1. besides costs: the contravention consisting in mending a troop bridle for a mounted Police Constable named Kelly, who had given him a shilling for so doing, according to one witness, without his having claimed it; and in order to perform which job Faustain had had to borrow the necessary implements and the leather from a shoe-maker in whose shop he happened to be at the moment, and by whom Kelly had been referred to him.

Vol. II. Question 1411.

Appendix H 19.

Increase in contraventions.

Sanitary contraventions.

3146. Before taking leave of the subject of Police Contraventions, it may be well to draw attention to the great increase in the number taken since the year 1867, when the total number of contraventions charged were 6890, but which rose in the three succeeding years, until, in 1870, they reached the high figure of 17,358; an increase which in Colonel O'Brien's opinion, is mainly traceable to the carrying out of the improved Sanitary Legislation by his Department, and not to the interested zeal of the police, as the report of the Police Commission attempts to show; and in support of this view of the subject he furnished us with a Return of the Sanitary Contraventions taken from the 1st May 1868 to 31st July 1872, which, however, completely refutes his theory; for, it will be seen from the following Table, which takes the year 1868 as the standard of comparison, that, in the three following years, whilst the Sanitary Contraventions decreased, the total number of contraventions increased:—

Appendix H 6, para. 36.

Appendix H 6, annexure P.

Year.	Total Number of Contraventions.	Sanitary Contraventions.	Increase in Total Number since 1868.	Decrease in Sanitary Contraventions since 1868.
1868	9,278	1854	..	..
1869	10,967	339	1635	1465
1870	17,358	704	8080	1150
1871	13,340	289	4062	1565

and it is needless to say more of an explanation which accounts for an increase of 4062 contraventions in 1870 as compared with 1868 by ascribing them to the Sanitary Contraventions, when the latter taken in 1871 were 1565 fewer than those taken in 1868; as, indeed, Colonel O'Brien himself, after considerable hesitation reluctantly admitted.

Questions 8310 to 8311.

3147. We lastly come to consider Colonel O'Brien's defence of the Police Force against what he terms

"the wholesale condemnation passed on the Department relative to the taking of
"bribes by Members of the Force,"

in the 239th paragraph of the Report of the Police Inquiry Commission, in which they observed that,

"the custom of taking money to refrain from bringing charges, or extorting money
"under threats of bringing charges, appears to have occurred frequently in the
"Police Force,"

Appendix H 1. Special Report of Mr. Antelme, para. 8. Appendix H 6, para. 38. Appendix H 27.

Taking co traventio

an opinion shared also by the Honourable Mr. Antelme: and Colonel O'Brien lays great stress upon the fact of there having, between the 1st of January 1860 and the 26th of May 1872, been only 51 men punished for taking or attempting to take bribes, a proportion of about one-half per cent. on the number of the force during that time.

3148. In estimating the value of this Return we must consider that it represents only the cases of which there was such conclusive proof as led to the punishment of the offenders. We may agree with Mr. Antelme, who, writing upon the police and the manner in which they had carried out the law, expressed his astonishment, not that there had been abuses, but that there should have been so few, and, that, with such ill-chosen instruments as the police, order and security had been restored to the colony, without entailing intolerable ills upon any class of the community.

Taking bri

Appendix H 1. Separate Report of Hon. C. Antelme, para. 266.

3149. Whether he would have so written had he known of the cases which have come under our notice we are not aware; and we are anxious that Colonel O'Brien and the police force should have all the credit that may be justly due to them from the fact of comparatively so few cases having been proved against the members of it. But we must, on the other hand, remember, that the offence is in its very nature one most difficult of proof; it is one which, it is most improbable will be committed under circumstances in which there will be witnesses; and, consequently, the evidence will consist simply of the statement of the complainant against the counter statement of the accused; and we have no doubt as to which of the two would most easily obtain credence when the relative position of accuser and accused were occupied respectively by a Coolie and a Constable of Police.

3150. But, further, we must bear in mind the amount of extortion which may be practised under the cover of the law, without any positive demand for money being made at all; the inducement there must be to an Indian to offer a bribe, so as to avoid the inconvenience and annoyance which he knows the policeman has in his power to inflict; as also, the temptation there is to the latter to accept a bribe, however small, to abstain from making a charge, the prosecution of which will possibly entail upon him the trouble of walking several miles in order to attend the Court by 10 A.M. after perhaps, having been out all the previous night on duty, of remaining 3, 4, or 5 hours at the Court, and of walking the same distance back to the out-station from which he came, previously to undergoing another 12 hours of night duty.

Inspector Shellam to the Superintendent of Police, Letter No. 10 of 24. 1. 69. Appendix H 24.

3151. Such is the picture drawn by Mr. Shellam, and which we shall find corroborated by Captain Blunt (paragraph 3163), of the hardships to which constables were exposed through there being no allowance made to policemen attending the Courts to prosecute, for travelling expenses, adding,

"it is not to be supposed they can out of their salary afford to pay for a carriole
"to convey them either to or from the Court."

Appendix H 26.

3152. Moreover, unless the Return above mentioned be more accurate than that furnished us by Colonel O'Brien of the Non-Commissioned Officers and Constables of the Police Force, who since 1860 have been punished for ill-treatment, &c., of Indians, we fear that it is not of much value; for in the latter Return, we look in vain for any mention of the case of Corporal Thurstin hereinbefore alluded to, or of the case of Police Constable Victorien Louis, who was condemned by Mr. Robertson about the end of April 1865 to an imprisonment of six months for assaulting a man who was driving his master's cow; and of which we have become aware by the correspondence relating to each which has come under our notice.

Appendix H 14.

Obstructing public roads.

3153. We have not noticed the contravention, "Obstructing Public Roads," which Mr. de Plevitz informs us consists of a man, when tired with a long walk, placing his basket of vegetables or other load down by a public fountain when he goes to drink; an offence for which servants of his own had been condemned to 28 days' imprisonment; nor do we notice the multitude of the 98 contraventions, the complete list of which will be found appended, winding up with

Question 340.

Appendix H 12.

"Vehicles lobbing,"
"Wedging wheels with stones,"
"Other contraventions under Ordinance 31 of 1867,"
"Contraventions taken by virtue of warrant issued by Inspector-General under
"Ordinance 6 of 1869,"

Taking contraventions.

and, lastly,

"Using rotten harness."

3153 *bis.* We have already noticed the want of discretion shown by the police in apprehending Indians for breaches of the Labour Law, and cited (*vide* Chapter XI., paragraph 762), specially a case in which a gatekeeper on the railway had been arrested as a "Vagrant," and the "General Order" issued by Colonel O'Brien on the subject.

That any act should have been committed at all of such a character as to call forth this Order, may indeed be thought strange; but that, after the issue of the Order, an act somewhat similar should have been repeated would have been incredible, had we not been assured of the contrary by General Order No. 72, issued on the 25th of November in the same year, and which is as follows:—

"General Order No. 72.

"Attention is called to General Order No. 4 of 1870.

"Recently a gatekeeper of the railway was arrested by one of the police, "without previously reporting the circumstances to some responsible officer of that "department, in order that he might be relieved from his duty.

Arrest of the railway gateman.

"In consequence of this arrest, the gates of which the man was in charge were "left for some time without any one in charge of them, thereby endangering the "safety of the trains and the lives of the passengers.

"The above-quoted General Order distinctly lays down that, when any man of "the Railway Department is found not *en règle*, a report is to be made to the "nearest Station Master, with a request that the man may be relieved at once, &c., "the General Order having previously intimated that it was evident that the "removal of one of these men from his post might be attended with great danger "to the public safety; but, as the above order was published because of some Con-"travention of Ordinance 31 of 1867, it appears that the object of the order "has been entirely misunderstood, and been limited in its action to that Ordinance "alone.

"Although very little reasoning was required to show that if in one case "lives were endangered by these arrests, the danger was equally as great in all "others.

"It is now therefore ordered that servants of the Railway Department, when on "duty, shall not be taken into custody until the immediate head of the branch of "the service to which the man may belong, or the nearest Station Master has had "not only notice of the intention to arrest the man, but time to send a man to "relieve him.

(Signed) "J. A. Spencer,
"Superintendent of Police."

3154. We ascertained on further inquiry that the reason this gateman was arrested was for "Creating disturbance on the public road," apparently at the level crossing close to Rosehill Station.

Appendix G 43.

We may, therefore, acquit the police of having repeated the indiscretion alluded to in General Order No. 4 of 1870; though, considering the gate in question is only about 100 yards from the Police Station, and less from the Railway Station, we think that the constable ought to have known him to be the keeper of it, even though he wore no uniform, and that the arrest was still indiscreet.

Amount of fines from which share allowed to police.

It may be well before taking leave of this portion of the subject to notice the result of our inquiries respecting the amount actually received into the Treasury accruing from the fines of which a portion was, until recently, by law allowed to members of the police force, either for themselves or for informers.

Return for 1864 to 1871.

We append a Return which we received from the Honourable the Acting Procureur-General, which shows the different Ordinances under which these awards were made, as well as the sums received and awarded between the years 1864 and 1871. From this Return it appears that there are 40 Ordinances of this kind, and that the total of the sums paid into the Treasury from such fines in those years amounts to £25,846 16*s.* 6*d.*, out of which a sum of £14,873 19*s.* 1*d.* was awarded to the police, which, taking the number of the whole force to have been 887, as in 1872, will show an average of rather over £2 per man per annum, arising out of the taking of contraventions.

Appendix H 44.

Average received by police.

Amounts received by the police in [illegible]

3155. If we further analyse this Return, we shall see that of all the Ordinances, that which yielded the greatest profit to the police, in any one year, was Ordinances No. 27 of 1853,

"for regulating the sale of spirituous and other liquors,"

under which in the year 1864, the fines paid in amounted to £965 6*s.* 2*d.*, of which a proportion of two-thirds or £643 10*s.* 9*d.* fell to the share of the police, and in the same year, under Ordinance No. 36 of 1858, which was passed

Ordinance No. 36 of 1858.

"to repeal certain provisions of Ordinance No. 87 of 1853, and to substitute "other provisions in lieu thereof,"

the fines paid amounted to £711 12*s.* 6*d.*, of which £474 8*s.* 4*d.* fell to the police, who thus in that one year received £1117 19*s.* 1*d.* out of the £1676 18*s.* 8*d.*, the total sum paid into the Treasury on account of fines under these two Ordinances only; a large sum, especially as we find that Ordinance No. 36 of 1858 had lapsed after three years from want of confirmation, whence we infer that the infliction of fines thereunder in the year 1864 was illegal, although fines continued to be inflicted under it in 1871, the last year of which we have any return.

Illegal infliction of fines under Ordinance 36 of 1858.

"Rouillard's Laws of Mauritius," vol. vii. p. 772, note (2).

3156. The Ordinances which show the highest average of fines during the 8 years, are Ordinance No. 27 of 1845, on Licenses, and Ordinance No. 33 of 1858, on Public Roads; £5416 8*s.* 11*d.* having been the amount paid in fines under the former in the 8 years, of which the police received £3610 5*s.* 8*d.*, whilst under the latter £4052 15*s.* 3*d.* was paid, of which the police received £2026 7*s.* 6*d.* We refrain from commenting upon the working of the Licences Ordinance, as it may be urged that a strict enforcement of it is necessary for the protection of the Colonial Revenues, but with regard to the Roads' Ordinance, the fact that, in 1865, so large a sum as £879 12*s.* 9*d.* should have been actually paid in fines inflicted for the trifling contraventions we have above alluded to, and that even in the exceptional year 1867, £237 9*s.* (the lowest amount during the 8 years) should have been paid, appears to us to corroborate to a considerable degree the assertions of Mr. Plevitz, that the operation of this Ordinance is converted into a means of oppression and annoyance, an opinion which will be still further strengthened when we bear in mind that the Return from which we have been quoting relates only to the fines actually paid; taking no notice of those cases in which the fine was not paid, and that imprisonment followed in default and as we have the authority of Mr. Dickson for saying that the fine imposed seldom is paid (paragraph 26), we do not think we can be making an unjust estimate if we assume the cases in which imprisonment followed to have been at least as numerous as those in which the fine was paid.

Ordinance of 1845 and 33 of 1858

Licences.

Roads' Ordinance.

Assertions of Mr. de Plevitz respecting Roads' Ordinance.

Corroboration of Mr. de Plevitz' assertions.

Appendix H 6.

3157. Colonel O'Brien in his letter to us (paragraph 16) calls our special attention to the great services rendered, by the police in more than one public emergency, and argues therefrom the unfairness of the censures of the Police Commission.

Public Services of the Police.

Of their exertions under Mr. Prince during the epidemic of 1867 we have already spoken, on the authority of Sir Henry Barkly (paragraph 463); to which we must add that of Dr. Reid, who, speaking of the possibility over stringent enforcement of the regulations under Ordinance No. 31 of 1867, said,—

Vol. II. Question 835.

"I cannot forget this: that the police under the superintendence of Mr. Prince "were the right hand of every one engaged in facing the requirements of the "epidemics of fever. They helped in bringing the sick to the dispensaries and "within reach of the doctors; in establishing new hospitals, dispensaries and ceme-"teries; in collecting the dead and the dying; in taking them out of their houses, "and bringing the survivors where they could get assistance. That is what was "done by the police. It is quite possible that on some occasions they were a little "over zealous, but I would plead what I have said as their excuse."

3158. Considering the claims the police appear justly to have earned to the gratitude of the Government for their conduct during that terrible season, we think that they were certainly not well treated, when, in April 1867,

Inspector Shellam to Mr. Superintendent Prince. Letter No. 85 of 22.8.67. Appendix H 35.

"at the very time that Government was issuing 100 "grains of quinine to all Government servants, except the "police,"

the members of that force had to supply themselves with it, paying 1*s.* a grain for the only medicine which proved any preventive of the fever, and thus rendered them fit to continue in the discharge of their duties.

Sir H. Barkly to the Duke of Buckingham. Despatch No. 84 of 17. 3. 68.

3159. We further find Sir H. Barkly bearing witness to their exertions under Colonel O'Brien, after the great hurricane of March 1868, and which he described as being "beyond praise."

3160. We will not say a word in detraction of the praise thus awarded to them by the heads of the colony and of the Medical Department at the time of these occurrences; but we cannot admit the soundness of the argument that, because as a body, the police have on trying occasions done noble services, many among them may not individually be capable of acts of gross petty tyranny and extortion; and we cannot close our eyes to facts which we find proved beyond all doubt, or refuse to listen to the expressed

Conduct of the Police.

opinions of a number of persons of high standing in the colony, including Sir H. Barkly; who were in a position to form a sound judgment upon the question; or, to the fact, that in the seven years which intervened between January 1st 1866 and December 31st 1872, the number of men dismissed the force amounted to 612, which, if we take the 887 of February 1872 as the average strength of the force, will give a proportion of nearly 10 per cent. of the entire force annually dismissed for serious offences, as may be seen from the Return furnished to us on this subject by Colonel O'Brien, and which is appended hereto; and we must therefore report, that the Labour Law has been so indiscreetly enforced by the police, as to occasion in many cases great hardship; that between the years 1865 and 1872, the action of the police, in regard to contraventions, has been in numerous cases vexatious and in some corrupt; and that many of the laws are of such a character as to facilitate corrupt practices, if those intrusted with their enforcement were inclined to be unscrupulous; as, indeed, Colonel O'Brien admitted so far as related to the Indian constables: and, lastly, that on the showing of that officer himself, the character of the majority of the persons composing the police force in Mauritius is not such as to rebut any presumption that may have been raised against them by the cases which have come to our knowledge in the course of the present inquiry.

Appendix H 28.

Question 8514.

Allotment of the force to districts.

3161. We were told in July 1872, by Captain Blunt, then Acting Inspector-General, that the total strength of the police force was 896, from which number must be deducted the men told off to guard the vagrant depôt, peons, and labourers, which reduces the number of men available of actual service to 707, of which 313 are kept in Port Louis, leaving 392 to do duty in the country districts; a number which, taken relatively to the whole population of the island as ascertained by the census of 1871, will give one policeman to every 449 persons; though, as a matter of fact, the proportion varies in each district, as will be seen from the following table:—

Questions 4052 *et seq.*

District.	Total Population.	Strength of the Police.	No. of Population relatively to each Policeman.
Port Louis	63,274	313	202
Pamplemousses	42,978	68	632
Rivière du Rempart	20,242	40	506
Flacq	49,499	48	1,031
Grand Port	44,226	60	737
Savanne	27,443	41	669
Black River	11,997	41	292
Plaines Wilhems	35,147	62	556
Moka	21,236	32	663
Total	316,042	705	5,288

Allotment of the force for duty.

3162. It does not, however, follow that the labour entailed upon the police is commensurate with the number of persons under their charge; as Captain Blunt stated that the trouble to the police in discharging their duties would be less in Flacq, where there is only one policeman to 1031 inhabitants, than in Black River, where there is one policeman to every 292; a statement we can easily believe, as the latter district is extensive, the population sparse, and the country consists in a great part of mountains and jungle.

Question 4059.

3163. We learn from Captain Blunt's Report, in explanation of the statistical returns for the Police Department in 1871, that in Port Louis there are 24 beats to be covered during the day, and 68 by night, requiring altogether 207 men.

Appendix H 11.

"The total number of miles walked by these constables whilst on beat in 24 hours "is 1656, or on an average 8 miles per man; and the average number of miles "walked and the hours of duty in the country districts is as nearly as possible the "same as in town.

"In addition to this work the men have to attend Court to prosecute their cases, "and are frequently kept for hours hanging about for these to be settled; thus men "who should have been resting after having been on duty all night, are worn out "by the most fatiguing process, that of having to kill time; is it then extraordinary "that at times some of these men are found asleep on their beats, although they know "they will certainly be caught, and that the punishment for such offence is severe?"

Allotment of the force for duty.

3164. Captain Blunt was, however, of opinion that the police force was sufficiently strong to do the fair work of a police, but not so if expected to discharge other duties which are put upon them, such as looking after contraventions, doing quarantine guard, and escorting deserters from prisons to estates; an opinion, the truth of which is corroborated by Mr. Seed, then Acting-Adjutant, who also remarked upon the inconvenience caused by the police having to escort deserters to estates, as he had had

Degree of efficiency.

Question 4063.

Question 4803.

"often to take a man from other duty, or make him do extra work, so as to comply "with the Magistrate's order;"

and, further, by Mr. Hewetson, who considers that the police, taken as it is, is quite insufficient for the labours which it has to perform under the law, and to which he partly attributes the large amount of absenteeism.

Vol. II. Question 1736.

According to his estimate, it would require an addition of 300 efficient men to perform the duty properly; an estimate probably correct, if we are to admit that the keeping of labourers upon the estates is to be recognised as forming part of the ordinary duty of the police, apart from any exertions on the part of the employer to recover the deserter or absentee.

Vol. II. Question 1753.

General belief in the duty of police to stimulate labour of long standing.

3165. That such is part of their duty, we find to be a belief of old standing in the colony, as

"the want of an efficient system of police,"

was one of the causes to which Mr. Rawson's Committee ascribed the difficulties under which the planters laboured in 1845 (see Chapter VI., paragraphs 239 and 242); and we find Sir William Gomm, in his minute of the 17th March in that year, making use of the following words:—

Sir William Gomm's fears in 1845.

"I yield to no member of the Committee in the desire to see our police force and "District Magistracy rendered amply efficient for all constitutional purposes through-"out the colony.

"But I am sure the Board will see with me the extreme danger and manifest "incongruity involved in our countenancing any approach to even an appearance of "a desire to convert an agency, created for the prompt and energetic repression and "correction of occasional abuse, into an engine of extensive coercion, and an ever-"active stimulus to the operations of free labour.

"It is not by a resort to such a panacea that the disorderly manners of the "freshly-introduced labouring population, even did the enormity of the evil bear "out the most exaggerated of the statements abroad, are to be reclaimed in "Mauritius.

"And let us take good heed lest in whatever we do in this matter, we lay "ourselves open to a charge, even by implication from our detractors, of inviting the "Indian Government to send its people into captivity among us.

"That a principle of self-correction is at work in the whole matter is my delibe-"rate conviction, as I have already expressed in this minute; and instances are not "wanting to show that individuals of the class under review, most deeply branded "with the stigma of desertion, are capable of being reclaimed if judiciously dealt "with."

3166. This sensible advice has not, however, been followed; and we find that at the present day the police is the chief agency by which deserters and absentees are brought back to their employers, who of themselves, apparently, take no steps whatever to recover the deserter or the absentee; by notifying, either to the police or to the Protector, that such and such a labourer has deserted; although both Captain Blunt and Mr. Beyts are of opinion that by such declarations the arrest of deserters would be greatly facilitated; the only safeguard at present against an indentured labourer procuring a duplicate ticket at the Immigration Office, after which he can desert with every chance of impunity, being the advertising the names of applicants in the 'Government Gazette.'

Question 4068.

Questions 2180, 2181

Question 4069.

Question 2815.

Question 2810.

Masters inactive.

3167. We may, however, gain some idea of the amount of attention this is likely to obtain from employers, from the result of a similar practice which prevailed at the

Masters inactive.

Vagrant Depôt, when the names of all prisoners therein confined, with those of their employers, and the date of the expiration of the sentence of each, were published in the 'Government Gazette,' for the information of all concerned, whereby employers might, on discovering the whereabouts of their servants, send and claim them on the expiration of their imprisonment.

Memo. of C. S. M. Pedro to Mr. Superintendent Prince, 19. 12. 66. See Appendix H 25.

The number of pages taken weekly from the Depôt Register in order to supply these lists averaged fifteen; which we can readily believe, as, taking for example, the 'Government Gazette' of May the 28th, 1864, we find the names of 256 vagrants published. The result, however, was not at all commensurate with the trouble and expense involved, as of the 5057 prisoners who passed through the Depôt in the first year of its existence only one was claimed by his employer, the Honourable Mr. Pitot; and in 1865, the second year of the existence of the Depôt, out of 4233 who passed through it, ten were claimed: so that out of 9990 names advertised in those two years only eleven were claimed by their masters. We therefore do not wonder that the Depôt Sergeant-Major Renton should have pronounced the system a

"decided failure."

3168. The same memorandum states, further, that in the first year there were 1372 notices forwarded to known employers, of which 272 were returned through the dead letter office; and of the remainder, only 102 were claimed by their masters; and that, in the second year, of 2563 notices forwarded, 25 were returned as dead letters, and 35 were claimed; so that of 3935 notices sent out of the Depôt in the two years, no less than 3479 were ineffectual, and an unnecessary additional labour had been imposed upon the police.

Planters should pay for police if they specially require them.

3169. As Mr. Dickson thought of the taking of contravention, so we think of the escorting of prisoners to estates, viz. that

"the time of the police might be better employed;"

and we cannot see any reason why the police force, which is maintained by the State for the common protection of all, should thus be converted into an agency for the special assistance of employers; particularly when, as we have shown, these take so very little pains to help themselves.

3170. If the agricultural body require an additional force of police, especially to repress desertion and absenteeism, they should, we think, bear the expenses incident thereto; and to which, if we understand Mr. Hewetson aright, they would offer no objection; and, if that gentleman is further right in his estimate that by such a measure properly executed the absences from estates might be reduced from 9, or (if we include desertion also) 12 per cent., as stated by Dr. Icery in his pamphlet, to 2, 3, or 4 per cent. at most, we can readily believe that such a measure would well repay the planters for the additional taxation requisite for carrying it into effect.

Volume II. Question 1754.

Getting up evidence, and treatment of prisoners in custody.

3171. We briefly alluded in Chapter III., paragraphs 59 and 60, to the letter of Mr. Justice Gorrie, which led to the appointment of the Police Inquiry Commission, and to the conclusions arrived at thereupon by the Court of Inquiry. We will now examine this case more in detail, as well as others connected with the conduct of the police in relation to the getting up of evidence, and their treatment of prisoners in their custody.

Violence used to obtain evidence.

Report of the P. C. para. 182 & Appendix J.

3172. The majority of the Police Inquiry Commissioners were of opinion that undoubtedly, before the organisation of the District Courts in 1852

"violence was used by the police for the purpose of obtaining evidence or confessions in regard to crime,"

Violence not systematic.

and they suggested that

"the system was based, perhaps, on the tradition of the practices current at the time of slavery."

They believe, however, that violence

"has gradually ceased to be practised as a system, although occasional instances have undoubtedly occurred down to the present day."

* * * *

"The plans recently adopted by the detective branch of the police force to obtain evidence from accused persons have been rather based on trickery and espionage than violence."

Separate Report of the Hon. C. Antelme. Appendix H 1.

In the truth of these remarks Mr. Antelme, in his separate report, substantially agrees, though he abstains from expressing any opinion upon the police previously to the establishment of the District Magistracy.

3173. Colonel O'Brien, however, in his letter to us has protested against the suggestion that traditions of slavery are still extant in the police force, which he deems unfair to his predecessor, Colonel Anson, whose standing orders, he submits, show that no such traditions existed under his rule or with his sanction, and Colonel O'Brien considers it would be as fair

Appendix H 2, para. 20.

Colonel O'Brien's plea.

"to brand the civilisation of the nineteenth century with the barbarities of the Middle Ages as to accuse (the police) department of acting on traditions of an institution that not a member of the force has any personal cognisance of."

3174. How the suggestion that practices in vogue previous to 1852 were based on "traditions of slavery" could be any unfair reflection upon Colonel Anson, and his standing order, which was not issued until eleven years later, we were at a loss to perceive, and Colonel O'Brien was unable to explain, though still maintaining the unfairness of the Report; as also he urged in respect of

Question 8211 to 8217.

Appendix H 6, para. 21.

"the getting up of fictitious cases, tampering with evidence, or compulsion,"

which he declares has never been tolerated by him or had his sanction, and he referred us to a number of answers in the evidence given before the Police Commission, to which he was anxious we should give full consideration before giving a judgment.

3175. The first of these (Ans. 212) was given by Mr. Boulter, the head of the detective branch, who was

Inspector Boulter's evidence.

"perfectly convinced that (his) detectives never used violence towards a prisoner. The eyes of the other policemen are upon them, and they are always glad to get a catch at the detectives."

It is to be regretted that Colonel O'Brien, before protesting as he did, should not have read the next answer but one (Ans. 214), in which Mr. Boulter continued,

Feeling of policemen who have been slaves.

"I have seen violence used to prisoners many years ago, and I have heard a good deal about torture, such as squeezing of the toes, boiling water, &c., spoken of by those constables who were ex-slaves. They seemed to regret they could not do the same, after the establishment of the district courts."

And, in the next answer (215) he mentions a case in which a prisoner had been ill-treated by two of his detectives whilst drunk.

3176. The next answer referred to by Colonel O'Brien is No. 475, in which Mounted Sergeant Adams stated that he had

"never heard of any violence being used" against prisoners

"at this time" but here again in the very next answer (476) he stated that he had within the last three or four years

Prisoner beaten.

"heard the men talking amongst themselves that such a prisoner had been beaten,"

App. H 1, Answer 477.

and he had very often seen prisoners taken out of the cells by the detectives, who take them out with them into the town or into the country, sometimes for the whole day. His next answer (478) gives us an idea of the manner in which prisoners have sometimes been treated on these excursions, as he faintly recollects seeing a man, whom he had a few days before arrested on suspicion of larceny, walking on the road near Mahébourg in company with two detectives, one of whom was striking him.

Treatment of prisoners taken out of gaol by the detectives.

3177. Colonel O'Brien next directs our attention to four answers given by Sergeant Anderson, of which we have nothing more to say than that they are the monosyllabic denials of one who is described (Q. 521) as having been

Sergeant Anderson's statements.

"a very unwilling witness, and evidently resolved not to give evidence:"

which is precisely what we should expect to hear, if this witness were the Sergeant Anderson to whom we ourselves have more than once alluded, and shall have to allude again in the course of this present chapter.

3178. The next reference is to two answers, Nos. 669 and 670, in which Sergeant McKenny, of the Detective Force, stated that he had never seen or heard of any prisoners being subjected to ill-treatment, whilst under detention, in order to make them speak, nor had ever known of the detectives getting up a simulated robbery.

Sergeant McKenny's statements.

3179. Lastly, the answers of Mr. O'Connor (387, 388, 395, 396), refer merely to his own practice; whilst (in A. 393) he admitted having heard that forcible means were used to extort confessions. We fully believe that Mr. O'Connor would discountenance any such practices if they came under his notice, as we do that Colonel O'Brien would at the present day, and that Colonel Anson would have done in 1863; though we cannot on that account shut our eyes to the positive evidence given before the Police Commission upon which the conclusions contained in paragraphs 18 and 22 of their Report appear to us to be legitimately based, and we cannot admit that the mere denial by a detective officer that he has heard of certain practices, is any proof that such may

Mr. O'Connor's evidence.

Police Commissioners' positive evidence for paras. 18 and 22 of their Report.

not exist; especially as, according to Inspector Boulter, their Chief, the detectives were a class of men who

Evidence before P. I. C. A. 216. Appendix H 1.

"would not confide their secrets except to those whom they (could) "trust,"

and we should entertain great doubts whether the Police Commissioners could be reckoned among the number of these.

Traditions of slavery yet surviving.

3180. We are willing to hope with the Police Commissioners that torture has entirely ceased as a system; but when we find such a proposal made by a detective to an Inspector of Police, as the * disgusting torture proposed by one of that body to Mr. Seed for infliction upon a prisoner, arrested on suspicion of robbery, in order to compel him to speak, we certainly do not think that the Police Commissioners could have said less upon this subject than they did; and we regret to have to record our opinion that traditions of slavery not only were alive in Colonel Anson's time, but are still surviving in that of Colonel O'Brien.

Question 4751 *et seq.* Also evidence before the Police Inquiry Commission, A. 592. Appendix H 1.

3181. We wish that we could take as sanguine a view as he takes, in paragraph 21 of his letter to us, in which he appears to argue, because not a member of the force retains any personal cognisance of slavery as an institution, that the traditions of it are, therefore, also extinct; but we should feel inclined not only to agree with the 19th paragraph of the Report of the Police Commissioners,

Appendix H 6.

Royal Commissioners hope traditions of slavery may become extinct.

"that it would be unreasonable to expect them to cease suddenly upon a mere "re-organisation of the Courts, so long as the old officers remained in the service:" but to go further, and express the hope that traditions of slavery may have become wholly extinct, not merely with the withdrawal therefrom of any officers now in the Police Force, but with the death of the youngest person now living who was alive at the time of the emancipation.

3182. We will now proceed to notice a few cases which did not come under that of the Police Commission.

Kushna's case.

3183. On the 18th May 1866, information was received by Police Inspector Rice that an Indian had been found murdered on the Savinia Estate in Grand Port; who was subsequently identified as one Maddoo, who had some three weeks before come from the neighbouring district of Savanne with another Indian, named Kushna, in charge of two horses. On the following day Kushna was arrested on suspicion of being the murderer. Nearly six weeks elapsed before he was brought (on the 29th June) before Mr. Dupuy, the District Magistrate, and then he was repeatedly remanded until the 30th July.

Reg. *v.* Kushna, Appendix H 42.

Man found murdered on Savinia."

Kushna arrested.

Frequent remands.

3184. On the 27th July, however, Mr. Rice was recalled, and then deposed to confessions made to him by the accused on two different occasions, viz. July 22nd, and again on the 24th, through the interpretation of an Indian constable named Gungah, to the effect that he had pushed the deceased down and killed him. This was denied by the prisoner, who maintained that he had only admitted to having pushed deceased, who fell into a hole which was behind him. Mr. Rice was corroborated by Gungah, who added that the former, after receiving this statement, observed to the prisoner that he was not obliged to speak, but that he would like to know how he had killed Maddoo; whereupon he repeated the statement that he had killed him. The prisoner, however, declared that he had been starved into making the statement of having pushed Maddoo, having been kept two days without food, and further, that while he was at the police station at Mahebourg, Gungah told him that he would be released if he said that he pushed Maddoo into the hole, and that Mr. Rice would give him a paper to go to his estate, upon which inducement he accordingly acted.

Depositions of Inspector Rice.

Gungah interprets admissions.

Kushna's denial of imputed admissions.

Gungah's evidence.

Kushna declares having been starved into making declarations.

Alleged inducements to cause confession.

3185. Kushna was subsequently tried before the Supreme Court, where he was found guilty of the murder, but without premeditation, and sentenced to twenty years imprisonment with hard labour.

Kushna tried in the Supreme Court, sentenced to 20 years' imprisonment.

3186. On the 6th August 1868, a body was found in a cane-field near Plaisance, in the district of Grand Port, which was identified as being that of an Indian named Russeawon, a labourer of that estate, who had been missing since the 29th of July; and subsequently four other labourers, Badaroo, Mungur, Sahatoo, and Dabee, were arrested on suspicion of having murdered him; the two former on the 7th and 8th August respectively, and the two last on the 11th. The investigation before the Magistrate did not take place until the 17th of the month

Case of Reg. *v.* Badaroo and others. Appendix H 41.

Russeawon found dead.

Arrests of Badaroo and others.

Investigation before the Magis-

* We may here observe that this mode of torture—viz. squeezing the testicles—is mentioned as one of the principal tortures in vogue in police cases in India by the Madras Torture Commission in 1855.—(*Vide* para. 67 of their Report.)

following, when Mr. Rice, the Inspector of the District, gave in evidence a statement, alleged to have been voluntarily made by Badaroo, and interpreted to him by Constable François; giving a circumstantial account of the murder, and charging Mungur with having struck the blows.

Evidence of Inspector Rice.

3187. Among the other witnesses we find Donnaii, a constable of police, who swore that at the time of these arrests he was undergoing an imprisonment in the police cells for neglect of duty; the accused were not aware that he was a policeman, and apparently conversed freely in his presence about the case, the tenor of which conversations was that they severally disclaimed any knowledge of the matter. On the following day, Donnaii, we presume upon his own responsibility, began to question Badaroo as to who had killed Russeawon, and Badaroo then designated Mungur as the murderer. Donnaii next, in the temporary absence of Badaroo, informed Mungur of the charge made by him, whereupon he at once accused Badaroo of having done the deed, and stated his intention of reporting the case the next day to the Inspector (Mr. Rice). Donnaii then communicated these circumstances to Sergeant Cimiotti, who was at that time in the district, and he thereupon went to Mungur, who made a statement to him, through the medium of an Indian constable named Ramnack, which of course was alleged by both Cimiotti and Ramnack to have been quite voluntary and induced neither by threats nor promises.

Evidence of Constable Donnaii.

Sergeant Cimiotti receives voluntary confessions.

3188. Out of a great deal of matter given in evidence, much of which is either irrelevant or inadmissible, we gather from the statement of Sergeant Cimiotti that he found a capra in the possession of Badaroo which had been recently washed, and that there were stains, apparently of blood both upon it, as also on the collar of a soldier's old red coat worn by Badaroo. But it is rather strange that the only skilled witness, Dr. Finnimore, does not mention these most important facts, from which we infer that no questions were put to him upon them; and the whole case for the prosecution, therefore, rests upon the alleged voluntary confessions above mentioned, and spoken to by Mr. Rice, Sergeant Cimiotti, and constables François and Ramnack. Of the latter we know nothing, but after finding the names of the other three in connection with various discreditable proceedings we confess to regarding any evidence given by them with very great suspicion.

Vide evidence of Mr. Bijara.

Sergeant Cimiotti's evidence.

Dr. Finnimore's evidence.

Whole case rests upon voluntary confessions.

3189. Before the Magistrate, Badaroo, after being duly cautioned, repeated his charge against the other three prisoners, but denied all personal participation in the murder, adding that he was drunk at the time, and laid upon the ground. Mungur and the two others denied all knowledge of the murder. Mungur and Badaroo were committed to the assizes, and were subsequently tried before Mr. Justice Colin, when the former was acquitted, and the latter convicted and condemned to death, a sentence which was, however, commuted to one of twenty years' imprisonment with hard labour.

Evidence trial by the Magistrate.

Result of t in the Supreme Cour

3190. We now come to the case which led to the Police Inquiry Commission. On the 21st March, 1871, Tirmally, Chavrimootoo, and Chunnoo, were put upon their trial before Mr. Justice Gorrie for arson committed on the estate of Messrs. Desvaux of Côte d'Or, in the district of Moka. Two other Indians, Rayapen, and Sevathien, who afterwards became witnesses, were also arrested on suspicion.

The Moka case. Appendix H 40.

The Moka case.

Trial of Tirmally and others befo Judge Gor for arson.

Inspector Macpherson then arrested, or placed under surveillance at the police station, a Sirdar of the estate named Marday, not, apparently, because he was suspected of any share in the crime, but in order to make himself useful with the other prisoners. Marday was placed in the cell beside Rayapen, and had access to the others. The result was that Rayapen and Sevathien, who had already been examined on oath before the District Magistrate, and declared they knew nothing of the matter, accused Tirmally and Chavrimootoo, their fellow prisoners, of having committed the arson.

Arrest of Marday Sirdar.

Accusations

Result of arrests.

The evidence of these men, however, as given before the Magistrate and before the Judge, was not in itself consistent in several particulars.

3191. Marday, the Sirdar, was again allowed to have communication, or rather placed in communication with Tirmally and Chavrimootoo, when they acknowledged, according to the statement of Marday, to have committed the arson, but at the instigation of Chunnoo, who was head Sirdar of the estate, and Marday's superior. The translation of the so-called confessions of the two men was made to the Inspector of Police by Marday, who stated that no one else understood them so well, and they also repeated the confession, or accusation, before Mr. Desvaux, the proprietor of the estate, again through the medium of Marday; a confession which, however, they withdrew on being charged and brought, together with Chunnoo, before the District Magistrate, alleging instead that they had been persuaded by Marday to make the former confession which implicated Chunnoo.

Confessions Marday Sirdar.

Marday ma a medium f confessions

Mr. Justice Gorrie's censures upon receiving confessions.

3192. Such is the substance of the charge contained in the letter of Mr. Justice Gorrie, who concluded by stating that it was not the first case in which his attention had been

> "called to a mode of dealing with persons arrested on suspicion, for the purpose of "obtaining evidence, which in place of assisting the administration of justice leads "to a suspicion of a course of dealing with prisoners contrary to the maxims and "usages of English civil law."

Finding of the Court of Inquiry.

3193. The Court of Inquiry which ensued thereupon found that

> "The evidence of the witnesses is most contradictory as to the arrest of Marday, "but the detention-book shows that he was brought to the station and detained as "a witness, for the purpose of being made useful amongst the other prisoners. "The Court is convinced that by Inspector Macpherson's orders, Marday was locked "up with the prisoners Tirmally and Chavrimootoo on different occasions for the "purpose of obtaining evidence, and that through his means the prisoners were "induced to make confessions to Mr. Desvaux and Inspector Macpherson. That "by his order these two prisoners were placed in his office whilst detectives were "hidden under his table for the purpose of overhearing whatever they might say; "that by his order the prisoners were taken to shops and given food by Marday "and the constables; that Inspector Macpherson himself once punched Tirmally "in the belly with a ruler, and that he also took up a gun with a view of intimi- "dating the prisoners."

Respecting Marday.

Inspector Macpherson's conduct.

Explanations by Inspector Macpherson.

3194. With regard to the two last charges Inspector Macpherson explained that what really took place was that on one occasion, seeing a bystander whispering to one of the men he was questioning, he took a ruler from the table before him and with it pushed him slightly aside.

He indignantly denied having tried to intimidate Tirmally by threatening him with a gun; the only foundation for which accusation he asserted to be, that he had a gun in his office which he merely took out of its place and handed through the window to a friend outside, to show him how well the stock had been made by a Creole workman of the district.

Royal Commissioners' conclusions regarding the Baboka case.

3195. We are willing to hope, therefore, that these alleged acts of violence may have been either misapprehensions or exaggerations, but the main points of the case were admitted by Inspector Macpherson. The accused persons were, by his order, delivered over to the detectives Malépa and Valoydeen, and to Marday, the former being instructed

> "to give the accused every opportunity of speaking to him, and making any admis- "sions that might enable him to know if they were guilty. He was forbidden to "use any threats, promises, or violence, and Inspector Macpherson did not believe "that any of these means were used."

The same is also asserted by the two detectives; but on the other hand we have th

Appendix H 40, pp. 12 and 14.

fact that Tirmally was frequently in a frantic state,

> "generally after he had been out with the detectives."

We have Tirmally's own statement of the moral pressure brought to bear against hin by Inspector Macpherson and by Marday; and lastly the fact that Rayapen, who wa at first one of the accused, was admitted as Queen's evidence, and was taken into th service of Inspector Macpherson.

Macpherson's explanation not satisfactory.

Appendix H 40, p. 21. Letter A, 1178 of 22. 7. 71. Assistant-Col. Sec. to Acting-Inspector-Gen. of Police.

3196. We therefore entirely concur with the opinion of Si Arthur Gordon that the explanation of Inspector Macpherso was

> "not by any means satisfactory, as it virtually admits practices which are in hi "Excellency's opinion worthy of the strongest censure."

Subsequent proceedings of Inspector Macpherson.

Rivière du Rempart case.

Appendix H 40, p. 22.

3197. It might be expected that these proceedings would have taught Inspecto Macpherson caution, yet we find within a very few months, at the tim when the Police Inquiry Commission was sitting, before which he had bee himself examined, that he was guilty of precisely similar conduct in th district of Rivière du Rempart; for on the 10th of February 1872, the Procureur General forwarded to the Acting Inspector-General of Police (Captain Blunt) paper received from the Magistrate of that district containing

> "very serious allegations against certain members of the Police Force,"

which being reported by Captain Blunt to the Governor, led to the appointment of a Committee of Inquiry consisting of Captain Blunt, the Superintendent of Police (Mr. Spencer), the Crown Solicitor (Mr. Fleming), and Police Inspector O'Connor.

Inquiry into charges against Inspector Macpherson in March 1872.

Queen's

3198. These reported on the 12th March following:

1st. That improper pressure had been made use of towards Nussebea, an Indian

Nussebea's case.

woman, to induce her to incriminate Fullowah her paramour, charged with the murder of one Ramboccus at the Melville Estate.

2nd. That, after being remanded for a week by the Magistrate at the request of Inspector Macpherson, she was improperly confined for eight or nine days in the private house of an Indian constable, though it was urged in justification that the woman was in a state of pregnancy, and that this course was adopted on the score of humanity.

Want of ground for arrest of Nussebea.

3rd. That in their opinion Nussebea had been arrested on very meagre suspicion; and when this was dispelled (as it was almost immediately) that she should have been released, instead of being remanded for a week at the request of the Inspector, and that the only motive of her further detention must have been the hope of getting further information from her.

Loose style of criminal information.

4th. They drew attention to the loose style of the criminal information which was lodged in this case, viz. against "some person or persons as yet unknown."

Parties arrested not informed of charge against them.

5th. That it was most irregular not to have informed the woman and the other persons arrested, at the time of their arrest, what the charge was against them.

Soundness of Committee's conclusions affirmed by Procureur-General.

3199. The evidence taken by the Committee, together with their report and the observations of Inspector Macpherson thereon, were referred to the Acting Procureur-General, Mr. Ellis, who affirmed the soundness of the conclusions of the Committee. The first of these appeared to him to be amply justified by the evidence laid before them. He observed—

Observations of Mr. Ellis.

> "It is beyond dispute that the woman was arrested and detained on a remand at "the request of Inspector Macpherson for a period of eight or ten days. If this "detention was on the charge of murder, it was certainly not justified by any of the "grounds mentioned by the witnesses, and no additional ground has been stated by "Inspector Macpherson, and it was accompanied by most reprehensible endeavours "on the part of the police agents, for whom he is responsible, to obtain a confession, "or evidence implicating the other accused."

Remand of Nussebea at Inspector's request.

Detention of Nussebea in order to obtain confession.

3200. Mr. Ellis further concluded that the woman was detained not because there was any reasonable ground of suspicion against her, but in the hope of obtaining a statement from her to be used in evidence against the other accused.

3201. Respecting the plea urged in defence of the removal of the woman to the house of the police constable, Mr. Ellis declared that

Detention of Nussebea in a private house.

> "it would establish a most dangerous precedent were this case of detention in a "private house to be allowed to pass without severe censure. If the state of the "woman was such as to render it unsafe to detain her in the district prison, she "should have been sent to the prison hospital, or, if need were, to Port Louis. "But placed in the house of an agent of police in the delicate state of health in "which she was, and exposed to the repeated interrogatories of the police, the "statement made by her was as far from voluntary as if it had been obtained by "bodily torture:"

remarks in which we entirely concur.

Procureur-General notices irregularities by the police in December 1872.

Appendix H 43.

3202. This was not the last occasion in 1872 upon which Mr. Ellis had reason to complain of the conduct of the police, as we find a letter from him to Colonel O'Brien, dated the 26th December in the same year, calling the attention of the Inspector-General to certain

> "irregularities and improprieties on the part of non-commissioned officers"

Case of Teelock.

which had come to his notice at the recent assizes. In the case of the Queen *v.* Teelock, for burglary, the only material evidence elicited in the preliminary inquiry consisted of two distinct confessions made by the accused, the one in the presence of the police and the master of the accused, and the other before the Magistrate, and these were proved by one Corporal Charles Dennis, who repeated his statement when examined before the Supreme Court, thus leading it to believe that, without improper inducement, a free and voluntary confession had been made by the accused. Mr. Ellis was therefore astonished to find on examining the master, that a promise of pardon had been made by him to the accused from which the confession appeared to have resulted, an all-important circumstance suppressed by Corporal Dennis, but which led the learned Judge to direct the jury to discharge from their minds all evidence given in connection with it.

Only evidence, confessions by accused.

Doings of Corporal Dennis.

Confessions solicited by Teelock's master.

Bheeka's case.

3203. Again in the case of the Queen *v.* Bheeka, in which the accused was charged with "wounds and blows causing the death of one Pariah," it appeared from the preliminary inquiry before the District Magistrate of Plaines Wilhems that the accused was seen to inflict the blows, by two women named Gunga and Lutchmee. But Sergeant Anderson, who had investigated the matter, and who was heard as a witness in the District Court, suppressed the very material fact of which he was cognizant, that at the

Suppression of evidence by Serg Ande

outset of his inquiry the woman Lutchmee had accused the woman Gunga of having caused the death of the deceased, and that Gunga, not denying the charge, had been arrested and detained in custody for upwards of twenty-four hours, and only liberated after she had stated that she had seen the accused inflict the blows.

Mr. Ellis censures the police for concealment of the truth.

3204. Mr. Ellis added with regret that these instances were

> "not by any means the only ones which (had) come to (his) knowledge, in which "members of the force have been guilty of most culpable concealments of the "truth."

Royal Commissioners strongly reprobate means used for obtaining confessions.

3205. We do not deny that, in many of the cases in which confessions have been elicited in ways such as we have described, the parties may have been guilty of the crime laid to their charge. But the truth of their confession is one thing, and evidently quite independent from the means by which it has been elicited; and even assuming that these practices were resorted to for the protection of society by the discovery of crimes, we cannot the less express our strongest reprobation of the means used, which are, as Mr. Justice Gorrie so truly represented, abhorrent to the spirit of English law and practice. And we must further remember that the persons who take upon themselves to resort to these practices may be men who are either of bad character, or who belong to races notoriously corrupt, and without any of the moral restraint and self-respect which religion and education ordinarily engender; while the character of the Indian native, on the showing of Colonel O'Brien himself, displays itself when in power in the form of rapacity and tyranny, qualities from which it is but a step on to cruelty.

Characters of the races which compose the police force.

Position taken up by Colonel O'Brien regarding the purity of the police force regretted by Royal Commissioners as not justified.

3206. Anyone who has been in the habit of attending criminal courts in this country will probably remember numerous instances of a want of candour on the part of the police force in dealing with the prosecutions, which induces them to lay stress upon every circumstance which may lead to a conviction, while they pass lightly over facts which might tell in favour of the accused, and hence the evidence given by policemen is always very closely watched both by judges and counsel. If, then, this is a fault which is common to all police forces, Colonel O'Brien should remember that the risk is vastly increased in the force under his command, composed as it is of such dubious elements, and we do think that it is to be regretted that instead of recognizing the justice of the report of the majority of the Police Commissioners (with the greater part of whose conclusions Mr. Antelme appears to us substantially to agree), he should have assumed the tone, which we think is apparent in his letter to us, as though they had been actuated by feelings of personal animosity towards himself, and that he should have taken up the hopeless task of endeavouring to persuade us that, with the exception of a few "black sheep," the police force of Mauritius is composed of men as honourable as himself.

Chapter XXX.—*Magistrates and their Courts.*

3207. We have seen (Chapter XII., *The Protector*, paragraph 892) how in 1860 Governor Stevenson laid down that

> "the Stipendiary Magistrates are now the 'Protectors' of the immigrant, the laws "are their protectors likewise;"

Magistrates the protectors of immigrants.

and we have seen further that the view still prevalent in Mauritius, from the opinion of the Acting Procureur-General upon the powers and position of the Protector set out *in extenso* in the earlier part of the same Chapter, wherein Mr. Ellis mentions it as a matter for regret that the name of "Protector of Immigrants" should have been given to that officer,

> "a name which would better suit the function of the Stipendiary Magistrates, "who must, to a certain extent, be the quasi-guardians of immigrants," &c.

3208. The existence of the same sentiment is also apparent in the Report upon the Draft of the Ordinance for the appointment of Estates Inspectors, submitted on the 24th November 1871 to the Chamber of Agriculture, by a committee consisting of Mr. Currie, the President, and of Messrs. Hart, Hardy, and Macpherson, in the first paragraph of which we find:

> "You are aware that, looking on the immigrants in some sort as minors unable at "first to protect and guide themselves, the Colonial Government, in agreement "with that of Her Majesty at home, and with the assent of the authorities "in India, has passed a series of Ordinances in favour of immigrants, "containing provisions of an exceptional kind in their interest, and sur-"rounding them with special protection."

w held by Chamber ng

Minutes of the Proceedings of the Chamber of Agriculture in 1871, p. 15.

> "Thus, special Magistrates have been named to take cognizance of all the "difficulties which may arise between employers and labourers, and the latter can "use and may even abuse at their will the privilege of bringing complaints before "the Magistrates, since they present themselves without fee or costs. Every kind "of latitude and protection is assured to them before these Courts, in which the "proceedings are summary and simple, so that no legal subtlety, nor plea of "'want of form,' can be used against them or prevent their complaints being heard "on their merits."

View held by the Chamber of Agriculture regarding the protection afforded to immigrants.

3209. It will, therefore, be our endeavour in the present Chapter to show how far the Stipendiary Magistrates have really discharged those protective functions towards the immigrants with which they have been invested, and which have rendered the office of the Protector a venerable, though somewhat expensive, fiction, misleading immigrants with the notion that the holder of it is invested with all the attributes which his name implies, whereas, in truth and in fact, the real protector is to be sought in the less dignified and worse-paid officer at the Stipendiary Court, to whom the complaining immigrant was sure to be eventually referred; and how far the Indian immigrant is to be congratulated upon those summary and simple proceedings in the Stipendiary Court, and the absence of forms therefrom, which Mr. Currie and the Chamber of Agriculture regarded as such a sure guarantee for his just treatment.

Proposed inquiry.

Origin of the Stipendiary Magistracy.

3210. The appointment of Stipendiary Magistracy dates from before the extinction of slavery in the Colonies, in March, 1839, being provided for by the Order in Council of 7th September 1838, relative to the rights and duties of masters and servants, which had been passed in anticipation of that event. By the 5th Chapter of that Order, it is ordered that the Stipendiary Magistrates shall hold office during your Majesty's pleasure, though liable to suspension therefrom by the Government until Your Majesty's pleasure shall be known. It is further ordered that every such Magistrate shall act for such District or Districts as may be assigned to him by the Governor; that he shall be obedient to the lawful commands of the Governor in all things relating to the duties of his office, and shall be bound to make to the Governor such general or special reports in the discharge of his duty as the Governor shall, from time to time, require of him.

Order in Council of 1838, 5th Chapter.

Tenure of their office.

Order of 7th September 1838. Chapter IV. Section 1.

Order in Council of 1838. 4th Chapter.

3211. By the 4th Chapter of the same Order they were invested with

> "an exclusive jurisdiction for the enforcement of all contracts of service and for "imposing all penalties for the breach, neglect, or non-performance thereof."

Jurisdiction.

This jurisdiction was to be exercised in a "summary manner;" but, at the same time, to ensure regularity and method in the exercise thereof, it was ordered that the Governor should prepare forms of proceeding to be observed, on lodging complaints, in issuing summonses in the citation of witnesses; and, generally, for the complete carrying of the powers of Stipendiary Magistrates into execution. These forms were to be submitted by the Governor to the Chief Civil Judge, and having been approved by him, were to be observed in all proceedings before the Stipendiary Magistrate, but might from time to time be revised, repealed, or amended, as occasion required, by the same authority and in the same manner.

Section 2. Section 3.

Order in Council of 1838. 4th Chapter. Forms of proceedings.

Section 4

3212. By the 5th and 6th sections of the same chapter, no sentence awarded, or order made by any Stipendiary Magistrate in the execution of the jurisdiction so vested in him, shall be liable to be reviewed by any Court of Justice in the colony, except on the ground of an unlawful assumption of power, or other illegality on the part of such Stipendiary Magistrate; but the same, when consistent with law, shall, to all intents and purposes, be binding, final, and conclusive; and it is ordered, that the Stipendiary Magistrate shall enjoy the same protection and indemnity for all acts done by him in the exercise of his jurisdiction as, by any law in force in the colony, any Magistrate is entitled to claim in respect of any act done by him in the execution of the powers vested by law in him.

Indemnity of Magistrates.

Sections 5 and 6.

Chapter V., Section 3.

3213. It was also ordered by the third section of the 5th Chapter, that the Stipendiary Magistrates shall, from time to time as occasion may require, or when so directed by the Governor, meet together in Petty Sessions, at which sessions not less than two Stipendiary Magistrates shall ever be present, which Petty Sessions may exercise any of the powers vested in the Stipendiary Magistrate separately; provided that no such Petty Sessions be convened except by the previous sanction of the Governor, which sanction may be given either for holding such sessions periodically, or for holding the same for any special occasion at any particular time and place.

5th Chapter. Petty Sessions.

3214. Hence it will be seen that provision was made by the order for the drawing up of such rules of procedure for the Stipendiary Courts as the circumstances of the colony

Rules of Procedure not yet dr

Order in Council of 1838. Rules of Procedure never drawn. Possible explanation.

might require. But, strange though it may well appear, it is nevertheless a fact, that from that day to the present this most important section has never been acted upon.

3215. The only explanation which we have been able to discover for this otherwise unaccountable oversight is to be found in a despatch of Governor Sir William Nicolay to Lord Glenelg, written early in 1839, in which he drew His Lordship's serious attention to the directions prescribed by the sections in question. These he represented as liable to

Sir W. Nicolay to Lord Glenelg, No. 7 of 25.1.39.

> " place the Governor of a colony in a very unpleasant and delicate situation,"

as it was therein ordered that the forms of procedure were to be prepared by the Governor, and submitted to the Chief Judge for his approval; and that, as such forms could hardly be prepared, except by persons versed in the practice of legal procedure,

Possible explanation why rules never yet drawn.

> " it might easily happen that the forms prepared by the Governor would not meet
> " the approval of the Chief Judge; and the Governor would, in consequence, be
> " placed in the humiliating situation of having to alter the forms he had prepared,
> " in order to obtain the Judge's approval,"

which appeared to him to be reversing the general usage with respect to approvals.

3216. This Despatch was answered on the 17th August following, by the Marquess of Normanby, who concurred with Sir William Nicolay in thinking that the directions contained in the section were capable of formal improvement; but added that, as he did not think any practical inconvenience could fairly be anticipated on that account, your Majesty's Government did not think there were sufficient grounds for revising the Section of the Order. We presume, however, that Sir W. Nicolay still remained diffident of his own ability to draw up these rules of procedure; and that it did not occur to him to refer this important duty to the Procureur-General, for, as we have stated above, no rules have ever yet been drawn up, and the Stipendiary Courts remain at this day without any rules whatever to regulate their proceedings, a state of things, we believe, without parallel in any other part of the civilized world.

Marquis of Normanby to W. Nicolay, No. 23 of 17. 8. 39.

No Rules of Procedure.

3217. The result is, that we find two of the Magistrates whom we examined, doubting, or denying altogether, the authority of Stipendiary Magistrates to perform the greater part of the magisterial acts which, in fact, they are performing every day.

Opinion of Mr. Farquharson.

Mr. Farquharson fairly admitting that, in his opinion,

Question 12,190.

> " the system is completely rotten;"

that there is no Procedure Act, and the jurisdiction of the Magistrate is unascertained; that the Stipendiary Magistrate has not the authority even to issue a summons; and that the laws are very confused, and in some parts very impracticable.

Opinion of Mr. Daly.

3218. A similar opinion is held by Mr. Daly, who maintains that, owing to this total want of any rules of procedure, the Stipendiary Magistrate is not invested with any legal power to receive sworn testimony, put a witness on oath, and do many other necessary acts. Mr. Daly, consequently, already holding this opinion very strongly, on reading the above opinion of Mr. Farquharson, upon the want of authority in the Stipendiary Magistrates, and being aware that they are protected only in respect of acts done by them in

Question 13,380.

Mr. Daly's representation to the Procureur-General.

> " execution of the powers vested in them,"

notified, on the 18th November 1872, to the Acting Procureur-General, that he had declined to sign any warrants of arrest, and refused to remand prisoners brought before him as Stipendiary Magistrate.

3219. Mr. Ellis was apparently struck with consternation at this proceeding, and expressed his opinion to be, that,

Opinion of the Acting-Procureur-General.

> " by vesting Stipendiary Justices of the Peace with a summary jurisdiction, without,
> " at the same time, defining the mode in which such jurisdiction should be
> " exercised, it was the intention of the framers of the Royal Order in Council, that
> " the Stipendiary Magistrates should exercise the jurisdiction conferred upon them
> " in the same manner as ordinary Justices of the Peace in England,"

which we cannot but regard as a misconception on the part of Mr. Ellis, the Order in Council having declared that special rules were to be formed for their guidance.

3220. It was in consequence of this correspondence, which will be found appended, and of the same opinions expressed in his examination before us, that Mr. Daly collected and put upon paper, for our information, the points of difficulty which had arisen in his mind, and which will be found appended.

Appendix O.1.

Rules of Pro-

3221. Taking the Order in Council as the basis of the law upon the subject, and, after mentioning the total disregard of the 3rd Section of the 4th Chapter, he maintained that, no procedure having been provided by the Order in Council, we must examine

what was the procedure prevailing by law in the jurisdiction of such existing Magistrates as exercised, in Mauritius, summary powers at the date of the passing of the Order in Council: the result of which which will be to show that the "Juge de Paix" of Port Louis, and the assistant "Juges de Paix" in the districts, were then the only other existing Magistrates; and these exercised their jurisdiction under, and were governed in their jurisdiction by, the French "Code d'Instruction Criminelle," except where local Ordinances had created slight variations of practice. Consequently, that, at the date of the passing of the Order in Council, the only general law regulating Magistrates in their summary procedure was the Code above-mentioned; and that, as neither at that time, nor at any subsequent time, had the procedure of Justices, according to the English law, been introduced into Mauritius, the only law applicable to their jurisdiction and protection was that contained in the "Code d'Instruction "Criminelle."

No Rules of Procedure.

3222. By Ordinances No. 9 of 1850, and No. 34 of 1852, which established District Courts, the "Code d'Instruction Criminelle" was wholly abolished, "Juges de Paix" ceased to exist; and in their stead were established District Courts; and in lieu of the general law of procedure was enacted a special code of practice limited to, and only applicable in, District Courts. By these changes, therefore, the Stipendiary Magistrates were left without any general law of procedure to refer to as a guide of their proceedings, and were thrown back upon the bare provisions of the Order in Council; and, consequently, since 1850, there has existed in Mauritius neither the jurisprudence of France nor that of England, from which Stipendiary Magistrates could derive authority for a vast number of judicial and ministerial acts which they have nevertheless performed.

Question 13,392.

Mr. Daly's examination of the question.

3223. The learned counsel who represented the Chamber of Agriculture before us shared the opinion which had been expressed by Mr. Ellis, viz. that reference should be had to English magisterial practice; and that, by investing Stipendiary Magistrates with a summary jurisdiction, the Order in Council at the same time invested them with all the powers, which, by the principles of English law, are accorded to Courts having a summary jurisdiction.

Mr. Newton, after Question 13,398.

Opinion of Messrs. Newton and Gulbert.

3224. But although this is the opinion held by the Procureur-General in 1873, it was not so held by his predecessor in 1853, when a question arose as to the authority of the Stipendiary Magistrate of Savanne to sign warrants of commitment to prison, it having apparently been the previous practice to commit prisoners without any regular warrant. Mr. Davidson, the Magistrate, referred the question to Government; and Mr. D'Epinay, the Procureur-General, after observing that, although prescribed by Section 3, Chapter IV., of the Order in Council, no particular forms had ever been prepared for the proceedings before Stipendiary Magistrates, gave it as his opinion that the practice should be followed—*not* of English Magistrates' Courts, but—of the other Courts of inferior jurisdiction in the colony, viz. that of the District Courts.

Opinion of Procureur-General D'Epinay in 1853.

3225. It certainly appears to us not only remarkable but unaccountable that, notwithstanding the attention of the Government having thus been called to the neglect in carrying out the Order in Council, no steps whatever should have been taken to rectify the oversight, and that twenty years later the same question as to the jurisdiction and authority of Stipendiary Magistrates should again be raised.

Negligence of the Local Government.

3226. Mr. Daly next proceeds to examine, in the following words, how far the power given by the Order in Council of 10th June 1843 to revoke, alter, and amend the provisions of the Order in Council of 1838 has been used in Mauritius, as well as the effect of such revision.

> " Ordinance No. 15 of 1852 provided for some matters of practice, viz. the
> " punishment of complainants for false or malicious complaints, the penalties for
> " false testimony, and the limitations of complaints to the districts in which com-
> " plainants resided—and appeals. This Ordinance, however, in no way attempted
> " to lay down any rules or forms for the complete carrying into execution of the
> " Magistrates' powers.
>
> " By Ordinance 31 of 1867, however, the power was conferred by Article 78
> " upon the Governor in Council of making regulations to carry out the *provisions* of
> " that Ordinance, and of any laws in force relating to *Immigration*, or to *Masters*
> " and *Servants*, and for establishing a *tariff of fees* leviable upon proceedings in
> " Magistrates' Courts, or on the delivery of tickets and documents.
>
> " An examination of this Ordinance will show that there is in it no repeal of the
> " Order in Council of 1838 in respect of Section 3, Chapter IV., which prescribes how
> " forms and practice are to be provided for, and there is no power given to make

No rules of procedure. Mr. Daly's examination of the question.

" regulations for that purpose. There have been certain, but very few, regulations " made thereunder purporting to affect a Stipendiary Magistrate's exercise of his " powers, but such, I think, are strictly *ultra vires*; and, as to such as are to be " found in the Ordinance itself they are limited to the following:—Complaints " may be tried in the district where the servant resides; penalties recoverable for " contraventions of the Hospital Ordinance No. 29 of 1865; fees are to be prepaid " and may be dispensed with; process may be served by ushers of District Courts; " persons served with process of Stipendiary Courts and not appearing, may be " fined; penalties may be recovered by distress, failing sufficiency of which, by " imprisonment according to a given rate; insults to, or assaults upon, Stipendiary " Magistrates and others may be punished. Such, therefore, have been the only " attempts made for providing for the complete carrying into execution of " Stipendiary Magistrates' powers.

" There is no provision as to the manner of commencing proceedings; the requi- " sites of complaints or informations, whether on oath or not; before whom to be " presented, and how; the necessary procedure for the issue of summonses or " warrants, their form, their contents, their manner of being executed; the time, " place, and manner of bringing up defendant or accused; the sufficiency of service, " the effect of non-appearance, the delays for returns of summonses or warrants; " the notices to bring complainants to the hearing; the statement of the charge; " the taking of the plea; the effect of pleas of guilty or not guilty; the effect of " pleas of extenuating circumstances; the effect of standing mute; the form, time, " and manner of summoning witnesses; the power to administer an oath or affirma- " tion, the form of the same; the right of cross-examination; the interpretation of " testimony, its mode and sufficiency (*a very important point*); the right of being " represented by Counsel; the right of addressing the Court; the right of being " represented by an agent or attorney; the claim of adjournment; the power to " adjourn; the power to remand; imprisonment in default of immediate payment; " power to hear case in absence, by default, of defendant duly summoned; the pro- " ceedings at the hearing; the method and extent of noting or recording evidence " or taking depositions by the Stipendiary Magistrate; the time and manner of " rendering judgment; the drawing up of a conviction, its forms, nature, and " necessary ingredients; all the usual forms of civil suit in cases of wages, claims, " or actions of damages; all the incidents of distress-warrants, and the granting of " delay for paying penalties. All these, and many other essential provisions, are " absolutely wanting."

3227. And, in order that these deficiencies may be viewed with greater precision, Mr. Daly then proceeds to place in the form of a table side by side—

1st. The usual and necessary provisions for a Summary Court;

2nd. The actual provision made for Stipendiary Courts;

from which it will appear that the result of Mr. Daly's investigations shows that, out of 142 subjects usually provided for in Summary Courts, 110 are, in the Stipendiary Courts of Mauritius, wholly undefined, or only very partially and indirectly provided for, and he concludes his remarks:—

" It would occupy far too much space and time for me to deal, in greater detail, " with the vast amount of difficulty and confusion which the absence of all rules " and practice I have noted above has occasioned. But I can assert that it is not " merely that the administration of justice has been wanting only in matter of form " in the Stipendiary Courts, but that the looseness of practice which has necessarily " attended so neglected a state of the law has occasioned the exercising of juris- " diction in a 'summary manner' to be equivalent to its exercise in the mere " wantonness of an authority which found its acts seldom questioned, and never " kept by regulation within the limits of properly constituted tribunals.

" It may appear surprising that, if the foregoing truly describes the legal position " of Stipendiary Magistrates in their Courts since their creation in 1838, the " business of these Courts could be carried on at all. My own experience is not " sufficiently long to enable me to state how difficulties were met in former years, " but I have personally witnessed the condition of great uncertainty and confusion " in which their practice has been, and still is, involved. It seems to me that the " instructions of the Procureur-General from time to time have caused certain " extra-judicial decisions to be laid down and adopted by the Magistrates by whom " they were first received, and have been transmitted as matter of usage during " many years. The infrequency of appeals, especially on points of procedure, has " prevented any important authoritative decisions of the Supreme Court from being

" obtained, and the convenience of following usage has been apparently the guidin " motive with most Magistrates for leaving matters unchanged. But it is impos " sible to suppose that so undefined and loose a system has not let into actual " practice a large amount of irregularity which may have often been really illegal " and unjust. There can exist in Mauritius no such immemorial usage as would " constitute a *lex non scripta* of procedure, so that I cannot help feeling that Sti- " pendiary Magistrates are still from day to day improperly called upon to carry " on their business by the exercise of powers which the law has never accorded " to them."

Such is the experience of certainly one of the most active and thoughtful of the Magistrates in Mauritius, and it will be for us next to show how far the intelligence and discretion of the individual Magistrate has made up for the deficiencies in the law.

Fees Court.

3228. By the 78th Article of the Regulations, under Ordinance 31 of 1867, of August 1869, certain fees may be charged to complainants lodging complaints in the Stipendiary Courts, viz. two shillings for a summons or for a warrant; or, in the case of a person appearing voluntarily, for taking down the complaint. But by the two Articles immediately following power is given to remit to a labourer this fee, if, in the opinion of the Stipendiary Magistrate, he is unable to pre-pay such fee, and yet appears to have a reasonable ground of complaint; and also, *ex officio* to order the issue of any summonses, warrants, or other process, without pre-payment of fees; leaving the recovery of the fees due upon such process to be effected in accordance with the subsequent order or decision of the Magistrate.

Regulat of Augt. 1869.

If power u no difficult to labourer obtain just

3229. It is, therefore, quite evident that, if the power accorded by the law to the Magistrates is rightly used by them, there can be no difficulty even for the poorest labourer to make his grievances heard. Yet Mr. Beyts tells us that he has had complaints made to him by Indians of difficulty in obtaining access to the Magistrates; and that, although he has never established a case, he has fancied the complaint might be well founded. It is, we presume, this suspicion which has led the Protector to deliver "Plaint notes" to the immigrants whom he refers to the Magistrates: the use of such note being, as he tells us, to give the Protector an assurance that the man does get to the Magistrate.

Questions 2305.

"Plaint Notes."

Question 1177.

Questions 2280, 394.

Mr. Renouf opinion.

The Magistrates, however, are not bound to notice such complaint notes; though, as a matter of fact, Mr. Beyts tells us they generally do. This is not, however, invariable, as we found that, at Pamplemousses, Mr. Renouf considers that in such cases it is not for him to inquire whether a complainant is in possession of property, but for the latter to prove to him that he is *not* so possessed, before obtaining the remission of the institution fee.

Appendix O 2.

Institution fee a hindrance to th recovery of wages

3230. It is, possibly, owing to this rule of Mr. Renouf that many persons to whom plaint-notes are given at the Immigration Office never go to that Magistrate; as we found that, out of twenty-two complaints referred by the Protector of Immigrants to Mr. Renouf between the 4th October 1872 and 26th February 1873, eight never reached the office of the Magistrate. In three cases the complaints were dismissed with costs as not proved: one was dismissed as malicious, four were struck out owing to the non-attendance of the complainant, and four were not received at all, owing to the non-payment of fees. Of these four so refused to be taken, two were complaints on account of non-payment of wages; under which circumstances we do not see how the complainants could well have given the proof required by Mr. Renouf; for, assuming their complaints to have been well founded, they would obviously be unable to pay the fee for taking out a summons to secure the attendance of the witnesses, without whom such proof would be impossible.

Receiving complaints.

3231. Mr. Renouf tells us that complaints, though taken down by the clerks, are always referred to him first; and that, after hearing them verbally, he sends the plaintiff to the Interpreter in the next room, and with his aid it is taken vn in the Plaint Book by the clerk.

estion 11,315.

he plaint having thus been made out, must be taken to the Office of the District ier, in order to be stamped and the fee paid.

Origin of the Institut Fee.

32. These were not imposed previously to the passing of Ordinance No. 31 of 1867; ve find that, on the 4th December 1866, a Circular was issued confidentially by the Colonial Secretary to the Heads of Departments, Magistrates and other Public Officers, informing, them that circumstances rendered it necessary e utmost economy should be practised in all Departments of the Government, ling upon them to offer such suggestions as might occur to them for increasing ipts of their Departments, curtailing their staff, and reducing expenses.

x N 16.

The attention of the District Magistrates was drawn particularly to

Origin of the Institution Fee.

of witnesses' costs, as several cases had then recently been brought to the notice of the Governor in which unnecessarily high fees had been allowed by the taxing Officer.

Mr. Wildman's suggestions.

3234. In answer to the Circular, Mr. Wildman, the senior Stipendiary Magistrate of Port Louis, wrote on the 14th February, suggesting that a certain amount of income might be raised by having a Tariff of Fees for the Stipendiary Courts somewhat similar to that of the District Courts. He appended a Draft of the Tariff which he proposed, viz.:—

For hearing and adjudicating upon the complaint of a servant against his master	4*s.*
For hearing of a master against his servant	2*s.*
„ issuing out a warrant of arrest for the first man	2*s.*
„ every subsequent man	6*d.*
„ issuing out a Distress Warrant	2*s.*
„ issuing out a Warrant of Arrest for recovery of a Judgment	4*s.*

Opinions of the Magistrates.

3235. These suggestions met with the unqualified approval of the Acting Procureur-General, Mr. Sholto Douglas, but Sir Henry Barkly, with a keener sense of justice, remarked that it struck him—

"as having rather a bad effect that the costs of a hearing of a plaint for wages "brought by a servant should be double those brought by a master,"

and he desired the other Stipendiary Magistrates should be consulted upon the tariff. We could have wished that His Excellency had denounced the proposal outright: but, fortunately his proposal to refer the matter to the other Magistrates prevented its being entertained; of these, three, Messrs. Martindale, Messiter and Lablache, had no observations to offer beyond general approval. Mr. de Boucherville gave a qualified approval, thinking the tariff fair and reasonable, but suggesting as regards the complaints of servants against masters, that the former should not be called upon, in claims for wages, to pre-pay the fixed costs, as in many cases they would be unable to do so, in the event of their not having received their wages for several months, as sometimes happened.

Appearance of parties.

Messrs. Renouf and Farquharson insisted that at least the fees should be uniform for both; while Messrs. Gautier and d'Emmerez de Charmoy declared, that if any difference in the scale were made at all, the lower scale should be in favour of the servant.

3236. We next come to consider the means by which parties are brought before the Court, viz. by summons; arrest, with or without a warrant; and by what is termed "voluntary appearance."

Service of summons.

3237. Summonses are served by the police, who often simply leave them with the manager, at the mill, should the labourer be in the fields or out of the way, a mode of procedure which may do very well to ensure the appearance before the Court of a defendant, if a labourer, but which, we do not think is so certain to ensure the attendance of a witness for the defence, in the event of the employer being the plaintiff; and, we find that Mr. Daly holds the same opinion, refusing to consider any procedure as proper, other than personal service.

Question 13,484.

Arrest of deserters.

3238. We have elsewhere seen (Chapter XVIII., *Illegal Absence*, &c., paragraph 2033, and following), that the only circumstance under which arrest without warrant is sanctioned is desertion, or the absconding for more than three days from the estate, and then, that the arrest could only be made in a "Public Place." We have also shown how, in practice, this condition has been overlooked by employers; and it appears to have been equally overlooked by the police, who formerly were in the habit of receiving into their custody labourers sent to them by their masters, if charged with nothing more serious than illegal absence or other offences for which a summons would have been the proper procedure; whilst the Magistrates could never have troubled themselves about the circumstances under which a defendant had come to appear before them.

Question 13,640.

Immigrants received into custody illegally.

3239. Police Inspector Timperley declared before us, that to his knowledge no men had been received into custody by the police for *absence*,-since the definition of desertion had been laid down by law; and in support of this statement referred us to a general order upon the subject. This, however, is only dated the 22nd April 1871, when a change of opinion regarding the labour laws had already begun to show itself, and less recklessness to be displayed in the carrying out of the law. The order too was issued owing to Mr. Timperley himself having raised the point by writing to the Acting Inspector-General of Police to inquire.

Questions 5794 to 5806.

Mr. Timperley's representation.

"1st. Whether the police were justified in receiving into custody labourers given "in charge on the rather vague charge of 'insubordination' when such insub- "ordination has not been attended with any violence towards the employer or his "representative."

Immigrants received into custody illegally. Mr. Timperley's representation in 1871.

"2nd. Whether the police can receive in charge engaged labourers for absence "from work, commonly called illegal absence, when such absence does not amount "to desertion as defined in Ordnance 31 of 1867, viz. three full days:"

as he was under the impression that in such cases the remedy should be by summons or warrant; but that, as labourers were daily sent to him on these charges, he should be glad to

"have the law on (his) side in refusing to receive them."

Opinion of the Procureur-General.

3240. This letter was transmitted by Captain Gordon to the Procureur-General whose opinion, published in General Order No. 32 of 1871, was, that—

"1st. Insubordination on the part of a labourer unattended with violence is not, "as such, taken cognizance of by law."

"2nd. When a labourer's absence does not amount to desertion as defined by "Ordinance No. 31 of 1867, the master's remedy is not by arrest, but by complaint "and summons."

"3rd. That unless the case amounted to desertion as legally defined the Inspector "of Police was justified in refusing to arrest the labourers, or keep them in custody "before judgment."

Appendix O 4. Questions 10,591, 13,617.

3241. The following case will serve as an illustration of the state of things described by Mr. Timperley as of daily occurrence in Pamplemousses: a statement corroborated by Messrs. Renouf and Trouchet: and will show how in other districts the police received, and the Magistrate furnished, servants sent to them in a manner not warranted by law.

Mamode Cassim's case.

3242. Mamode Cassim was servant to Mr. G. Robinson of "Bagatelle" in the District of Moka, who, in September 1868, on account of the fever then prevalent, issued to his servants the very reasonable order not to sleep off the premises. Mamode Cassim disobeyed; and, on being taxed by Mr. Robinson with his disobedience replied that he was determined not to sleep in the yard, as he had a right when his work was finished to go where he liked.

On a subsequent occasion Mr. Robinson again reproached him with his disobedience in sleeping out every night, and threatened to send him to the police; whereupon, the man answered with an oath that he did not care for the police. For this he was taken before Mr. Dupont, on the 30th September, and charged with

"disobedience of orders and insubordination."

The disobedience he admitted, pleading in extenuation that he went to visit his concubine: an excuse, however, which did not avail him, for he was sentenced to fourteen days' hard labour.

3243. It is to be observed, that, in this case, the offence consisted solely in disobedience to a reasonable order, but did not come within any of those contemplated by the Order in Council of September 1838, Chapter IV., Section 7, viz. neglect of stipulated work; negligent or improper performance of the same; nor of injuring the property of his master entrusted to his care, by negligence or improper conduct. Yet,

Question 10,599. Mr. Newton's explanation.

Opinion of Mr. Newton, barrister.

we were informed by the learned Counsel representing the Chamber of Agriculture, that it was under the Order in Council, that it had been the practice to proceed against servants for disobedience of orders, which, Mr. Newton submitted, would be the same thing as insubordination.

Lumphaly's case.

3244. On the 5th December 1870, we find that in Savanne Lumphaly was sentenced by Mr. Delafaye to six weeks' imprisonment for the same offence; though under what law it would be difficult to say.

Want of power of punishment for "insolence."

3245. Mr. Daly is of opinion that a provision is much needed to punish such acts of disobedience as a refusal of reasonable orders with insolence: which, at present, is unprovided for; unless it be of such a character as to give reason to apprehend a breach of the peace, in which case, under Article 126 of Ordinance 35 of 1852, the offender may be bound over to keep the peace, or, in default, be imprisoned for three months; but only by the District Magistrate.

Question 13,419.

"Voluntary appearance."

3246. We next come to what is termed "voluntary appearance," which is defined by Mr. Renouf to be

Question 10,881.

"when men come to Court ordered by their masters and they attend;"

and, by Mr. Daly, as,—

"a freely coming before the Court at the mere request of the adverse party while "in the full option of going away, if he preferred it."

Mr. Daly's opinion.

Mr. Daly, however, appears to be no firmer believer in this perfect freedom of will than we are; for he thinks that—

"in practice the voluntary appearance is the result of a gentle pressure from a "Sirdar or the leader of his band,"

"Voluntary appearance."

and that it used to be done in past days, and was looked upon as a sufficiently voluntary mode of putting in an appearance.

Mr. Renouf's practice.

The correctness of this impression of Mr. Daly is corroborated by the evidence of Mr. Renouf who, whilst repudiating the idea of any compulsion being used, tells us in almost the same breath that they have come, led in by Sirdars, who have sometimes left them in front of the Court, and that they have, when called, come voluntarily. Question 10,882 to 10,890.

3247. This term "voluntary appearance," however, bears another meaning in Mr. Renouf's Court, being applied to cases in which the complaint is taken *ex-officio*, without fees being charged. Mr. de Plevitz brought a case to our notice during the examination of Mr. Renouf, in which a man who had been assaulted and beaten by his master went to the Police Station to lodge his complaint which was taken *ex-officio*; but, while he was there making the charge, the manager of the estate to which the complainant belonged came in with an officer of police and made a counter-charge against him of desertion; he was, in consequence, taken by the police, before Renouf on the following morning; when his appearance to answer his complaint was entered as being "voluntary." Question 11,915 *et seq.*

Charges, how laid.

3248. With the delinquents so arrested by their employers or the agents of these, there is sent a note to the police officer in charge of station to which they are led, stating the name and residence of the party making the arrest and the charge which it is desired should be brought against the defendant.

This is strictly in accordance with the provisions of the 51st Article of Ordinance No. 31 of 1867.

Improper statements.

3249. These written statements are brought by the police to the Court and filed in the Magistrate's office; but sometimes they contain a great deal more than what is merely sufficient to justify the police in receiving the prisoner, and enter into details respecting the offence which ought to be reserved until the case is heard in Court. Thus, when Mr. Daly first went to Savanne in July 1871 letters used to be handed up to him by the Sergeant in charge containing a great deal of matter extraneous to the charge against the man, and relating to his previous character and offences such as, that "he was a notorious Maroon;" Question 10,894 to 10,900. Questions 13,409 to 13,413. Question 13,413.

Outpourings against defendants.

"that he had frequently been convicted before; that it was impossible to do anything with him; that during the last month he had been suspected of robbery; and, that it was hoped he would receive the punishment he so well merited."

Such letters had even been addressed to himself as Magistrate: which, as soon as Mr. Daly perceived that it was expected he was to receive them as the evidence in the case, he naturally declined to look at, as he should have considered it an attempt to prepossess his mind against the men he was about to try, had it not appeared to be done under the colour of some supposed right.

Mr. Trouchet's practice.

3250. We, therefore, examined Mr. Trouchet, Mr. Daly's immediate predecessor, with the view of learning whether such notes had ever by him been admitted as evidence, and were glad to obtain his positive denial to so irregular a proceeding. The invariable practice was for the master or employé to appear; and in default of his so doing the prisoner was released. Question 13,619. Questions 13,621 to 13,625.

3251. That Mr. Daly was not far wrong in supposing that planters were, and still are, under the impression that by writing to the Magistrate they could settle a case, we learn from Mr. Baudot; among whose records at Flacq we found a number of notes of this description, but who denounced the writing them as a most objectionable practice, and never took any notice of them, but always made employers having complaints against their men come into Court and state their grievances, and never would condemn a man when his accuser did not attend; but that the utmost he ever accorded to such applications was that, if a manager or employer wrote and assigned a good reason he would adjourn the case to the next day. Mr. Baudot's evidence. Questions 13,856 to 13,859. Questions 13,860-861.

Dilatory notes.

3252. We give the following as fair specimens of the notes we have been considering:—

"My dear Sir,

"Two men will appear before you for illegal absence; one 'China Govinden,' Tuesday last, and Mardemootoo Monday, as they are both what you call de Bandes.

"I should wish to have them punished.

"My Sirdar is aware of their being absent.

"I remain, &c.,

"7.10.70. (Signed) F. W. Barlow."

Charges, how laid. Dilatory notes.

"Monsieur E. Baudot, Magistrat.

"Monsieur,

"Je vous prierai de m'excuser de n'ai pas me présenter ce jour devant votre tribunal pour répondre à la plainte porté contre l'Indien du nom de Dinoo.

"Il est déserteur de l'établissement depuis trois mois environ, lors de sa sortie de Prison, depuis six ans qu'il est engagé il n'a jamais fournis un travail régulier.

"Je vous prierai d'avoir la bonté de le punir pour sa désertion.

"Veuillez, je vous prie, me croire avec respect votre obéissant serviteur,

(Signé) "A. Nozaic.

"'Bel Etang,' 7 Oct. '70."

3253. From the tenor of these communications it would seem as though some masters had been in the habit of looking upon proceedings before a Magistrate, as sending their men, not to be tried, but to be punished; and that this feeling is shared by the Indians is clearly proved to our satisfaction, from the number of petitioners who came to us during our residence in Mauritius, to solicit our protection on the score that they were "going to be judged;" a process which they evidently regarded, rightly or wrongly, as synonymous with being condemned.

3254. With regard to the records preserved of the proceedings in the Offices of Stipendiary Courts, there is a great distinction between the notes of cases brought up by the police, and cases between parties; the notes taken in the latter being, as a rule, much fuller than those in the former.

Notes of proceedings.

A list of prisoners brought up by the police, is written out each day upon a charge sheet of the following form:—

Prosecutions by the police.

Name of Accused.	Name of Employer.	Arrest. By	Arrest. For	Magistrate's decision.
Ramsamy	Dr. Icery	Corporal Murrin ..	Vagrancy	28 days.
Cheetun	D'Arifat	Sergeant Smith ..	Desertion	3 months.

(Signed) S. M.

Such we find to have been the only note in the Stipendiary Court of Flacq in hundreds of cases, where the punishments have often been of several months' duration.

Records of Grand Port.

3255. We have already (Chapter XI., *Enforcement of the Labour Law*, paragraphs 745 and 746) commented upon the record preserved in Grand Port, of a case in which 26 persons were by one conviction adjudged to be vagrants. How many hasty or illegal decisions, records such as these may cover, it is, of course, impossible to say.

Records of Pamplemousses. Records of Rivière du Rempart.

3256. In Pamplemousses, Mr. Renouf formerly took no notes; and whatever notes there were, were taken by the clerks; though, for the last few months, he had taken notes himself, which were subsequently copied into the Plaint-book by the clerk. In Rivière du Rempart a similar system seems to have prevailed. Question 10,842. Question 12,051.

Records of Savanne and of Black River.

3257. In Savanne and Black River the Magistrates kept a Note-book, in which notes of the most cursory description were taken by the Magistrate, which rarely give enough of the points of the evidence to show the grounds upon which the punishment was awarded; and which, therefore, considering the carelessness which is admitted to have prevailed formerly in the Magistrates' Courts, is as likely as not to have been illegal. Questions 13,219, 13,599, 13,664.

Records of Black River.

3258. Thus, in the Note-book of Mr. d'Emmerez de Charmoy at Black River, we find repeated cases recorded in a manner of which the following will convey an idea:—

On the 25th October we find:

Case 1265, 25th October 1869, Black River. "Dhondee. Vagrancy. No papers. No satisfactory account. Three months' H.L. Then to depôt."

Case 84, 25 January 1870. On the 25th January 1870, Sheik Mordeen,

"Three months, and then to depôt."

It is to be remarked in both these cases the charge is "vagrancy," and the punishment awarded is for a term exceeding 28 days; a sentence which, in whatever way we regard it, is illegal, for by Ordinance No. 4 of 1864, Article 13, the utmost that could be inflicted is a term of imprisonment not exceeding 28 days, unless after two previous convictions of *vagrancy within the preceding two years*, in which case the least term that can be inflicted is six months.

Notes of proceedings. Records of Black River.

5259. In these cases there is no note of any proof whatever having been shown of such previous conviction; and, therefore, all that can be said of them is, that either an injury was done to these men by inflicting upon them two months too much, or to society, by inflicting three months too little, upon habitual vagabonds.

Records of Savanne.

Appendix O 1.

3260. In Savanne, we find among Mr. Delafaye's notes the following, made on November 21st 1870:—

"Soppro. Vagrancy. Once 14 days absent; admits four months."

And in Mr. Trouchet's we find, on the 10th April of the same year, a note rather fuller than usual:—

"Purunin; no employer; arrested at Port Louis; stated he belonged to one "Govinden of Savanne; says now he is in the employ of a person at Grand Port. "Six months' hard labour."

In both of these cases there is nothing to show the proof upon which any punishment beyond 28 days was imposed.

3261. When, therefore, we find certainly not the least able and careful of the Magistrates keeping no fuller or more valuable note of the cases tried before him than those above-quoted of Mr. d'Emmerez de Charmoy, we feel that it is needless to pursue this subject any further, as it is plain that notes taken in such a manner might as well have never been taken at all.

Cases between parties.

3262. The notes taken in cases between parties are generally fuller, and are usually written upon the inside of the Dossier or covering sheet, containing the summonses, warrants, and whatever other documents there may be connected with the case; but were formerly often written by the clerk across the columns of the Plaint-book.

Absence of all rules of Procedure.

3263. In the entire absence of all rules of procedure, and of all forms, which characterizes the Stipendiary Courts, it would be hopeless to attempt to describe in its successive stages any suit brought into them, and we shall, therefore, rest content with calling attention to certain points connected with the administration of justice by them which appear to call for remark.

Magistrates ignorant of Indian languages.

3264. The first and, in our opinion, most fatal defect in the Stipendiary Courts is, that not one of the Magistrates is able to communicate direct with the Indians appearing before him in their own language—Mr. Farquharson being the only one

Question 12,342.

who professes to have sufficient knowledge at all of Hindoostanee to be able to check the Interpreter if he goes wrong. We shall see when we come to speak of the Interpreters, how some of these are unable to speak English, so that the deposition, made originally in some Indian language, is translated first into French or Créole, and then taken down in English by the Magistrate.

Receiving admissions.

3265. Under such circumstances we may readily conceive the caution with which the admissions or confessions of prisoners should be received, and the pains that should have been taken to be perfectly sure that the accused was thoroughly aware of the nature of the charge to which he was pleading guilty; yet we find that Magistrates have been very ready to receive admissions of accused persons, and to act thereupon without taking sufficient pains to ascertain the real character of the admission.

Distinction between offences of illegal absence and desertion.

3266. As an instance, we will cite the offence of illegal absence and desertion; the former rendering the defendant liable at most to an imprisonment of 14 days, whilst the latter rendered him liable to one of three months; yet, until lately, very little trouble appears ever to have been taken by the Magistrates to ensure the distinction being properly appreciated by the Indian; and, considering the manner in which we find that these two distinct offences have been confounded one with the other, and both confounded with vagrancy, by the Magistrates themselves, we cannot share Mr. Renouf's belief in the

Questions 11,534 to 11,529.

legal lore possessed by Indians; except, indeed, upon the assumption that they know the law better than the Magistrates; for he maintains that they are perfectly aware of the effect of admissions; being so well tutored by the Battiaras that three weeks will not have elapsed from the passing of an Ordinance before they are well acquainted with its provisions, and thus have every means of protecting themselves.

Latterly, however, he has caused the distinction to be pointed out to them, though formerly he was not in the habit of so doing; from which we infer that he used not to consider this any more a part of the duty of the Magistrate, than that of raising

Question 11,021.

objections in cases between masters and servants, even though the one was making an illegal claim against the other, which appears to us to be a simple abdication of that position of Protector so strongly insisted upon by Governor Stevenson and by Mr. Ellis, as the function of the Stipendiary Magistrate, to the exclusion of the official at the head of the Immigration Department, and who bears the title o Protector.

Distinction between offences of illegal absence and desertion.

3267. Mr. Trouchet does not think Indians made any distinction between these offences, as he does not remember whether he made any distinction himself;

Question 11,627.

which he certainly did not, or he would not, on the 8th May 1871, have sentenced Ramal to six months' hard labour for desertion:—

"Desertion.—Service of Chamouny Estate, admits he has been four days "absent."

There is nothing in this note to show that the absence admitted was such,—viz. coupled with absconding, as to constitute desertion; and thus, although the poor man, in any case, was sentenced to three months in excess of the maximum of legal punishment, such excess may have been five months and fourteen days.

Mr. Daly.

3268. Mr. Daly has found that admissions are often made, but not always in an unqualified manner, and that of late the Indians have learnt the different punishments awardable to different offences; and it frequently happened that a prisoner charged with desertion would admit "illegal absence," while denying desertion; but, he added,

Question 13,344.

that when he first entered upon his duties in the District of Savanne, the indiscriminate charging of offences and application of penalties which had prevailed before, showed that these distinctions had been as little understood or regarded by his predecessors as they were by the Police or the planters.

Questioning the accused.

3269. It was probably this want of precision in the mode in which proceedings before the Stipendiary Courts had been conducted that has led, in some cases, to the objectionable, though perhaps under the circumstances unavoidable, practice of questioning the accused with the view of ascertaining the real character of the admission he intended to admit, and then convicting him upon such admission, a practice which, notwithstanding that it has been repudiated in principle by all the Magistrates we have examined, is, we are satisfied, proved to have been frequently resorted to.

Questions 13,345, 13,350, 13,351.

3270. Mr. Daly, though objecting

"in feeling very much"

to examine a defendant upon his plea, has, nevertheless, in the absence of all rules of procedure, at times found it convenient. But, in making this statement, he justifies it by adding, that, in practice he never examined so as to incriminate the accused, nor

Questions 12,330 to 12,334.

further than was necessary in order to have the issue he had to judge put clearly before him. Mr. Farquharson's evidence amounts to the same.

Mr. Renouf.

3271. Mr. Renouf's evidence is not so clear upon the point, as at first he tells us that

Question 11,590.

his questioning amounts to no more than asking for the plea: but, in answer

Question 11,594.

to the query of how far he carried his questions, he said,

"as far as his admissions,"

and acknowledged that these examinations had sometimes lasted as much as fifteen minutes; and that if a man were charged by the police with vagrancy he should question

Question 11,596.

him as to his status, his mode of existence, and his domicile, and if his

Question 11,599.

answers were not satisfactory he would then sentence him; a mode of proceeding which appears to us nothing more or less than eliciting from the accused all the points that ought to be established by the accuser.

Mr. Dupuy.

3272. Mr. Dupuy followed a similar system in cases of vagrancy, wherein when the

Question 14,031.

police state that a man is found without papers, and can give no satisfactory account of himself or his occupation, the defendant is informed through the Interpreter of the complaint, and asked for his answer; and questions are put by the Magistrate

"to him to come to a clear understanding of his case, and if he gives (him) to "understand that he has no occupation, no master, and no means of living save by "the charity of the community"

Question 14,019.

Mr. Dupuy considers that he is a vagrant; for that if he has no occupation he must be a vagrant.

Palliation of Magistrates' irregularity.

3273. Objectionable as is this practice, we cannot but feel that, in this respect, the conduct of the Magistrates is to a great extent palliated by the hopeless task it has hitherto been attempting to obtain any information respecting Old immigrants from the Immigration Office, and we therefore cannot feel greatly surprised at the Magistrates having readily adopted the irregular, though certainly shorter and more direct course of instituting an inquiry into the status of alleged vagrants by at once questioning the accused as to whether or not he had a master or occupation and (as suggested to the Magistrate of Flacq by the Protector himself [*vide* paragraph 2055]), in the event of the accused admitting that he had neither, condemning him at once as a vagrant, without going through the form required by law of first sending him to the Protector to prove his status.

How suits between parties disposed of.

3274. From the preceding remarks it will be evident that the administration of the law by the Stipendiary Courts, in respect of the offences of Illegal Absence, Desertion, and Vagrancy, has been most unsatisfactory; and it will be for us next to convey some idea of the manner in which suits between parties not partaking of a criminal nature, have been disposed of by the same Magistrates. Here, again, we are met at every step by uncertainties, irregularities, and even absurdities arising out of the total absence of all forms of procedure; so that there is no security that the judgment will be given for the same cause as that for which the complaint was lodged, or between the same persons who were the original parties to it.

Meetoo *v.* Agadassan.

3275. Thus we find a case—Meetoo *v.* Agadassan, tried before Mr. Farquharson—in which a complaint was lodged by Meetoo against the defendant, his master, on the 27th September 1871, for "refusal of medical care." The case was fixed for hearing on the 2nd October, on which day it was postponed to the 6th, to enable the defendant to bring a witness. On the evening of the 2nd however, the complainant died, yet on the 6th judgment was given in the case in favour of some Sisters of Charity, who were not parties to the suit at all, to whom nevertheless the defendant was adjudged to pay $6 23¾ cents for hospital charges incurred by them in their attendance on the plaintiff during his sickness, and for the burial of him after his decease.

Case No. 539 of 1871. Rempart. Appendix O 5. Questions 12,813, 12,924.

Suits for wages.

Conflict of statistics.

3276. The great majority of suits between parties relate to the non-payment of wages, though it is impossible to speak with any certainty of their number, in any given year, owing to the usual discrepancies between the different Returns—viz. those furnished to the Protector, and by him published in his Annual Reports, and the Returns furnished to us by the Magistrates. In 1865 the Protector reports, 4093

Appendix C 4.

"convictions for this offence:"

by which we presume he means suits in which judgment was given in favour of the servant against the employer; whereas, the result of the Return furnished to us by the Magistrates shows that in that year 6582 suits were so decided. So, also, in 1866 the Protector reports 3329 convictions, whilst the Magistrates' Returns to us show 7375; and in 1857 the Protector's Return is 3562, whilst that of the Magistrates to us is 7371. We think it useless to pursue the comparison further.

Pay-books as evidence.

3277. We have already called attention (Chapter XII. *Work and Wages*, paragraph 1949) to the weight which is attached by some Magistrates to the pay-books of Estates, when adduced as evidence to prove absence. This book, which is but a compilation from another book (the "Carnet") kept by a subordinate, is in our opinion strictly speaking inadmissible as evidence against a labourer; yet we find that—

Mungar's case.

3278. On the 3rd February, Mungar, a labourer, belonging to "Schoenfeld" Estate, the property of Mr. de Belloguet, was charged by Mr. du Pavillon, the Manager, before Mr. Farquharson, with unlawful absence from 5th May 1867 to 5th May 1869, and he claimed a prolongation of contract for that period. Mungar admitted two months' absence, and herein he was corroborated by Mr. Jules Clair, the former Accountant, who swore that he had been absent two months in his two years' engagement. It was, however, suggested that Mr. Clair had left the estate and that the books kept by him would disprove his evidence, whereupon Mr. Farquharson remanded the prisoner; and, on the 10th February the books were produced but not sworn to, and examined by the Magistrate, which, in the words of his note,

Stipendiary Case No. 711 of 1870 of Rivière du Rempart. Appendix O 6.

Question 12,586.

"destroy his (*i.e.* J. Clair's) evidence;"

and he accordingly sentenced Mungar to replace two years and pay the costs. Why Mr. du Pavillon had not the books ready to produce at the first sitting, and so have obviated the necessity for a remand, we cannot imagine; neither does Clair appear to have been examined upon the discrepancies between the books and the evidence given by him; but the book, which in itself was not evidence at all, was nevertheless taken as sufficient to rebut his evidence, which was on oath, a proceeding which, considering the very loose manner in which these books are kept, we cannot but regard as utterly unjustifiable.

Pay-books.

Frivolous and malicious complaints.

3279. We now proceed to consider a class of cases punishable under Article 1 of Ordinance 15 of 1852, viz. those which are dismissed by the Magistrate as frivolous or unfounded, or as vexatious or malicious, which renders the plaintiff whose case is so dismissed, if a servant, liable in the first case to a fine not exceeding 10*s.*, and in the latter to one not exceeding £2, or to imprisonment with or without hard labour for a period not exceeding one calendar month; whilst the fines to which plaintiffs are liable, if masters, under similar circumstances are £5 and £20.

Question 13,424.

3280. The distinction drawn by Mr. Daly between these different offences is, that complaints are malicious, if the charge is made wholly without

reasonable or probable cause. He considers a charge vexatious, when there is positive proof that the charge has been brought with the design of vexing or disturbing the orderly condition of affairs on an estate.

Frivolous and malicious complaints. Distinction drawn by Mr.

For unfounded complaints he never punishes, except in one case, which, however, has been one of pure invention; which, however, he considers as malicious, whilst frivolous complaints he regards as those which, though not of pure invention, have only some very trifling foundation which the accuser must know to be insufficient to constitute a ground of complaint.

Tandrayen's case.

3281. We fear that all Magistrates have not been as careful as Mr. Daly, to discriminate with regard to the amount there was for complaints and suits brought before them, for we find many cases in which simply not proving the whole of his case, has subjected the plaintiff in the penalty of some or other of them. We may take as an example, the case of Tandrayen, a labourer on "Quatre Sœurs" Estate in Grand Port, tried before the Stipendiary Magistrate of Flacq. On the 4th of March 1870, Tandrayen lodged a complaint against his master, Mr. Chalain, claiming three months' wages, and alleging besides an assault; whilst on the same day his master lodged a complaint against him for "refusal to work." These cases were fixed for hearing on the 11th, but were, as usually happens, postponed till the 18th.

Appendix O 7. Appendix O 5. Stipendiary Court of Flacq. Cases Nos. 605, 606 of 1870.

3282. The case of the plaintiff was, that on the pay-day, or the 26th of February, when the wages for the previous November and December were paid, he demurred to the amount which he received; whereupon Mr. Chalain took a "Sagaïe" (or stick) from a Sirdar, and struck him, a statement in which he was corroborated by Coolin, a fellow-labourer, who had been present but was then a prisoner, having since been condemned at the suit of his master. The witnesses for the defence were the accountant and an overseer of the estate; the former of whom denied the assault altogether, and the latter denied only having seen it, while it was admitted that two months' wages were unpaid, viz. for January and February. They further alleged that Tandrayen had been ordered to "Ecarpater"* the oxen, and that after the dispute respecting the amount of wages due, he had refused to do so, and had called to his companions to accompany him to the Police Office and complain.

In the counter-charge for "refusal to work," Mr. Chalain gave substantially the same evidence as the above, and swore that he did not strike Tandrayen.

3283. These cases were heard by Mr. Baudot, who in the first case adjudged the plaintiff to receive two months' wages at $6 per mensem, but at the same time fined him 10*s.* for an unfounded complaint; while in the counter-charge he condemned the defendant to lose one month's wages and to suffer 14 days' imprisonment. So that on the two cases Tandrayen lost £1 14*s.* out of the £2 8*s.* to be paid from his wages, besides imprisonment; a result, it must be admitted, not calculated to encourage labourers to seek redress from the Stipendiary Court. It is, however, just to add, that this case occurred only a very few days after Mr. Baudot's appointment as Stipendiary Magistrate, on the 1st of March, up to which time he had had little or no experience of the Stipendiary Laws. We find, too, that on the first day Mr. Daly occupied the bench, he committed a similar error by awarding a complainant $2, but at the same time fining him 80 cents for having made a frivolous charge.

Question 13,853. Question 13,495.

Case of Mootien before Mr. Farquharson.

3284. The case of Mootien and Rangayachetty before Mr. Farquharson was similar, so far as the complaint was for wages and neglect to provide a proper lodging. The claim for wages was admitted; the only plea in abatement being that the plaintiff had not asked for payment, while the second count was denied altogether.

Appendix O 8.

The two witnesses adduced by the complainant stated they knew nothing about the case, and that complainant's hut was a good one; whereupon, instead of, as we should have thought, ordering payment of the wages admitted to be due, Mr. Farquharson dismissed the case with costs. Mr. Farquharson's explanation was, that he conceived himself bound by Article 19 of Ordinance 16 of 1862, to discover that the man had first gone to his master; but as that Article only relates to the conditions upon which the "double cut" may be inflicted, we cannot see that it is pertinent to the case.

Case of Appanarain.

3285. Among the many wrongs suffered by Appanarain (see Chapter XVI. *Contracts*, paragraphs 1486 to 1496), the crowning one was his condemnation to an imprisonment of 28 days with hard labour for maliciously claiming two months' wages:

Appendix I 15.

* "Ecarpater" is, we believe, a term used for removing certain insects like ticks, which fasten upon the skin of cattle in Mauritius.

Frivolous and vexatious complaints. Case of Arnachellum Arnachellum.

although, had Mr. Trouchet reflected at all before passing this sentence, after examining the pay-book of "Chamouny" Estate, he must have seen that the presumption raised by the evidence was in favour of the justice of the claim.

3286. The same [illegible] was applied to the case of Arnachellum v. Comerasamy, a jobbing [illegible] on the "Antoinette" Estate in Pamplemousses, tried before Mr. Trouchet on the [illegible] February 1872, when the plaintiff claimed six months' wages at $4 per mensem. He had engaged on the 21st of August 1871, for 12 months, and stated that for the first month he had received nothing, and for the second month 7½d.; since which time his name had never been called on pay-day. The evidence for the defence was, that he had been regularly paid whatever was due to him, but that frequently absent, [illegible] never amounted to any but a trifling sum. It was, however, admitted, that a sum of $1 50 cts was owing to him for wages due six weeks before, at the end of December; an admission, however, which did not save the complaint from being dismissed as vexatious and malicious, and the plaintiff sentenced to pay the costs, and undergo an imprisonment of 28 days with hard labour.

Case 275 of '72.

3287. To give some idea of the proportion of cases so dismissed and punished as frivolous and vexatious, as compared with the number of complaints, we find from the Returns furnished to us by Sir Arthur Gordon, that in the year 1870, the total number of complaints preferred by immigrants against their employers and overseers amounted, throughout the Island, to 3584, out of which there were 2507 convictions, leaving a difference of 1087 dismissed; while in the same year, the number of complaints preferred by employers and overseers against immigrants, amounted to 5752, out of which there were 4954 convictions, leaving a difference of 798 dismissed. From this it will appear, that whilst the proportion of the complaints by the immigrants dismissed, or not proved, amounted to rather over 30 per cent. upon the whole number preferred, the proportion of those preferred by the employers so dismissed amounted to not quite 14 per cent.

Appendix O 10.

Appendix O 11.

Statistics.

3288. In the same year we further find that 417 cases were dismissed and punished as frivolous and vexatious; out of which, however, we ascertained by inquiry that only three were brought by masters. If, therefore, we eliminate the complaints preferred by employers, and restrict the frivolity and vexation to those preferred by the immigrants, the proportion will be over 38 per cent.; or, in other words, out of every three complaints brought by servants against their employers which were not supported by evidence so clear as to prove the case, one (or a proportion rather higher) was punished for being either unfounded, frivolous, vexatious, or malicious.

Appendix O 12.

More than one in three complainants punished.

The Gautier scandal.

3289. It was in connection with this subject of frivolous and vexatious complaints that a very scandalous occurrence took place, which led to the resignation of the Stipendiary Magistrate of Flacq, Mr. Gautier.

Appendix O 13.

On the 17th December 1869, a complaint had been lodged by some labourers against Mr. St. Romain, the Manager of "Anstralia" Estate, to which he pleaded that the charge was false and frivolous; the result of which was that Mr. Gautier sentenced each of them to imprisonment for 14 days, and one to a month, for having made a *false and frivolous* complaint: whereupon a warrant was made out in the same terms, and they were duly committed to prison.

3290. As, however, by Ordinance 15 of 1852, Article 1, the highest punishment that can be inflicted upon a servant for this offence is a fine of 10*s*., Mr. Newton, the counsel for the labourers who had not been in Court at the moment of the delivery of the judgment, went to the Court on the following day for the purpose of drawing up his reasons for the appeal which he had been instructed to lodge, when the clerk, without the knowledge of the Magistrate, and contrary to his orders, showed Mr. Newton the minutes of the judgment written by the Magistrate himself, and in which the conviction was stated to be for a *frivolous* complaint. Mr. Newton was, therefore, as might be expected, considerably surprised on the appeal being called on for hearing, to find that in the copy of the record of conviction forwarded by the Magistrate, the word *vexatious* had been substituted for *frivolous*, an alteration which made the appeal unsustainable; and Mr. Newton then and there declared that the word had been altered.

3291. Mr. Gautier was desired by the Procureur-General to bring his note-book; and on being examined by Mr. Colin, the Procureur-General, and Mr. Gorrie, the substitute Procureur-General, he admitted having struck out of his minute book the word "*frivolous*," and having substituted "*vexatious*," declaring (but untruly) that he had done so on the very day of the judgment, and with no intention of defeating an appeal. Whereupon the Magistrate was warned for the future not to alter his minutes; the conviction, of course, was quashed, and Mr. Newton expressed himself satisfied.

3292. The affair, however, was taken up by the Colonial newspapers, in one of which

Mr. Newton was charged with not having adhered strictly to truth in his statement before the Court; whereupon he published a full answer, stating the whole circumstances of the case, and of his visit to the Flacq Court the day after the delivery of the judgment. The matter, in consequence, assumed a serious aspect; and a further inquiry by the Procureur-General established the untruthfulness of Mr. Gautier and his clerk, and left no doubt that the alteration had been made subsequently to Mr. Gautier's judgment, and that it had been made with the intention of defeating the appeal; and Mr. Colin coming thus to the conclusion, that

Frivolous and vexatious complaints. The Gautier scandal.

> "Mr. Gautier had adopted a most reprehensible course and violated the most common
> "rule of justice,"

informed him that he should lay the whole matter before the Governor, Sir H. Barkly.

3293. By an unfortunate coincidence, one of the first persons Mr. Gautier met on leaving the office of the Procureur-General and reaching the courtyard below, was Mr. Newton, the sight of whom seems to have enraged Mr. Gautier, for he rushed at him, and hit him violently in the face in the presence of the whole bar (at which Mr. Newton justly occupies one of the foremost positions) and of the Attorneys, who were walking outside the Supreme Court. This most disgraceful scene was promptly stopped by the appearance of the Procureur-General in person, by whose orders Mr. Gautier was arrested and bound over to keep the peace, and while under arrest in the Procureur-General's chambers, he wrote a note tendering his resignation, which, it need hardly be added, was at once accepted.

3294. Though considering the law of unfounded and malicious complaints most objectionable, Mr. Daly nevertheless regards it as necessary in order to keep in check the excessive and disorderly desire to bring complaints, which will sometimes manifest itself in a district, and which he attributes to the force of example and to the word being passed from estate to estate that men are complaining; as it is a curious fact, that when the complaints are numerous they are generally for the same offence. Thus, at one time there will be a large number of charges for retaining tickets, and at another for assault and battery. Mr. Daly accounts for this by the amount of speculation which he is convinced there is in bringing these charges, especially among those who appear as witnesses. The expenses of these are taxed by mileage (six cents per mile); so that, assuming the journey of a witness to have been four or five miles, he is sure of making a good deal more than he would lose from the "double cut" (attending a Court as a witness against an employer being looked upon and treated as illegal absence).

Questions 13,425 to 13,428.

Question 13,427.

Mr. Daly's opinion of the necessity of law.

Under such circumstances some restraint, he thinks, is necessary with so untruthful and litigious a people as Indians often are; but he would have the offence of making the unjustifiable complaint tried as a substantive charge; so that in trying the principal case the Magistrate should not have his attention distracted from the circumstances of it to the consideration of the malice or vexation.

Question 13,427.

3295. The mention of the untruthfulness of the Indian character brings us, however, to a very important subject connected with the administration of justice in the Magistrates' Courts, viz. the incapacity of Magistrates wholly ignorant of Indian languages, and making no allowance for Indian modes of thought and habit of expression, to appreciate the true value of evidence given before them by the native witnesses.

Magistrate ignorant of Indian languages and habits.

3296. To look for anything like accuracy according to the standard among Europeans, in the statements of Indians, is, we are quite ready to admit, hopeless; and we have no doubt that Mr. Daly is right when he tells us of the gross exaggeration continued whenever possible, often to their own detriment, which renders it impossible ever to obtain the truth wholly from an Indian's testimony, in the absence of corroboration, or circumstantial evidence, from which a Magistrate may discover how far it is true, and how far the contrary. If, therefore, no allowance is made for this tendency in the Indian character, and if it be held that, because there is exaggeration in a complaint there is therefore malice and no truth at all in it, we can readily conceive that the greater number of complaints will be regarded as unfounded, if not malicious; or, rather, that it will be difficult, if not impossible, for a plaintiff ever to gain his cause.

Question 13,430.

Yet we find indication that such allowance is not made; and that the ignorant Indians are judged by the same standard and the same rules as are applicable only to persons educated and accustomed to precision in thought and diction.

3297. Of the mischief that may arise out of this want of appreciation of the true value of Indian complaints, we find a notable instance in the "Mont Choisy" case, which occupied a large amount of public attention in the colony in the year 1871, and

The "Mont Choisy" c

The "Mont Choisy" case.

is remarkable as occupying a prominent place in the pamphlets both of M. de Plevitz and of Dr. Ievery; being used by the former to show the unequal administration of the law against masters as compared with its enforcement against servants; and, by the latter as a proof of the mistaken, if not dangerous, policy of His Excellency Sir Arthur Gordon in respect of the labour question in the colony. We shall, therefore, describe this case somewhat in detail both on account of the above reasons, and because it shows in a very clear light the shortcomings and inefficiency of the Magisterial system.

The greater part of the following account of the case is derived from the very lucid report made upon it by the Honourable Mr. Ellis to His Excellency the Governor, which will be found appended, with such additional facts as were elicited before us from the examinations of Mr. Renouf and of Mr. Poulin.

Appendix O 16.

3298. On the 9th May 1871, sixty-seven labourers belonging to the "Bois Rouge" camp on the "Mont Choisy" Estate in the district of Pamplemousses came to Mr. Renouf, to complain against their master Mr. Henri Poulin, on the ground of alleged ill-usage; a complaint which was only in part taken down by the clerk, when; whether instigated by Battiaras outside the Court House, or disgusted at being asked for payment of the institution fee, is by no means clear; a cry was raised that they should go to Port Louis, whither, accordingly, the whole band repaired to the Immigration Office to see Mr. Beyts. He, having heard their statements and examined some of the band with regard to them, directed the men to return to their labour, and promised to institute an inquiry into their complaint. The men were then sent from the Depôt, under escort, back to "Mont Choisy;" but in passing through Pamplemousses they stopped opposite the Stipendiary Court, sat down, and refused to proceed further; while Mr. Timperley, the Inspector of Police, sent to inform Mr. Renouf, who was visiting estates, of what had occurred. On his arrival, Mr. Renouf called all the men into the Court, and took their complaint, after which he advised them to proceed to the estate in anticipation of a visit by Mr. Beyts.

Has men go to Mr. Renouf, then to the Immigration Office.

Question 11,774 *et seq.*, and Question 11,850.

The men send back by the Protector.

They stop at the Magistrates'.

Question 11,857.

Causes of discontent.

3299. It is difficult to determine precisely what were the causes which produced this sudden ebullition of discontent; for, in some points, "Mont Choisy" may be contrasted with the best estates in the Island, and not suffer by the comparison; but, that causes do exist is, we think, shown clearly by the excessive number of absentees and deserters from it, as well as from the sullen and morose demeanour of the labourers upon it noticed by us when we visited the estate.

Visits to estates, Appendix B 3.

Rumours of ill-treatment, and Mr. Poulin's request for an inquiry.

It is further evident, that, for some time before the occurrence of the events we are describing, rumours had been afloat relative to the treatment of Indian labourers on this estate; for we find that, on the 9th December 1870, Mr. Poulin wrote to the Colonial Secretary, stating that it had come to his knowledge that "unfounded reports" had been made to him (the Colonial Secretary) upon this subject, and that, as he understood that Officer was anxious to ascertain whether or not such reports were true, he felt it his duty to request that an inquiry might immediately be instituted. Nothing, however, appears to have followed, as no such reports had, in fact, reached either the Colonial Secretary or Mr. Beyts.

Appendix O 14.

3300. We also find about the same time that a complaint was brought before Mr. Renouf by 23 labourers in the service of Mr. David, a job-contractor employed at "Mont Choisy," against him, and against Mr. Poulin as guarantee, for non-delivery of rations and non-payment of one month's wages; which, though no direct reflection upon Mr. Poulin personally, shows that discontent existed among the labourers on, or connected with, his estate.

Appendix O 15.

Charge against Beodhun.

3301. The immediate cause of the complaint in the "Mont Choisy" case was, that, on the 8th May, a Sirdar named Boodhun had been caught cutting live timber on the estate, and had been sent to the police for the offence. This appears to have produced a good deal of excitement among the labourers; a kind of meeting was held, at which they fell down before the feet of a Brahmin named Bhyrub, thus binding themselves to go and complain, which they accordingly did on the following day.

Nine heads of complaint.

3302. The complaint, as framed before the Magistrate from the statements of the complainants, consisted of 9 heads:—

"1. Waking them up at 2 o'clock A.M. to be sent to work, until 6.30 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 with on "the estate is reduced from their wages.

"6. Two rupees were forcibly cut from their wages for the "ghoon," but that "money was used for that religious ceremony.

"7. For the use of water from the well, a dollar was cut every year from their "wages.

"8. Whenever they are caught picking up dry wood, ten 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."

"The principal objects of the complainants in bringing this complaint was to "obtain the cancellation of their contracts with their master, and failing that, to "recover compensation for the extra labour exacted from them, and for the sums "unduly deducted from their wages."

The "Mont Choisy" case.

3303. On the 11th May (the day following the lodging of the complaint) Mr. Beyts visited "Mont Choisy," and had an interview with Mr. Poulin, who, whatever may be his faults, does not, we think, number among them that of want of candour; and who, in answer to the queries of Mr. Beyts, made a very plain statement, which that gentleman took down in writing, with regard to his custom and the practice prevailing on the estate in relation to the matters upon which the complaint was based.

Mr. Poulin's admission to Mr. Beyts.

Appendix O 13, page 27.

3304. This statement showed, that, whatever exaggeration there might be in the complaints of the men as stated to the Magistrate, on Mr. Poulin's own admission, there were several practices followed on his estate which were not sanctioned by law. For instance, whilst the first head of complaint alleged that they were awakened at 2 o'clock A.M. to be sent to work, and that they were kept at work till 6 P.M.; thus being unable to reach their camp until 8 P.M. Mr. Poulin informed Mr. Beyts that his first bell was rung at 4·30 A.M., and the second bell at 5 A.M.; that roll-call took place at a quarter past five; that they went off to their work at half-past five, and left off at half-past 5 P.M.; thus admitting that the hours of work were two hours in excess of the time allowed by Article 22 of Ordinance No. 31 of 1867.

"Malade Travail" and cutting wood.

3305. The practice of marking and cutting for "Malade Travail" was also admitted, and of fining for cutting wood from places other than the square appropriated to the purpose of supplying firewood to the men of his camp; in which case the delinquent was offered his choice between being sent to the police and being prosecuted; or payment of a sum varying from $1 to $5, according to the quantity of wood destroyed.

Money for a pump.

Mr. Poulin also admitted having received $98 from a gang of about 113 men, for a pump which he had put up at their request at a cost to himself of $688.

Manner in which the case was conducted objectionable.

3306. Though irregular and illegal, these or similar practices have been pursued on many estates that we have visited, and we do not think that the case would have presented any features which, after our long inquiry, we should have been disposed to regard as extraordinary or especially discreditable, had it not been for the mode in which the case was conducted.

Questions 12,856, 12,868.

Neither does Mr. Beyts appear to have thought very seriously of the case, as he did not even point out to Mr. Poulin, that, upon his own showing, in several respects he had been conducting his estate in a manner not sanctioned by the law. This is, we think, the more to be regretted, as we have Mr. Poulin's assurance on oath, that, had the real nature of the illegality been explained to him he would have acknowledged the truth, and the affair would probably have ended. As it was, he appears to have conceived that the complaint lodged against him was a stigma cast upon his character, and he proceeded to meet it with a virulence and bitterness which certainly did him little credit.

The hearing.

3307. The case came on before Mr. Renouf on the 23rd May; but previously (on the 17th) Mr. Poulin had lodged a charge in the District Court against eleven of his men (of whom all but one were complainants in the case) under Article 323 of the Penal Code, for enticing away his engaged servants, or,

"having persuaded or endeavoured to persuade such servant . . . to leave the "service of his master, or to absent himself therefrom;"

Counter-charge brought by Mr. Poulin.

a charge founded upon the proceedings which took place at the meeting above mentioned which had followed upon the arrest of Bhoodhun. This case came on before Mr. Mayer the District Magistrate on the 3rd June; and although the evidence showed four

The "Mont Choisy" case. Counter-charge brought by Mr. Poulin.

only, of the defendants had taken any active part in it, and that the part of Bhyrub the Brahmin had been only the passive one of allowing the Indians to fall at his feet and vow to go and complain; whilst, that of the other three had amounted to nothing more than the most general exhortation, unaccompanied by anything approaching to pressure or compulsion; they were found guilty and sentenced to undergo an imprisonment of three weeks, a judgment which Mr. Ellis pronounces as a curious one in whatever way it is regarded; and, after discussing the true condition of the law upon which it purports to be based, he concludes with the reflection, in which we heartily concur, that,

Appendix O 16, page 5.

"if Indian labourers are to be debarred, under pain of imprisonment, "from consulting each other with regard to any hardship under which "they may labour, and from agreeing together to complain, their case "will indeed become a hard one, as many of them have neither the intelligence "nor the boldness to assert their rights alone.

Reflections by the Acting-Procureur-General.

"This information was followed up by another of a similar nature against the "defendants, which was also followed by imprisonment in two or three instances.

"These incidents in the commencement of the case cannot but be regarded as "calculated to terrify and intimidate the remainder of the complainants, showing "them, as they did, that any co-operation in bringing a complaint was regarded "by the District Magistrate and treated as a criminal act."

The com-

3308. With this view, therefore, to protect the complainants from the influences which might have been brought to bear upon them, and to which the proceedings of Poulin, just stated, gave good reason for supposing they would be exposed if com- ed to return to the estate, the Protector of Immigrants interposed and provided ding quarters for them at the Immigration Office during the hearing of the case: and in consequence of the serious nature of the complaints and the number of the complainants, the Substitute Procureur-General, Mr. Ellis, was instructed to conduct the

Action taken by Government criticised.

Appendix D 25.

complaint and to watch over the interests of the complainants; both of which circumstances, Dr. Ieery tells us (page 7 of his pamphlet) caused astonishment to the public, as they were unusual and not justified by any necessity of the case, especially as the Protector of Immigrants was

"present at the first hearing of the case, and begged the Magistrate to direct the "Indians to return to their work until the second hearing of the case should take "place."

Action of the Government.

3309. This the men appear to have refused to do; and the action of the Government, therefore, amounted to nothing more than not turning them out of the Depôt and compelling them to return to an estate where there was certainly strong reason for believing that they would be subjected to undue pressure, though Mr. Poulin was informed, that, if he took legal proceedings to compel the complainants to leave the Depôt, no opposition would be offered on the part of Government.

Question 11,324.

Behaviour of Mr. Poulin.

3310. We are not going to follow this case through each successive stage of its dreary course; but, Mr. Poulin, seeing the Substitute Procureur-General appearing in it, took it into his head that the whole complaint was the result of pressure or influence exercised from without, and that he was the victim of a conspiracy of His Excellency the Governor, Mr. Beyts and the Procureur-General; and, as he admits, he became obstinate, the consequence of which was that this case—which we agree with Mr. Poulin in thinking might have been settled in a day—was protracted over four months; owing chiefly, according to Mr. Ellis, to Mr. Poulin's evident design to prolong the hearing of the complaint to the utmost, in order to exhaust the patience of the Magistrate and of every one connected with the case, and to the preposterous abuse by Mr Poulin of his right of cross-examination. In support of which assertion Mr. Ellis instances some cases in which, whilst the examination in chief of a witness lasted less than half an hour, the cross-examination was continued for upwards of eight hours; a waste of time all the more irritating and unjustifiable, seeing that a large portion of these cross-examinations was wholly irrelevant to the matter at issue. But although this was duly brought under the notice of the Magistrate, that Officer, who would almost seem to have been distracted by apprehension of incurring the displeasure of Sir Arthur Gordon on the one hand, and of Mr. Poulin on the other, generally overruled the objection, remarking that Mr. Poulin was on his defence, and upon the ground that the greatest latitude must be allowed to him

Question 12,859.

Question 12,886.

Mr. Poulin's efforts to prolong the hearings.

Questions 11,736 to 11,742.

Question 11,861, and cross-examination thereupon.

Mr. Renouf considered Mr. Poulin inexperienced.

Mr. Ellis' Report, Appendix O 16, p. 6.

"in consequence of his inexperience."

However inexperienced Mr. Poulin may have appeared to Mr. Renouf, that is certainly not the impression he produced upon us, for we do not think we have often

met with an advocate who showed himself more thoroughly competent to plead his own case with success or one more thoroughly acute in observing points telling in his own favour, or in placing his opponent in a humiliating or false position, than did Mr. Poulin in his cross-examination before us of Mr. Renouf.

The "Mont Choisy" case

3311. Thus, owing to the obstinate wrongheadedness of the defendant, and the lamentable weakness of the Magistrate, the case was dragged on through thirty-eight sittings until the 20th September (Mr. Poulin's only regret, as he told us, being that it had not lasted a year) when Mr. Renouf gave judgment upon the complaint of five of the complainants; Mr. Ellis having on the 14th July, after eighteen sittings, moved the Magistrate to disjoin the cases of those already heard from that of the remaining sixty-two, in order that the cases of the former might be decided, and the complaint amended with reference to the remainder. Mr. Renouf accordingly gave judgment, dismissing the 2nd, 3rd, 4th, 6th and 9th counts on the ground of want of evidence, and the first he decided in favour of the defendant. The 8th he held not to be within the competency of his Court, and the 5th and 7th counts were given in favour of the complainants, and an indemnity or refund of 9*s.* was awarded to each. Costs were reserved, and the complainants were ordered to return to the defendant's estate.

Question 12,894.

Prolongation of the case.

Judgment upon the case of 5.

Mr. Renouf's judgment upon the case of 5.

3312. Immediately after the delivery of this judgment, Mr. Renouf applied to His Excellency the Governor for leave of absence on the ground of severe indisposition, brought on by the anxiety of mind occasioned by the trial of this case; which being granted, His Excellency, in consideration of the exceptional nature of the case, appointed a Court of Petty Sessions to proceed with the case of the other complaints, consisting of Mr. Robertson, the Senior District Magistrate of the Island, Mr. d'Emmerez de Charmoy, District and Stipendiary Magistrate of Black River, and Mr. Messiter, Stipendiary Magistrate of Grand Port. It is to be remarked that Mr. Poulin himself had at an earlier stage of the case, petitioned the Governor to appoint a Petty Session, on the ground of the incompetency and partiality of Mr. Renouf; and it is to the refusal of His Excellency to accede thereto that Mr. Poulin attributed the prolongation of the case. As, however, the case had been actually commenced before Mr. Renouf on the 23rd May, we cannot see how His Excellency could have returned any other answer than that which he did through the Colonial Secretary on the 7th June, by which he declined to accede to the petition.

Question 12,897.

Question 12,894.

Question 12,897.

Court of Petty Session appointed.

3313. Before the Petty Session, the complaint was divested of the exaggerations which had characterised that laid before Mr. Renouf, and on account of which Mr. Poulin contended before us that Mr. Renouf ought to have acquitted him and condemned the complainants for bringing a false and malicious complaint; and reduced to a more reasonable compass of four counts, viz.:—

Questions 12,913 and 12,914.

Complaint laid before Petty Sessi

1. "Being kept at work for a period exceeding that fixed by law.
2. "The price of the tools given to them to work with on the estate is retained "from their wages.
3. "That $1 was cut off from their wages to pay for a pump erected on the estate.
4. "That when they do not finish the task assigned to them for a day, a portion "of their wages for that day is cut off."

3314. In opening his case Mr. Ellis took a legal objection to the validity of the contracts between thirty-six of the complainants and Mr. Poulin, on the ground that they had not been signed by the Magistrate in conformity with the provision of the Order in Council of 7th September 1838 (chapter II., section 2). The Court, differing in opinion upon this point, refused to cancel the contracts, and the point was removed by *certiorari* into the Supreme Court, whereby the judgment of the Petty Session was quashed, and the contracts were annulled.

Hearing before Petty Session.

Preliminary objection taken for co plainants.

3315. The case proceeded much more rapidly than before Mr. Renouf, and on the 29th November the Court gave judgment, finding the 1st, 2nd, and 4th counts generally proved in favour of the complainants, and holding the 3rd not to be within their competency. But even in pronouncing this judgment the Court was not unanimous. Messrs. d'Emmerez and Messiter being of opinion that the breach of contract was not of sufficiently serious a nature to warrant the cancelling of the contract, whilst Mr. Robertson, considering that master and servant could not be said to stand on equal footing before the law, as in most cases, the non-fulfilment of a contract by the master is visited only by a pecuniary penalty; whereas

Judgment a Petty Sessi

"in the cases of the Indian not observing the conditions of his contract, it becomes "*quo ad eum* a *quasi-délit*, which may carry with it an effective punishment,"

was of opinion that the contract ought to be cancelled as demanded by the complainants.

3316. Thus, nearly seven months after its commencement, this case was finally decided,

The "Mont Choisy" case. The issue raised.

and it is instructive as showing various defects in the system of the Stipendiary Courts.

3317. In the first place it shows the absurdity of making the issue dependent upon the proof of the literal accuracy of every word of the complaint; and we hold it to have been as great an error to have regarded the issue raised by the first count tried before Mr. Renouf as being whether they were awakened at 2 A.M. and kept at work to 6.30 P.M., instead of, as in the amended complaint before the Petty Session, whether or not Mr. Poulin kept his men at work for a period exceeding that allowed by law; as it would have been some years ago in England to have made the issue of an action of assault dependent upon the proof being given of the actual infliction of every blow as stated in the form of declaration.

The case protracted.

3318. In the next place it shows how, with a clever but wrong-headed defendant and a weak Magistrate, a very simple case may be vexatiously protracted to so inordinate and unreasonable a length as to wear out the weaker party complaining, and practically to amount to a failure of justice.

Counter-charges.

3319. Thirdly, we see how a master might, by bringing counter-charges against complaining labourers, coerce and terrify them into withdrawing their complaint, which we cannot doubt would have occurred in this case had the Government not intervened, and thus the men, though suffering under a legitimate grievance, would, nevertheless, have abandoned their complaint, and been reduced to continue to endure the grievance unredressed.

Passing of contracts.

3320. Lastly, it shows the carelessness with which, until recently, Magistrates performed so important a part of their duty as the passing of contracts, and, in justice to Mr. Poulin, we must add that we think that he has reason to be indignant at the Government taking advantage of a technical defect caused by the negligence of their own officer to press for the cancelling of the contracts of the thirty-six men, and we cannot feel surprised at the bitter distrust expressed by Mr. Poulin of Mr. Renouf.

Paratien's case.

3321. The case of Paratien, although it assumed a very different complexion, after the examination of Mr. Baudot, from what we suppose it to have worn before, is a good example of what we find to be common, viz. that a plaint laid by a labourer is met by a counter-plaint for absence or desertion laid by the employer. Paratien was a labourer on the "Poudre d'Or" Estate, then the property of Messrs. E. Baudot and Co. On the 18th April 1872 a quarrel arose between Soondrum, the wife of Paratien, and Mr. Jules Clair, the overseer of the estate. According to Mr. Clair's story this arose from his being compelled, owing to the quarrelsome character of the woman, to direct that another hut should be given to her in a remote part of the camp, an order which she refused to obey, and which he at last carried out by directing three Sirdars to remove her effects from the hut and to lock the door. According to the woman's account unnecessary violence was used, and she herself was brutally beaten with a cane by Mr. Clair.

Appendix E 20.

Counter-plaints by employers.

Quarrel between Soondrum and Jules Clair.

Mr. Clair's story.

Soondrum's story.

Appeal to the Governor.

3322. On the following morning, in company with her husband Paratien, she left Poudre d'Or, and, after making a complaint to the police, they proceeded to Réduit, some twenty miles distant, to lay their griefs before His Excellency the Governor. They arrived there on the afternoon of the following day (Saturday), and saw the Private Secretary, to whom they showed marks on the shoulders of the woman, alleged to have been caused by the beating she had received from Clair. Mr. Gordon gave them a paper referring them to Mr. Beyts, before whom they accordingly presented themselves on the Monday morning. Mr. Beyts, according to his custom, gave them a reference note to Mr. Farquharson, the District and Stipendiary Magistrate of Rivière du Rempart, and further gave Paratien a note addressed to Mr. E. Baudot. Unfortunately, when Paratien reached Poudre d'Or Mr. Baudot was confined to his bed with a severe attack of fever, and on opening Mr. Beyts's note, and seeing that it related to the estate's business, he merely referred the bearer to Mr. Clair, and, placing the note under his pillow, never thought any more about the matter. Mr. Clair, however, immediately lodged a complaint against Paratien in the Stipendiary Court for desertion from the 18th (the day of the quarrel) to the 24th (the day of his return to Poudre d'Or.)

Reference note from the Protector.

Mr. Baudot's knowledge of the case.

Question 13,768.

Charge laid by Clair.

Mr. Farquharson's judgment.

3323. This case was heard on the 29th and 30th, and on the 1st May Mr. Farquharson gave his judgment. He came to the conclusion, from the evidence, that the overseer had displayed a great amount of forbearance and kindness, and that the assault upon the woman was not proved, and as he was satisfied that the grievance put forward by the defendant as an excuse for his absences had no foundation, he felt he must hold that the absences were unlawful. The defendant had urged that the time of the absence

had been spent in going to the police, to the Stipendiary Magistrate, to the Governor, and to the Protector; but by a process of not very conclusive reasoning Mr. Farquharson came to the conclusion that the defendant had not appeared before Mr. Beyts, and *a fortiori* had not been to Réduit; and, therefore, he sentenced him to an imprisonment of four days with hard labour, and costs.

Paratien's case.

Plea urged by the defendant.

Sentence.

3324. On the following day, May 2nd, the issue as to the assault by Clair upon Soondrum was tried in the District Court and dismissed. It had practically been decided by the trial of the first cause. The evidence of course was conflicting, but the witnesses both for the plaintiff and for the defence agreed so far as that Clair had been angry and had pushed the woman. We certainly do not believe that her story was free from exaggeration; as, when about four weeks after the occurrence we saw her she showed a deep scar upon the shoulder, which appeared to us to have been caused by an old and long healed wound, but which she alleged to have been caused by the beating received from Clair.

Soondrum's charge against Clair.

3325. Dissatisfied probably with the result of these proceedings, for which we certainly think he had good reason, on coming out of prison Paratien appears to have left the estate until the 30th May, when he returned, and was then sent to the fields instead of being put to cut grass, which had been his employment previously. Whereupon, he went and complained to Mr. Beyts of being forced to perform work not stipulated for in the contract, and was referred with a complaint-note to the Magistrate. The complaint was tried on the 14th June, when the contract was examined, which showed Paratien to have been engaged simply as a "labourer." Mr. A. Baudot, the Manager, admitted that Paratien had been allowed to cut grass as a simple favour, but added, that when he misconducted himself, he sent him to the fields. Evidence was also adduced to show that the work required was not excessive, and the complaint was therefore dismissed with costs, and the plaintiff fined 5*s.* for making an unfounded complaint. He appears to have made default in payment, and went to prison until the 27th June. He then again went to Mr. Beyts, and remained in or about the Immigration Depôt, where, on the 4th July, he was arrested on a warrant as a deserter, and, on the 8th, was sentenced by Mr. Farquharson to two months' imprisonment with hard labour, under Article 50 of Ordinance No. 31 of 1867.

Fresh complaint by Paratien.

Second condemnation.

3326. We greatly doubt whether, except in the matter of the condemnation for desertion on the 1st May, Paratien suffered any great wrong; but we think the case is a good illustration of the impolicy of a master's retaining in his service a man who has once become, rightly or wrongly, thoroughly discontented. Such a course, though the master is no doubt legally quite justified in pursuing it, can only be productive of bitterness, ill-feeling, and annoyance to both parties.

Impolicy of retaining discontented men.

3327. We have to add, however, that Paratien was one of the band from Poudre d'Or who came to Réduit on the 11th August 1873 (see paragraph 2334 and following) and complained loudly to us of the estate having been sold by the Messrs. Baudot to Mr. de Chazal; the ground of their grievances being, that they knew and liked the former, whereas the latter was a stranger to them.

Paratien one of the band of complainants from Poudre d'Or

3328. We alluded above (paragraph 3314) to the negligence in the Stipendiary Court of Pamplemousses, with which contracts of service were passed. Mr. Renouf, however, is not the only Magistrate who has been guilty of negligence as regards contracts, and the following case, to which we have elsewhere alluded (*vide* Chapter XVIII. *Illegal Absence*, &c., paragraph 2038), will show the very little care that has been exercised in Magistrates' Courts in connection with this most important branch of their duties.

Negligence passing contracts of service.

Appendix O 17.

3329. Dussoruth, No. 279,713, engaged, on the 24th June 1870, together with 41 other labourers, before Mr. Barfoot

"pro Stipendiary Magistrate of Savanne,"

for a period of twelve months with Mr. A. Castel of Savanne and Grand Port. It is not clear from the contract whether the A. Castel mentioned therein is the name of the manager of Mr. Hewetson's Estate, "Riche Bois," or that of his son who is a job-contractor; but, as Mr. Hewetson informs us that the signature is not that of his manager, we assume that it must be that of the job-contractor. In either case the contract is informal; for if made for service in "Riche Bois," the name of that estate should have been inserted in the contract, which is in the general form; and, if made with the job-contractor, it should have been (under Article 53 of the Regulations of 25th August 1869) made in a different form altogether.

Case of Dussoruth.

Vol. II. Question 1810.

Vol. II. Question 1811.

Be that as it may, on the 24th April 1871, Dussoruth was brought before Mr. Trouchet the Acting District and Stipendiary Magistrate of Savanne, on the complaint of Mr. Hewetson, charged with desertion from the 9th November 1870 to the 18th April 1871; in all amounting to 160 days, which appears to have been admitted by Dussoruth, who was accordingly sentenced to make good that time.

Negligence in passing contracts. Case of Dussoruth.

3330. This case is a striking instance of the care that ought to be taken by magistrates but which is not, before acting upon the admissions of accused Indians; for, had Mr. Trouchet examined the "Carnets," he would have found that, during the month of February 1871, Dussoruth was marked as having worked every day except the 3rd, 12th 16th, and 22nd; and that, consequently, the utmost that could be claimed in prolongation were 136 days; and further, as Dussoruth had been allowed to resume work at that time without being prosecuted, all desertion up to that time had been condoned by the employer. (Ordinance 31 of 1867, Article 50.) Moreover, the engagement having been between Castel and Dussoruth, what privity of contract there was between Dussoruth and Mr. Hewetson to give the latter any right to be a party in the case at all, neither that gentleman nor any one else could say.

Vol. II. 1817.

3331. Of the illegal manner in which the arrest of Dussoruth was effected we have already spoken, and it will be enough here to state, that having been forcibly taken from the hut of his friend Rajah on the 14th April, he was shut up for the night in the sugar house, and was not given in charge to the police at Rivière des Anguilles Station until 10 A.M. on the 15th, whence he was forwarded on the 16th to Souillac, where he was detained under remand of the Magistrate until the 24th, a detention of eight days, which we should think unnecessarily long.

Rajah's case.

3332. On the same day (24th April), Rajah, in whose hut Dussoruth had been arrested, was charged by Mr. Castel with illegally employing Dussoruth, an offence for which damages of $2 were awarded; but on the following day Rajah was further charged by Mounted Police Sergeant Jackson, before Mr. Trouchet as District Magistrate (under Article 323 of the Penal Code) for enticing away and employing Dussoruth, for which he was, on the 2nd May sentenced to undergo six months' imprisonment, which certainly appears to us a very harsh accumulation of penalties for one and the same offence.

Accumulation of punishment.

Appeal to Bail Court.

3333. We must add, that Rajah appealed to the Bail Court, when his Counsel argued that his offence should have been visited, not with the punishment enacted by Article 323 of the Penal Code, but, according to the provisions of Article 7 of Ordinance 15 of 1852, which decrees a milder punishment than the Article in the Penal Code. Mr. Justice Bestel, however, dismissed the appeal, holding that, because there may be two sets of laws on the same subject, it is not to be necessarily inferred that the older law is abrogated by the posterior law, unless the two cannot stand together, and that in this case it was competent therefore to proceed under either. Whether Mr. Justice Bestel would have delivered this judgment had he known (which does not appear from the Report cited) that Rajah had been punished under both, we do not know; although we believe, that under French law there is nothing to prevent a man being proceeded against both civilly and criminally and punished for one and the same act under both procedures.

Piston's Reports, 1871, page 109.

Appeal dismissed.

3334. Such was the carelessness of the Stipendiary Court in respect of passing contracts in Savanne, and the state of things in the adjoining district of Grand Port was no better, as we shall see from the circumstances disclosed in the case of Calleemootoo, which occurred in 1872, and which was reported by Mr. Jenner, the Inspector of Immigrants, to Mr. Beyts; the papers relating to this case were, we believe, submitted to the Secretary of State.

Appendix O 18.

Calleemootoo's case.

3335. On the 11th May 1872, Calleemootoo, a jeweller by trade, was stopped by the police while he was driving in a carriole past the Police Station at Rose Belle. The reason alleged for this detention was, that it was known that Doolub, an Indian job-contractor in the neighbourhood, had taken out a warrant for his arrest.

Appendix O 18. Mr. Jenner's Report, August 24th 1872, page 6.

Is history.

Calleemootoo arrived in 1859, being then about ten years old, as a passenger immigrant; and, from the engagements filed in the Stipendiary Court at Mahébourg, it has been ascertained that between April 1865 and May 1870, he engaged four times with Doolub, as a jeweller; the last occasion being on the 4th May 1870, when he engaged for 36 months, at £1 12s. per month.

3336. For some reason, which does not appear clear, in 1871 Calleemootoo either deserted from or left Doolub's service, and went to Rose Hill in Plaines Wilhems, where he engaged to another jeweller, named Gungah, for a year; at the end of this engagement he continued to live at Rose Hill.

3337. On the 11th April 1871, a warrant was issued, at the complaint of Doolub, for the apprehension of one Calleemootoo *Pillay*, whom Mr. Messiter believes to be a different person, and two others. Calleemootoo, hearing that Doolub had taken out a warrant, and fearing, apparently, that some charge was to be laid against him, seems to have resolved to face the charge, whatever it might be; for he went to Mahébourg to the Stipendiary Court, accompanied by Gungah,

Appendix O 18. Mr. Jenner's Report, page 6, para. 3.

Question 15,186.

his employer, and Mr. Wilson, a barrister, the latter of whom saw Mr. Messiter, and requested him to inquire into the case; but he, knowing nothing about it, declined to do so.

Negligence in passing contracts. Calleemootoo's case.

Question 15,204.

3338. Calleemootoo having been stopped, as above stated, by the police a year after this occurrence, Doolub was sent for; and, what took place after his arrival, must be related in the words of the Police Sergeant who was present:

"Doolub, on arrival, told me that the warrant for the man's arrest had been sent "to Plaines Wilhems, and he produced a Passenger's Ticket, which he said was the "man's real paper. I took possession of this ticket; it bore the name of 'Callee-"mootoo Pillay,' the first of these words having been written over a very bad "erasure, and the second word '*Pillay*' being obviously part of the original writing "of the ticket. The ink in which the first was written had run on the rough "surface of the paper, and gave it an appearance which quite proved to me it was "a fraud. Moreover, the erasure of the word originally written was so badly done "that I could make out that it had commenced with something like *cana*, with the "tail of a *g* or a *y* following. On comparing the two papers with the man, I found "that the first was likely to be his true paper; whilst the second, which Doolub "had produced, could not possibly be. It was dated more than a year before "the other, and the age at date of issue was 47; so that the man would "have been more than 60 years of age, whilst Calleemootoo is not, I believe, more "than 26.

"Moreover, the man was described as having 'blue mark down forehead,' of "which Calleemootoo had not a trace.

"I detained the man until Monday the 13th, and then took him before the "Magistrate. I took the papers to the Inspector, Mr. Brownrigg. I showed him "the paper produced by Doolub, which I considered false. Mr. Brownrigg went to "the Stipendiary Court with me; I pointed out every fact of the case to the "Magistrate as regarded age, want of the mark on the man, and everything which "I thought showed the fraud on Doolub's paper; the man was nevertheless con-"demned to three months' imprisonment.

"I noticed that the Magistrate put what I call the forged paper into his drawer, "saying he would keep it. The other one, which I had taken from the man, was "left on the bench.

"The same evening Calleemootoo came out in the train with me, and told me "that he had engaged for three years to escape going to prison. He admitted to "me, both before and after, that he had worked formerly with Doolub, but without "engagement.

"I remember that the forged paper had on the back of it at least three engage-"ments signed by Mr. Messiter."

3339. The only record of the proceedings with which this man was thus coerced into making a three years' contract is to be found in the Plaint Book of the Stipendiary Court, and is in the following terms:

"13th May 1872.—Calleemootoo, charged by the police with vagrancy, is a "deserter from Doolub. 12 months absent; 84 days' hard labour.—Ord. 4 of 1864, "Art. 13. Released at request of employer to engage.

"13/5/72."

3340. We cannot conceive anything that will show more clearly than this short note the confusion made by Magistrates, of which we have already spoken, in administering the law of vagrancy and desertion. In the first place, the defendant is charged by the *police* with *vagrancy*; though it certainly strikes us as indicating very vague ideas as to what constitutes vagrancy, that a man who can afford to travel in a carriole should be charged with such an offence. Next, the Magistrate upon the evidence above mentioned, and of which we shall have more to say, condemns him, under Article 13 of Ordinance 4 of 1864, to an imprisonment which is bad on the face of it; for, by that Article, unless two previous convictions for vagrancy had been proved against him,

"within the preceding two years,"

no imprisonment heavier than 28 days could have been inflicted; and could any heavier punishment have been inflicted at all, it would not have been *less* than six months.

3341. From Mr. Messiter's evidence given before us, it would appear that the real offence for which Calleemootoo was thus punished, was for having in his possession a false ticket; though whether it was that which he had in his possession when he was arrested, or that which was produced by Doolub, is not clear. But, in either case, the Article under which he should have been prosecuted was the same, viz. Article 58 of Ordinance 31 of 1867.

Question 15,186.

Negligence in passing Contracts. Calleemootoo's case.

3342. All uncertainty is, however, cleared up by Mr. Messiter's letter to the Colonial Secretary of 31st August 1872 (paragraph 5), in which he states plainly that the false ticket was that

Appendix O, page 9.

"with which he had several times entered into a contract of service with Doolub, "and which was produced in Court;"

and, therefore, as the false ticket was by all agreed to be a clumsy forgery, Mr. Messiter, on his own showing, allowed several contracts to be entered into by a young man upon a ticket which bore upon its face the most glaring evidence of forgery and falseness; and whatever may be the plea urged by Mr. Messiter before us of the difficulty there is in making anything out of the ticket of an Indian, especially one without a portrait, we do think that the difference between a man of 25 and one of 60 ought to be detected; and we certainly concur in the remarks made by Mr. Jenner on this point:—

Question 13,193, et seq.

Question 13,196.

Appendix O 15, page 15.

"Surely he (Mr. Messiter) must have forgotten that this false paper bore the "name *Calleemootoo Pillay*, that the presumed owner, as recorded thereon, was a "man over 60 *years of age*, with the *blue mark on the forehead*; and that his (Mr. "Messiter's) triplicate record of engagements on the back of it is shown, by his "own arguments, to have been sufficient proof on which to claim a man recorded "in the contracts as *Calleemootoo* only, and whom the slightest observance of actual "facts would have shown to have been only a boy of 15 *years and 7 months* on the "6*th April* 1865, when the first engagement was recorded on the ticket, which, "thereon, went into the employer's hands, *and by its record of continuous engagements* "*must have there remained*; so, if 'Calleemootoo,' *the boy*, did '*palm*' such a spurious "paper upon '*Doolub*, THE MAGISTRATE, *the Clerks*, *Interpreters*, &c., &c., who must "certainly have been all afflicted with a shortsightedness, under which *Mr. Fearn*, "Sergeants *Collinson* and *Herity*, and Constable *Jatton* were not labouring, I think "the offence of *the boy* ought not to have been so heavily visited *on the man*, who "had repented his evil doings, and was leading an honest life with *his true papers in* "*possession*."

3343. The discovery of the fact that in 1865 Doolub engaged one *Canagasaby Pillay*, a name which corresponds so well with the description given by the Police Sergeant of the traces left of the original name on the ticket after the erasure, inclines us to think that the fraud was on the part of Doolub, in order to obtain the services of a workman of whom he stood in need; and, if so, the case assumes a very serious aspect, as showing how, by fraud and perjury, assisted by the negligence of the officers of the Stipendiary Court, it is possible for persons to be coerced into contracting long engagements: a strong reason, in our opinion, for strictly limiting the duration of contracts to comparatively short periods.

Deference to wishes of masters.

3344. Lastly, we have only to call attention to the extreme deference which appears to be shown by Magistrates to the wishes of masters in cases like this; for we find that, having been condemned, Calleemootoo was released, professedly in virtue of Article 22 of Ordinance 16 of 1862, at the instance of Doolub: a proceeding only justifiable thereunder in the event of the act upon which the condemnation was founded not involving a breach of the public law of the colony. Now, if there is any one act more than another which involves such breach, it would, we think, be that of tampering in any way with the ticket or papers of an immigrant; considering the great importance which is attached in Mauritius to these documents: and therefore, so far from releasing Calleemootoo, we should be disposed to regard this rather as a case in which, of all others, the sentence if proper at all, ought to have been inexorably carried out.

Evidence required as to previous convictions.

3345. With such flagrant disregard of the law requiring the proof of two previous convictions for vagrancy within two years, before inflicting the increased penalty sanctioned by Article 13 of Ordinance 4 of 1864, as has been shown both in this case and others to which we have alluded, it becomes perhaps a matter of comparatively small importance to examine into the nature of the evidence which has been required, in order to prove the convictions, by those Magistrates who have been more particular in this respect.

Mr. Baudot.

Mr. Baudot assured us that he always required the Clerk to produce the record of the previous conviction; and, in the event of the defendant's denial of its truth, called the Mounted Sergeant or the Jailer to identify him.

Question 13,706.

Mr. Messiter ascertains from the master whether a man has been previously condemned. Having obtained a clue to the dates from the master's books, he generally refers to the records.

Question 14,837.

3346. Mr. Daly adopts the same course, and endeavours to follow the practice of English courts as nearly as possible; though, he added, that when he first

Question 13,878.

entered upon his duties at Savanne, the sergeants and constables of police seemed to consider it sufficient to state their personal knowledge of such convictions; a strictness in the discharge of his duty which possibly was as little appreciated as his conduct in requiring a Créole gentleman of a good French family in the district to produce some evidence to rebut a charge of using threats, brought against him and sworn to by an Indian servant, and precisely supported by the testimony of another witness, instead of simply accepting the "parole d'honneur" of the defendant: a proceeding which was thought so extraordinary by some persons, as to provoke the writing of a letter to the 'Cernéen,' and published in that newspaper, wherein Mr. Daly was held up as a well-meaning but most wrong-headed pupil of the School of the Anti-Slavery Society:

Evidence required.

Question 13,415.

Mr. Messiter.

Mr. Daly.

Letter to the Cernéen.

"Quand un individu porte une plainte devant son tribunal, il pousse le sentiment "de la prévention si loin qu'il exige de l'employeur qu'il fasse la preuve de son "innocence;"

and the correspondent denouncing this as a burlesque of justice; opinions which give us some idea of the very curious notions which it is evident were not uncommonly entertained by respectable persons in the Island, of the relative weight to be attached to the oath of a servant, even though corroborated, and the simple unsupported assertion of a master.

Order in Council.

3347. We must next consider what is the nature of the control exercised over Stipendiary Courts. By the 5th Section of Chapter IV. of the Order in Council of 7th September 1838, no sentence of any Stipendiary Magistrate shall be appealed from, or questioned by, any Court of Justice in the colony except on the ground of an unlawful assumption of power or other illegality on the part of such Stipendiary Magistrate; but by Ordinance 15 of 1852, Article 19, a right of appeal lies from the judgment or order of any Stipendiary Magistrate or Court of Petty Sessions to the Supreme Court,—

Appeals.

Ord. 15 of 1852.

"provided the sum or penalty adjudged to be paid shall be more than £2 if "awarded against a master, or if awarded against a servant, more than the amount "of one month's wages, or by a sentence of imprisonment exceeding ten days; and "every Stipendiary Magistrate or Court of Petty Session immediately after pro-"nouncing any order or judgment liable to appeal, shall inform the party con-"demned of his right to appeal."

Return from Registrar.

3348. Of this right we do not think we need take further notice, considering how rarely it is exercised, especially, as might be expected, by servants; for, from the Return furnished to His Excellency Sir Arthur Gordon by the Registrar of the Supreme Court, it appears that, in the five years from 1867 to 1871 the total number of appeals from the Stipendiary to the Supreme Court only amounted to twenty, of which only five were on the part of servants. There were nine on the part of masters; and the remaining six on the part of parties who were neither masters nor servants. Thus, the Stipendiary Magistrates have nothing to guide them at all similar to the decisions of the English Court of Queen's Bench in Magistrates' cases; nor have they, as Mr. Messiter observed to us, any opportunities of meeting together to consider matters of common interest (by which we presume Mr. Messiter means occasions analogous to Quarter Sessions), and so obtain a uniform practice.

Appendix O 19.

Question 14,825.

Supervision of the Procureur-General.

Ord. 2 of 1850.

3349. The only supervision, therefore, left is that of the Procureur-General in virtue of Article 12 of Ordinance No. 2 of 1850, which, after abolishing the office of the Ministère Public, except in special cases, enacts that—

"The Procureur-General shall continue to be vested with a superintendence over "all Ministerial offices, and with the power, on failure by any of them in the dis-"charge of his duty, to move the superior or any other competent Court for any "disciplinary or other measure or penalty imposed by law for such breach of "duty."

Weekly Reports required since 1857.

3350. On the 9th September 1857 the Magistrates were directed to forward weekly reports of their proceedings to the Procureur-General, an instruction which is complied with to the present day. These Returns, Mr. Ellis informed us, are first of all carefully studied by the Crown Solicitor, who, if struck by anything in them, brings it to the notice of the Procureur-General. That they are carefully perused at present we are quite ready to believe, but we must remember that Mr. Ellis only became Procureur-General recently. As an instance of the care that was bestowed upon these Returns in the Procureur-General's Office we can only cite the following facts.

Question 11,351; also Appendix O 20.

Question 4,599.

3351. Upon the death of Sir Gabriel Fropier, the District and Stipendiary Magistrate of Savanne, Mr. Delafaye, a barrister of the Middle Temple, and enjoying, we believe, a considerable practice at the bar of Mauritius, was appointed by the Colonial autho-

Supervision of the Procureur-General. Weekly Reports. Mr. Delafaye's proceedings.

rities to succeed him; and he accordingly entered upon his duties in November 1870. His appointment, however, was not confirmed by the Secretary of State, who had arranged to send out Mr. Daly: upon hearing which, Mr. Delafaye, on the 21st March 1871, tendered his resignation, in order to resume his practice at the bar. He had acted as Magistrate for exactly four months, during which time his judgments in the Stipendiary Court display so utter a recklessness and disregard of the law as would be incredible, had we not ourselves had evidence of it by the perusal of his note-books, which are the sole records of the Stipendiary Court during that time. To some of the cases in them we have already had occasion to refer; but to give some idea of the state of things that prevailed in Savanne, we give in the Appendix a state- Appendix O 21. ment showing what appears to us to be the amount of illegal excess of punishment awarded by him at one sitting, viz. on the 21st November 1871; together with the entire notes taken in each case, upon which the judgments profess, we assume, to be founded.

3352. We find from the examination of the note-books above-mentioned, that on that day 56 persons were brought before him, of whom 24 received the illegal and excessive sentences appended; and it will be sufficient for us to state, that on that day Mr. Delafaye awarded sentences of imprisonment to an aggregate term of 1061 days, if we reckon "months" as calendar months, or of 994, if we reckon them as consisting of 28 days, in excess of any that he was by law entitled to inflict; let alone other oversights, such as inflicting an excessive imprisonment, notwithstanding the labourers condemned had already atoned for their offences by having been "cut double." This excess of punishment will, according to the first calculation, give an average of illegal punishment of $41\frac{5}{7}$ days to each of the 24 men. Besides these, we noticed more than 100 similar cases between that date and the end of March, when Mr. Delafaye resigned his appointment.

3353. Yet, strange to relate, this wonderful administration of injustice appears, not only to have given the utmost satisfaction to the chief inhabitants of the district; for, on his resignation, an address was presented to Mr. Delafaye, signed by Appendix O 22. almost all the leading planters of Savanne, expressive of their regret at the non-confirmation of his appointment, and of their admiration of the equity of his judgments and of the firmness and evenness with which he had held the scales of justice; while the Colonial press, both French and English, in publishing the same, alluded to the discontent caused by a Magistrate being sent from England to the injury of a member of the local bar, the 'Cernéen' remarking with complacency that the document in question could not fail to have great weight in the eyes of your Majesty's Government; but stranger still to relate, it altogether escaped the notice of the Procureur-General's Office, for Mr. Colin, on the 21st March, on receipt of Mr. Delafaye's resignation, cordially seconded his application to be permitted at once to resign, in order to resume his practice at the bar, at the same time expressing his belief that Mr. Delafaye had

> "shown himself a competent and able Magistrate."

On the strength of which, Sir Arthur Gordon, in acceding to the application, expressed his anxiety to take the first fitting opportunity of replacing him in the Public Service, from which he hoped his removal had been only temporary.

3354. It is but fair to Mr. Delafaye to notice his own explanation when summoned by us to give evidence, which, if we cannot pronounce satisfactory, has certainly the merit of being candid; for he told us that until he was appointed Magistrate, he had hardly ever been in a Stipendiary Court; that, owing to no quarters being provided for the Magistrate of Savanne by the Government, he was obliged to reside in town, and so found it impossible to go to Savanne more than twice a week; that he there succeeded a Magistrate who had been over lenient and kind to the Indians, the result of which was an unusually large increase in the complaints. Of the kindness of Sir Gabriel Fropier, amounting to weakness, we have often heard mention; and we can only regret that, when a reform did take place, it should have been effected in so very extreme and illegal a manner.

r. Trouchet's ceedings.

3355. Of Mr. Trouchet, the additional Magistrate, who replaced Mr. Delafaye in April 1871, until the arrival of Mr. Daly in the July following, we can only say, that his proceedings are second only to those of Mr. Delafaye in point of confusion of Questions 13,710 offences and illegal sentences. He could not speak with certainty as to to 13,714. having made the weekly return to the Procureur-General; but in any case he could only remember one instance when the legality of his judgment had been questioned, and, as that occurred in the district of Pamplemousses, it cannot apply to the manner in which he discharged his duties at this time in Savanne.

Supervision of the Procureur-General. Weekly Reports. Mr. Trouchet's proceedings. Supervision defective.

3356. It is not surprising that when no check was put upon proceedings such as those of the two Magistrates, the sending of the weekly return to the Procureur-General Question 13,494. should have come to be regarded by the clerk as a mere matter of unmeaning form, as this evidently was regarded when Mr. Daly arrived. Thus we find that, while the provisions of the Order in Council of September 1838, respecting the drawing up of the forms of procedure for the regulation of the Stipendiary Courts, have, for 35 years, been wholly neglected, the supervision exercised by the office of the Procureur-General has been equally defective; and that Magistrates confessedly knowing nothing of the stipendiary law, have been left without control to dispense justice in such form and manner as to each seemed best, a system which could only give rise to irregularities and abuse.

Mr. Dupuy.

3357. In striking contrast to the popularity of Mr. Delafaye in Savanne was the Appendix O 24. unpopularity incurred three years earlier by Mr. Dupuy in the adjoining district of Grand Port, which ultimately resulted in his removal from that district to Port Louis.

3358. Mr. Dupuy is a coloured man, and was appointed to the Magistracy by Sir Appendix O 24, page 18. William Stevenson; and we have the authority of Sir Henry Barkly for stating that,

> "he gave deep offence in the first instance"

(we presume on account of his colour)

> "to the remnant of the old French faction not yet extinct there, a feeling little "modified by his subsequent independent conduct; whilst on the other hand his "own party was alienated from him by degrees, as they found him far too just "and impartial to stand up for 'his colour,' as the phrase among them goes, this "alienation turning to positive dislike when he, a year or two since, condemned "fine and imprisonment, for ill-treatment of their labourers, the Messrs. Montil' "wealthy coloured proprietors."

His unpopularity in Grand Port.

3359. To these causes of dislike was added that of his plain-speaking and expression Appendix O 24, page 1. of opinion upon cases of ill-usage tried before him. The result was, that on the 20th March 1868, a memorial was addressed to Sir Henry Barkly, signed by about 200 persons, including some of the leading planters in the district, accusing him both of unjust decisions and of indulging in violent diatribes on the bench, calculated to stir up the Indian population against their employers, and more than insinuating doubts as to his sanity. They specified three cases in particular, and described in strong terms the pass which matters had reached during his temporary occupation of the bench of the Stipendiary Court, and finally prayed for his removal.

Memorial against him in 1868.

Report of Mr. Sholto Douglas.

3360. This memorial was referred to Mr. Sholto Douglas, at the time Acting Procureur-General; a man, according to Mr. Currie, of ability and judgment, and of many Question 10,562. years' experience in the colony. Mr. Douglas returned a Report which is Appendix O 24, page 3. remarkable, as showing his opinion of the treatment of Indian labourers in Grand Port, as well as the value which he attached to the statements of petitions got up in Mauritius.

3361. He held, that, to arrive at the truth of the general charges, would be impossible in such a district as Grand Port—

> "where it is notorious that the inhabitants live in a chronic state of discord "amongst themselves, and where party spirit prevails to an extent unknown elsewhere in the island."

He very naturally regarded the reports of the police in the district as better authority upon the amount of crime therein than the mere generalities of the petition, which he pronounced so

> "inflated in its style and so manifestly exaggerated in its allegations,"

as, on the face of it, to be untrue: and he observed that these reports of the police showed that the district had never been in a more satisfactory condition as regards crime than at that time, a state of things which he attributed to the vigorous administration of justice by Mr. Dupuy.

3362. With regard to the manner in which Mr. Dupuy had discharged the duties of Stipendiary Magistrate, Mr. Douglas affirmed that,—

> "so far from endangering the tranquillity of the district, and tending to incite the "Indians against their employers, as alleged in the petition," it "had a contrary "and most salutary effect, at a most critical period in the district, when, to my "knowledge, the harsh treatment of Indians upon some estates by their employers "had driven the Indians to violent measures of retaliation, for some of which the

Jr. Dupuy. Memorial gainst him n 1858

"perpetrators had suffered death upon the scaffold, and for others of which the "perpetrators are, at this moment, undergoing long terms of imprisonment."

3363. He next reviewed and dismissed the three specific cases mentioned in the memorial, and finally came to the conclusion that the petition had

"been got up by a party who have feelings of hostility to Mr. Dupuy; and that, like "the generality of petitions got up in this colony, many of the parties who have "affixed their names, and those, the most respectable amongst them, have done so "without personally knowing, and without taking the trouble to ascertain the "truth or falsehood of the accusations brought against Mr. Dupuy, being influenced "by popular rumour, and by the current of feeling which has to a considerable "extent run against Mr. Dupuy;"

that no well-grounded cause of complaint had been established; and that Mr. Dupuy ought to be fully supported: a decision adopted by Sir Henry Barkly, and communicated to the petitioners by the Colonial Secretary on the 8th May.

Indiscreet conduct of Mr. Dupuy, and his removal from Grand Port.

3364. This drew forth a reply, on the 31st May, from six of the leading petitioners, who described in plaintive terms how they had been grieved and hurt by the answer of Sir Henry Barkly, and called his attention to a letter which Mr. Dupuy had most unwisely addressed to the 'Commercial Gazette,' threatening them with an action for libel: thus pursuing a course which we believe is unusual in your Majesty's service, though not without examples in Mauritius; for a public servant to bring an action for damages on account of charges made against him connected purely with his official duties, and from which he has sustained no actual injury. It was in consequence of this indiscretion on the part of Mr. Dupuy that Sir Henry Barkly considered no alternative was left but to remove him from Grand Port, and to transfer him to the inferior post of Police Magistrate in Port Louis.

3365. With laws applying with such exceptional severity upon one class of the community, and administered in the manner we have shown, it is not, perhaps, wonderful that those who suffered from the results of both should sometimes have lost patience, and have not treated Magistrates with that respect which they have a right to look for and demand: conduct which has, however, been visited with immediate punishment for contempt of Court, a few instances of which we will next examine.

Ord. 31 of 1867. S.

3366. By Article 68 of Ordinance 31 of 1867, any one wilfully insulting a Stipendiary Magistrate or other officer of the Court during his attendance in Court, or misbehaving in Court, is liable to be taken into custody and detained till the rising of the Court; and the Magistrate is empowered, if he thinks fit, to commit such offender for any time not exceeding seven days, or to impose a fine not exceeding £5 for any such offence.

3367. We can hardly suppose that the Legislature in passing this Article, which seems to be intended for the preservation of proper order in the Stipendiary Court, ever contemplated its being applied to punish any expressions of irritation or anger which may escape a prisoner in the moments after hearing a sentence pronounced against him by a Magistrate. Probably there are few persons who have been in the habit of attending criminal courts of justice, who have not occasionally heard prisoners indulging in abusive language at the expense of the Judge, without any further notice being taken of such a display of temper than for the officers of the Court immediately to remove the prisoner: yet, in the Courts of Mauritius, this is at once visited by some Magistrates as a contempt of Court, bringing immediately upon the prisoner an additional seven days' imprisonment; and, should the offence be repeated, then another seven days, and so on: a proceeding which cannot fail, we should say, to degenerate into an undignified altercation between the Magistrate and the prisoner little likely to elevate the Court in the eyes of the public.

djudicious pplication of his law.

ase of Goolam Hossein.

Appendix O 25.

3368. It was after a sentence of this nature that the incident occurred of which Dr. Icery speaks in his pamphlet as one of ominous significance; evidently attributing it to the bad effects of the policy of His Excellency Sir Arthur Gordon; but which, when investigated, dwindles down into a very common-place outrage: and, considering the low caste, and wholly uneducated men, which form the labouring class in Mauritius; and, considering the very small wisdom that has heretofore characterised the proceedings of the Magistrates, we might almost wonder that such incidents have been so very rare, as, when one does occur, to produce a public sensation.

Appendix D 25, p. 9.

3369. Dr. Icery says:—

"On the 19th July 1871, a very grave incident occurred.

"An Indian being condemned to two months' imprisonment by the District "Magistrate of Rivière du Rempart, threw a large stone at him while sitting on

"the bench, which, happily, did not strike him; and several cases have since "occurred of Magistrates being insulted on the bench by Indians.

Contempt of Court. Case of Goolam Hossein.

"Although few in number, these acts of violence and insubordination painfully "impressed the community, nothing like them having previously occurred, and the "judicial authorities have been always treated with the greatest respect."

Question 12,659 *et seq.*

The case here referred to is that of Goolam Hossein, whose career as an immigrant was the following.

istory of m from 1865 to 187

3370. On the 30th September 1865, he engaged on the "Schoenfeld" Estate with Mr. de Belloguet. From that time to the end of March 1866, he appears by the Pay-books of the estate continually as sick or absent; and from March 1866 to the end of October 1867 he appears marked "absent:" from which time to the month of August 1868 his name disappears altogether. He is marked "absent" during August, September, and October 1868; after which he finally disappeared, until, on the 31st January 1870, when he was brought before Mr. Lablache, and by him sent to his master.

3371. On the 8th March 1871 he appeared before Mr. Farquharson, having been received from Port Louis on his release from gaol; and he was forthwith charged with illegal absence from the 1st April 1866 to the 30th September 1870: and was sentenced to replace three years and a half of service. He almost immediately after absconded from the estate: as on the 15th of the same month he was again received under escort from Port Louis, and sent by Mr. Farquharson to "Schoenfeld," where, however, he refused to work, and was in consequence brought again before Mr. Farquharson on the 17th, charged with "refusal of duty;" and, on his persisting in this refusal, he was condemned to three *months*' imprisonment with hard labour, and costs: a sentence which Mr. Farquharson told us ought to have been three *weeks*, and was a mistake which must have arisen through a sl of the pen, but which, nevertheless, was undergone. On the expiry of this sentence was again sent to "Schoenfeld;" and on his still refusing to work was again, on the 16th June, brought before Mr. Farquharson and sentenced to fourteen days' imprisonment and costs; besides twenty-one days for three contempts in address the Magistrate in filthy and disgusting language: which latter sentence was, however, subsequently cancelled in consequence of the Magistrate having laid an information before the District Court.

Question 12,659.

Question 12,662 *et seq.*

Three mo for th

Third charg of refusal of duty.

3372. On the 17th July he was, for the third time, brought up for refusal of duty, and was sentenced under Article 10 of Ordinance No. 15 of 1852 to pay a fine of £10, or go to prison for two months, and further, to an additional imprisonment of seven days for contempt of Court. This sentence appears to have rankled in his mind; for, about an hour after his removal from the Court into an adjoining room in which prisoners are detained until the rising of the Court, he contrived to elude the vigilance of the police: which, according to Mr. Farquharson, is not difficult: and, going into the yard, possessed himself of a stone, with which he then made his way into the Court, and threw it at Mr. Farquharson's head; an outrage for which he was indicted at the assizes, and for which he received an imprisonment of two years.

Question 12,717.

Case of Bu hoe in 1869

Appendix O 26. Dr. Icery's pamphlet, p. 9.

3373. Dr. Icery is, however, wrong in asserting that nothing of the kind had ever occurred previously; for we find that, early in 1869, or more than two years before the arrival in the colony of His Excellency Sir Arthur Gordon, a prisoner named Bunghoo, on being condemned by the District Magistrate of Pamplemousses to imprisonment for twelve months, for an attempt to break a sugar-mill, addressed him in a loud and threatening manner, which he continued after removal from the dock and being ordered to keep quiet. He afterwards declared his intention of taking the first opportunity he could get of breaking the Magistrate's head: which, being reported to that Officer, he, after satisfying himself that such an expression had been used, ordered the prisoner to be put in irons for having used improper language. Four years later this man, who, in the interval had been very troublesome in prison, contrived to secrete a razor, with which he cut his throat and ended his existence.

Ayasamy's case, in whic 51 Indians were committed for contempt.

Appendix O 25.

3374. A ludicrous incident occurred in the same Court and before the same Magistrate on the 24th June 1872, which resulted in a whole band of complainants, fifty-four in number, being committed for seven days for contempt. It took place during the trial of a complaint against Ayasamy, a job-contractor, for alleged ill-usage and overworking his labourers, and must be described in the words of the record itself:—

"Ramen, one of the complainants, before being put out of Court, previous to "being heard as a witness, turned round, and in an insolent way says, addressing "the Magistrate, 'If the Magistrate wishes to try the case, he must strip the "'Defendant naked, as also that man' (pointing to a Créole man who is in Court). "The other complainants here noisily join in this request. At this moment the

Mr. Mc... in ... Contempt of Court. Case of 54 Indians condemned for contempt of Court.

" complainants with loud cries and savage yells rush in a body from the Court Hall " and pursue somebody; shortly after, they return, dragging a man (held by three " or four of them) of the name of Marie Jeanne. (This man being examined by the " Magistrate says that he was working in his yard close to the Court when he was " arrested by the complainants.)

" The Magistrate orders complainants to be arrested, and the police take from " their hands the Créole they had arrested, and after a sufficient police force is " assembled, orders the complainants to be brought into Court, and sentenced the " whole of them (four children excepted) to seven days' imprisonment for contempt " of Court under Article 78 of Ordinance 31 of 1867, and adjourns the case to the " fourth for judgment."

Case of Ramsamy before Mr. Dupuy.

3375. We think that a sounder judgment was shown by Mr. Dupuy in the case of Ramsamy in July 1870, who had been repeatedly condemned for vagrancy owing to his inability to obtain the few shillings necessary to enable him to procure a "Permit to Work" preparatory to being put *en règle*. These permits were not at that time so freely given as they have been latterly. This man became very violent in Court; but, instead of committing him for contempt, Mr. Dupuy ordered him to be kept down stairs until his business should be over and he could speak to him. He then told Ramsamy that, on the expiration of the sentence to which he had been condemned, he would do what he could to assist him. This he fulfilled by submitting the case to the Protector, who gave the man a ticket, on the strength of which he engaged, and turned out to be a very good man.

Questions 13,933 to 13,959.

Indi... con... Mr. ... and ... nov... Mrs...

Mr. Daly has never punished for contempt. The only occasion on which he was ever tempted to do so occurred in the District Court, when an old woman assailed him with abusive epithets in Court, and he was about to apply the penalty when he discovered that Article 68 of Ordinance 31 of 1867 applied only the Stipendiary Courts.

...stion 13,523. ...stions 13,520 ... 3,525.

3376. Neither Mr. Trouchet nor Mr. Emmerez de Charmoy makes allowance for excitement or irritation; and both have punished persons for contempts of Court repeated in one day, inflicting seven days' imprisonment for each offence: whilst we cannot feel satisfied that these sentences were always awarded with judicial calmness, as Mr. Trouchet admits that he sometimes loses his temper with the Indians (as we can imagine that even the best-tempered man might sometimes do), and will not swear that he did not upon one occasion brandish (so we were informed) a paper-weight at a prisoner from the bench; but urges in palliation that they are sometimes provoking enough to exhaust the patience of an angel from heaven.

Questions 13,730 to 13,737. Questions 14,578 to 14,584. Question 13,743.

Ord... 186... Arti...

Frequency of contempt in 1872.

3377. Further, it cannot be doubted that, during the year 1872, the cases of insolence to Magistrates were more numerous than before, as upon this point Messrs. d'Emmerez de Charmoy, Trouchet, and Daly all agree; but this is nothing more, we think, than might reasonably have been expected from the preceding agitation which ensued upon the publication of the de Plevitz pamphlet.

Questions 13,586, 13,738, 13,526.

Inj... app... this...

Power of Magistrates to grant a new trial.

3378. No rules having been framed for the guidance of Magistrates, we look in vain for any provisions authorising a Stipendiary Magistrate to grant a new trial in the event of any evidence being brought to light subsequently to the delivery of his judgment: nevertheless we find that Mr. Martindale, the Stipendiary Magistrate in Plaines Wilhems, in November 1870, granted a new trial in the case of Bookeer, Gopaul, and about 100 other labourers, who lodged a complaint against their master, Mr. Poilly, a job contractor employed on "Bassin" Estate, alleging over-work and illegal deductions from wages. Into the merits of this case we need not enter. Both parties were assisted by counsel, and a number of witnesses were heard on both sides during three sittings of the Court: namely, on the 14th, 17th, and 19th November: and, on the 22nd, Mr. Martindale delivered a very full judgment in favour of the labourers, by which the engagements of 144 of the complainants were cancelled and Mr. Poilly ordered to pay up their wages.

Appendix O 29.

New trials. Case of Bookeer and others v. Poilly.

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Mr. Martindale's first judgment.

3379. On the 24th (two days after), however, an application was made on behalf of Mr. Poilly for a new trial, on the ground of his having fresh evidence to produce which was unknown to him at the time of the previous trial, and which would materially have affected the Magistrate's decision, and upon the somewhat broad ground that it was

" necessary for the ends of justice."

Application for a new trial.

An affidavit was sworn to on the 26th, in which the grounds were still further set forth:—

" 1°. That one Sarah, a job-contractor, who had appeared as a witness for the men " was an interested witness.

" 2°. That the Indians engaged on the roads, in the service of Government, have " to walk more than three miles to their work without any reduction of task being " allowed.

New trials. Case of Bookeer v. others v. Poilly.

" 3°. That the said Sarah himself made his men walk more than three miles.

" 4°. That his (Mr. Poilly's) camp was less than three miles from the place of " work.

" 5°. That several other persons, whose names were made known to him only after " the judgment of the Magistrate (viz. within the four preceding days), could prove " that the task imposed by him was not excessive."

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3380. With the exception possibly of the first ground, we cannot see that any reason was alleged sufficient, even if new trials were matters of course, to have disturbed the original judgment; as all the witnesses adduced at the new trial were either planters or job-contractors of the immediate neighbourhood, or else sirdars in the defendant's own employ, whose evidence might easily have been obtained at the first trial (considering that it was twice adjourned), had Mr. Poilly chosen to take the trouble to prepare his defence properly; while we cannot see the force of the second and third points sworn to in the affidavit, which prove, if anything, only that the Surveyor-General and Mr. Sarah were as bad or worse than defendant himself.

New trial granted by Mr. Martindale.

3381. Nevertheless, upon these grounds Mr. Martindale granted a new trial, the first sitting at which took place on the 29th; and on the 1st December he delivered a second judgment, rescinding that of the 22nd November, and ordering that Mr. Poilly should pay two shillings' compensation to each of the labourers for non-delivery of rations, and that the labourers should pay the cost of appraising the amount of the tasks, which was taxed at £1; and further, ordering them at once to resume their work with Mr. Poilly.

Mr. Martindale's explanation.

3382. In explanation of this proceeding Mr. Martindale states that, although there was no authority in the labour laws for the course he had pursued, there was such in the Ordinance directing the procedure of District Courts; and hence he came to the conclusion that

" the new trial was a remedy to be obtained whenever a Magistrate was convinced " that a judgment of his had not satisfied the ends of justice."

3383. Mr. Martindale appears to us to be incorrect upon this point, as we find no provision whatever in Ordinance No. 34 of 1852 for granting a new trial; though, in the 64th Article, power was given to the Governor to appoint three District Magistrates to frame general rules and orders for the practice of the District Courts, which orders were to be submitted by the Governor to the Judges of the Supreme Court for their approbation. Eight years elapsed before the provisions of this Article were carried out: but, by a Proclamation on the 31st March 1860, a set of Rules and Regulations was at length issued, which had been drawn up by Messrs. Robertson, J. Colin, and Beyts, and the 62nd and following Articles of which lay down rules relative to the granting of new trials. But, if there be any meaning in language at all, these appear to us to refer to District Courts, and District Courts only, and we can see nothing in the Regulations in question which can be construed as suspending your Majesty's Order in Council of the 7th September 1838, which lays down (Chapter IV., Section 5) that the judgment of the Stipendiary Magistrate,

" when consistent with law, shall, to all intents and purposes, be binding, final, and " conclusive."

Point of the case.

3384. The above case is curious, as showing the effects of the absence of all rules to regulate Stipendiary Courts, which is so deeply regretted by Mr. Daly; and it further shows that the practice of Mr. Martindale does not agree with the opinion expressed by the present Acting Procureur-General, that Stipendiary Magistrates

" should exercise the jurisdiction conferred upon them in the same manner as " ordinary Justices of the Peace in England,"

but follows rather that of Mr. d'Epinay, given in 1853 (*vide supra*, paragraph 3224); adopting for his guidance the rules, not of English Magistrates' Courts, but those of the District Magistrates in Mauritius.

District Courts.

3385. We have hitherto abstained from any separate mention of the District Courts, as these do not affect the Indian immigrants in any special manner differently from the general population; but as by far the greater portion of the entire population of the Island is Indian, we feel that the subject of Magistrates and their Courts would scarcely be complete without some notice of the District Courts, and some allusion to the cases from them which have called for our attention, and to the amalgamation which is gradually taking effect between the Offices of Stipendiary and District Magistrate.

3386. We learn from the Despatches of Governor Higginson and Governor Stevenson that so early as October 1850, the Lords Commissioners of the Treasury had urged the gradual reduction of the annual vote of Parliament for the Stipendiary Magistracy, and directed by a Circular of that date that no further vacancies in those Magistracies should be filled up.

Governor Higginson to Sir J. Pakington, Desp. No. 351 of 2. 8. 52.
Governor Stevenson to Right Hon. H. Labouchere, Desp. No. 41 of 26. 12. 57.

3387. It must be remembered that the office of Stipendiary Magistrate had arisen immediately out of the abolition of slavery, and the system of apprenticeship which succeeded it. Consequently, after an interval of fifteen years it was naturally considered that the apprentices no longer stood in need of the special Magistracy which had been provided by the Imperial Government for their protection in the first days of their emancipation. But, although the services of these Magistrates had thus ceased to be a matter of national importance, and their payment, consequently, a matter of national obligation, it was still considered that their maintenance was a matter of great local importance in Mauritius, and it was found to be inconvenient to amalgamate them with the then newly-established District Magistrates; and we do not find that any permanent action was taken until many years later, though an amalgamation was effected in some of the districts.

3388. In 1867, however, Messrs. Beyts and Chasteauneuf were desired to examine into, and report to Sir Henry Barkly upon, the amalgamation of the District and Stipendiary Magistracies, and the consequent reduction of their staffs. They visited these Courts, and, having made minute inquiries into the work performed in each, they, on the 24th January 1868, submitted their Report.

3389. In Port Louis they found that the Senior Stipendiary Magistracy and the Depôt and Police Magistracies had already been conjoined. In Pamplemousses the Senior and Junior District Magistracies had been united; and so in Moka, Savanne, and Black River, with the District and Stipendiary Magistracies: and they gave it as their opinion that a similar amalgamation was possible in all the rural districts. The districts in which it had not then been introduced were Pamplemousses, Rivière du Rempart, Flacq, Grand Port, and Plaines Wilhems.

3390. They submitted that, where the duties of both Courts are confided to one Magistrate, it was essential that he should be required to reside within the district, and that the District Court Clerk should therein be invested with magisterial powers in police and petty cases which could not consistently be delayed.

3391. By the 74th Article of Ordinance, No. 31 of 1867, power had been given to the Governor to authorise any Clerk or Officer of the Stipendiary Court to pass contracts and discharges of labourers, thereby removing a considerable burden (if such duties be performed with care) from the Magistrate.

3392. The District Courts may be compared to the County Courts of England, combined with the Criminal Jurisdiction of the Justices of the Peace. In civil matters their authority extends to the trial of suits, wherein the sum or matter in dispute shall not exceed an amount of £50. Whilst in criminal matters their jurisdiction extends to taking cognizance of all cases of crimes or offences not punishable by death or transportation, provided that the punishment awarded by them shall not exceed an imprisonment of twelve months, nor a fine of £50. The District Magistrates are also charged with the duty of making preliminary inquiry into all cases of serious crime, previously to committing such cases for trial at the Assizes of the Supreme Court, upon which we need not dwell further than to state, that in our opinion, derived from the perusal of some records of such inquiries that have come to our notice, the rules of evidence are but slightly regarded, and matter is admitted which in any English Court of justice would be regarded as wholly inadmissible.

Ord. No. 35 of 1852. Article 101.
Ord. No. 35 of 1852. Articles 45 to 47.
E.g., see depositions in Regina v. Petit Arelson, and others. Appendix G 9.

3393. Among the many laws in Mauritius which must strike any one accustomed to the practice of Courts of justice in England, few strike us as more singular than the law respecting the possession of property alleged to be stolen, as the Supreme Court has on two occasons decided, that in charging a man with being in possession of such property, it is not necessary to aver in whom the property is really vested, and consequently a man may be condemned for receiving stolen goods without proof being given of such goods having been stolen at all.

3394. A curious instance of this is shown in the case of Gungaram, sentenced by Mr. Jollivet, the District Magistrate of Plaines Wilhems, to eight months' imprisonment with hard labour for this offence. On the 17th December 1872 two prisoners, Gungaram and Gunset began to quarrel at the Phœnix Station, in the course of which Gunset charged Gungaram with having £22 belonging to him. On being

Appendix O 43.

desired by the police to show what he had upon him, he produced twenty-one sovereigns, and, suspecting that they were the proceeds of some robbery the police took possession of them. From inquiries that were instituted, it was ascertained that a considerable sum of money had been stolen from one Bundhoo, a shopkeeper at Chemin Grenier, in Savanne, and that both Gungaram and Gunset had been at Bundhoo's on the 15th December, and evidence was adduced to prove that they knew that Bundhoo had money in his trunk; but Bundhoo also proved that he had examined his trunk after the departure of the accused, when he found it to be all secure; some of the sovereigns had had rings affixed to them to be worn as an Indian necklace, and some of those found upon Gungaram corresponded to this description. On the other hand evidence was adduced by Gunset to show that he had also been robbed, and a witness was admitted to depose to having inquired at Gunset's shop on the 17th, and that he was told (by whom does not appear) that Gunset had been robbed by an employé and had gone to look for him—hearsay evidence, which we should not have expected to have been allowed. On this evidence Mr. Jollivet sentenced Gungaram to eight months' imprisonment with labour and costs, and dismissed the charge against Gunset. But although it had been decided that the sovereigns in question had been stolen, no decision had been come to as to whom they belonged, Bundhoo or Gunset, and that was a point upon which Mr. Jollivet cared not to take further steps, so the sovereigns were delivered in a sealed packet to the District Cashier until it should be decided whose they were, a question which could only be decided by a Magistrate upon a complaint being laid before him, and up to the 18th February 1873 no such complaint had been laid before Mr. Jollivet.

3395. A curious decision was given by Mr. de Boucherville, the District Magistrate of Grand Port, in the case of Mootookhan, who, together with his wife Angely, was charged with embezzlement on 2nd April 1873, by Sooprayapatten, a travelling jeweller of Port Louis, who on the 23rd February had passed the night at the house of the accused. He had then, in the presence of two other persons, entrusted to the care of Mootookhan a small tin box containing various jewels, some money and some goldsmith's tools for safe keeping during the night, but which had disappeared in the morning. Mootookhan alleged that his house had been entered during the night and the box stolen, which was certainly not impossible, as it was known that these jewels were on the premises, though it was somewhat remarkable that no one sleeping in the hut heard any noise, or was in any way disturbed in the night. Sooprayapatten, however, lodged a complaint with the police, and obtained a warrant to search the hut of Mootookhan, the result of which was, that ten gold beads and a gold ornament were found in it, which Sooprayapatten identified as having formed part of his lost property. Mootookhan on the other hand, while admitting the abstraction of the tin box, denied any guilty complicity therein, and adduced a witness, an Indian jeweller from Mahébourg, who swore that he had made the gold ornaments found in the hut of Mootookhan for him some 18 months before; on these facts Mr. de Boucherville delivered the following judgment:—

Appendix O 44.

> "The Court finds the accused guilty of the charge brought against him under A
> "333 of the Penal Code, and sentences him to undergo six months' imprisonment
> "with costs. The accused Angely is acquitted. As regards the ear ornament and
> "gold beads produced, there being in the opinion of the Court a doubt as to whether
> "they be the property of complainant or Mootookhan, the Court orders them to
> "be returned to Mootookhan."

3396. Absurd as this decision appears at first reading, it is to be remarked that the absurdity arises chiefly from the words in which it is expressed, and the Magistrate appears to have arrived thereat upon grounds quite irrespective of the ornaments found in the hut and claimed by the complainant.

3397. We have already mentioned (Chapter IV. paragraph 89), that in 1839 the inhabitants of Mauritius declared that

> "the native languages of India are here all perfectly well understood and fluently
> "spoken, not only by the domesticated or Créole Indians, but by a great number of
> "European residents."

Nevertheless, in the following year the Governor (paragraph 145) regretted the want of Interpreters, and the Secretary of State noticed the effect that this want had upon the information derived through the Magistrates. We regret to say, that the almost universal ignorance of the Stipendiary Magistrates of the Indian languages continues to the present day, and it is our duty now to see what compensation there is for this serious defect in the Magistrates in the efficiency of the Interpreters attached to the several Courts throughout the Island; or, in the knowledge of these languages possessed by any of the other officers connected with their Courts.

terpreters.

3398. Of the Magistrates we examined, two only professed to understand any Indian dialect at all, viz. Hindostanee, of which Mr. Farquharson knows enough to be able to follow the Interpreter, and to know whether he is translating properly; and Mr. d'Emmerez de Charmoy understands enough of the same language to know when contemptuous or abusive expressions are being used against him. None of the other Magistrates appear from the Return (Appendix O 34) to have any acquaintance whatever with any of the Indian languages, and they are consequently unable to communicate with Indians appearing before them, except through the medium of the Interpreter. These Interpreters, though there are two classes, of which one receives £120 and the other £60 per annum, are, for the most part, very indifferent.

Question 12,342. Question 14,590. Question 12,335.

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idence of gistrates as their Interers. r. Renouf. r. Farquhar-n.

Questions 10,868, 10,869.

3399. At Pamplemousses, Mr. Renouf appears satisfied with his Interpreter, though on one occasion Mr. Beyts found fault with the manner in which he discharged his duty.

Question 12,337 et seq.

3400. Mr. Farquharson considers that, out of five or six, he has only had one good Interpreter; some appearing to have a very imperfect knowledge of the Indian languages—the Madras men not understanding Hindostanee, and the Calcutta men being equally ignorant of Tamil; whilst Mr. Farquharson himself, though able to follow the Interpreter in the former language, could not do so in the latter. Often, too, they are ignorant of English; so that the evidence given in the Indian vernacular has to be first translated into Créole or French, and from that taken down in English; a circuitous process, which cannot fail to be most unsatisfactory.

Dupuy.

3401. Mr. Dupuy had formerly "a gentleman from Madras who spoke several dialects; but is now reduced to make a temporary use of the services of his Peon, who is paid at the rate of £60 per annum, and who is, Mr. Dupuy thinks, a very honest man.

Daly.

3402. At Flacq, Mr. Daly found an excellent Interpreter; and at Savanne one, who though he considered him to be honest, had the bad habit of questioning the witness on his own account to such an extent as to make Mr. Daly ask him whether he, the Magistrate, or the Interpreter, was examining the witness.

Question 13,528.

d'Emmeo Charr.

3403. At Black River we find an Interpreter, who understands Tamil very well, and Hindostanee less. He belongs to the second class, receiving £5 per month a rate of remuneration upon which Mr. d'Emmerez de Charmoy does not think it possible for even an Interpreter to live; though he might do so, and sustain his family on double the amount.

Question 14,578.

nslation of ian documts. 1867.

3404. Closely connected with the subject of Interpreters is that of translation of such Indian documents as are produced before Courts of Justice. We find that, in the year 1867, Mr. Sholto Douglas, the Acting Procureur-General, had it in contemplation to place this matter upon a more satisfactory footing; and he accordingly issued a Circular to the District Magistrates, in which, after premising that his attention had been called to the fact that unsatisfactory and erroneous translations of Indian documents were not unfrequently sworn to as correct by illiterate persons in the various Courts of the Island, he said it had been proposed that one or more persons resident in Port Louis, of known qualifications, should be appointed by Government as sworn translators of the Indian languages commonly spoken in the Island, to whom all documents in Indian characters should, before being given in evidence, be referred, and whose version alone should be considered authentic. Another suggestion was that such of the Interpreters of the District and Stipendiary Courts, as should be proved to be qualified, should be appointed translators to the Courts to which they were attached, a tariff of fees being fixed therefor, and that these translations should be authorised and other details arranged under rules of Court; and Mr. Douglas, therefore, requested the Magistrates to give him their opinions upon the practicability of these proposals; and also to inform him whether their respective Interpreters would be competent to prepare reliable translations in writing of any, and of what, Indian language into either French or English.

Appendix O 30.

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3405. As to the advantages of such a scheme, the Magistrates were unanimous in their approval of it: though Mr. Self, the senior District Magistrate of Port Louis—Mr. Mayer, the District Magistrate of Flacq—and Mr. d'Emmerez de Charmoy, the District Magistrate of Black River, disapproved of the centralisation of the sworn translators in Port Louis; both on account of the inconvenience and expense which such an arrangement would probably entail upon suitors, as well as to the possibility of abuses.

3406. With regard, however, to the competency of the Interpreters to fill the contemplated post of sworn translators, the accounts of the Magistrates were not reassuring; a only four out of the whole number of Interpreters were reported as being qualified to make reliable translations, viz. Mr. Viney, now the interpreter at Flacq—of whom Mr. Daly spoke in such high terms—was reported by Mr. Mayer as being able

"to give translations in writing of the Tamil and Hindostanee languages into English."

Translation of Indian documents.

James Peersaib, now attached to the District and Stipendiary Court at Savanne, but in 1867 at Plaines Wilhems, was believed to be able to make reliable translations into English from Tamil, Hindostanee, and Telugu, but was deficient in his knowledge of French.

Few Interpreters competent as translators. Viney. Peersaib.

John Suramumpillay, now attached to the Stipendiary Court at Pamplemousses, was in 1867 in Savanne, and was reported by Sir Gabriel Fropier as competent to make reliable translations from Tamil into English; and James Soobrayen was reported by Mr. Dupuy as being only fit to translate Tamil into English, but not so for Guzeratee, Nagri, and Hindostanee.

Suramumpillay. Soobrayen.

3407. We have already alluded (paragraph 3403), to the opinion entertained by Mr. d'Emmerez de Charmoy, that the salary of the Interpreters in the districts of Mauritius is insufficient; and we find him corroborated therein by Mr. Eales, the Emigration Agent for Mauritius at Calcutta, who, writing to the Colonial Secretary on the 29th March of the present year, expressed his fear that it would be difficult to secure the services of suitable persons, because the salary of £100 per annum is not sufficient remuneration to attract a more eligible class of men; and he stated that he had ascertained, after due inquiry, that persons holding similar appointments in India received from £10 to £15 (100 to 150 rupees) monthly, and would decline to serve in Mauritius even at these rates of pay. Dr. Conran, also the Agent at Madras, writing two months earlier than Mr. Eales, stated that there would be some difficulty in obtaining men capable of interpreting in all the three Indian languages with which an Interpreter in Mauritius should properly be acquainted—viz. Hindostanee, Telugu, and Tamil, though he believes it might be possible to secure some who understood all those languages; but both Dr. Conran and Mr. Eales appear to have forgotten that, among the emigrants to Mauritius, there are some whose native language is Maratha or Goozerattee.

Rate of pay insufficient to secure competent Interpreters.

Appendix O 31.

Mr. Eales's Report.

Appendix O 32.

Dr. Conran's Report.

3408. Under all these circumstances we ought not to be surprised at finding the Interpreters by no means incorruptible; but it is due to them to say that we only find one case in which the integrity of an Interpreter has been questioned, and that case occurred at the end of 1867, when Goody Ramdoss, at that time Interpreter at Flacq, was reported as having taken a bribe of 2 rupees from a Sirdar on "Beau Champ" Estate. An inquiry was instituted into the circumstances of the case. These were not by any means satisfactorily explained, as it was at last admitted that a bribe was offered, though not accepted; yet the Interpreter never reported the incident to the Magistrate, and the Procureur-General therefore considered his conduct open to grave suspicion. Mr. Farquharson, however, to whom had been entrusted the duty of investigating the case, entertained doubts as to his culpability, and Goody Ramdoss was therefore given the benefit of the doubt, and reinstated in his office; he now holds a similar appointment in the District of Black River.

Case of Goody Ramdoss, charged with taking a bribe.

Appendix O 33.

3409. In the Appendix will be found a Return, called for by His Excellency Sir A. Gordon, shortly after his arrival in the colony, of the languages spoken or understood by the officers of the Stipendiary Courts; from which it will be seen that, at that time, in Flacq and Plaines Wilhems not one of the officers of the Court spoke or understood more than a very few words of Hindostanee or any other Indian language. In Grand Port the only official knowing any Indian language was the Messenger, who spoke or understood Tamil. In Port Louis and Pamplemousses, the Messenger spoke or understood Hindostanee or Tamil. In Rivière du Rempart, the Magistrate knows Hindostanee a little, whilst the first Clerk knew a little Hindostanee and Tamil. In Savanne, the Magistrate was returned as knowing a little Hindostanee; the Joint District Clerk being acquainted, in addition, with Telugu and Tamil. In Black River, the Magistrate, District Clerk and the Usher speak or understand Hindostanee; and in Moka, the District Clerk and District Cashier have a slight knowledge of Hindostanee; the Assistant District Clerk understands a little Tamil, and, besides, the Usher and Messenger understands Coringhy in addition to the other two.

Knowledge of native languages possessed by other officers of the Magistrates' Court.

Appendix O 34.

Flacq and Plaines Wilhems.

Grand Port.

Port Louis.

Savanne.

Black River.

Our own opinion is that, so long as in default of an appointed Interpreter, the Magistrates are dependent upon the services of the Peons or Ushers of their Court, men taken from amongst the immigrants themselves, with an education scarcely superior to that of the common labourers, it is impossible to expect that the Stipendiary Magistrates and their Courts will command the respect which it is absolutely necessary that they should possess.

The first great requisite is, that the Magistrates themselves should pos[illegible] knowledge of the language of the suitors in their Court, and the next that the Int[illegible]s of their

Court should be men of such education as to be competent not only to interpret in Court, but also to translate all documents produced, and should receive such salary as will raise them above the suspicion of corruption.

Extraneous duties performed by Magistrates.

3410. Before concluding the subject of Magistrates, we must call attention to the number of small ministerial duties, wholly unconnected with their judicial functions, that at present attach to the Magistrate's office; especially in those districts in which the amalgamation of the two offices of Stipendiary and District Magistrate has already taken place. The Magistrate is generally Chairman of the District Prison Committee; and in that capacity he ought to superintend almost daily the working of the Prison Regulations. He is bound once in every week to inspect the registers of the Civil Status of his district; to verify them, and to correct any mistakes which he may detect; an examination which in the district of Moka occupies two hours every Monday. He has to overlook the accounts of the District Cashier, and to countersign and certify all his books and accounts; although that functionary does not belong to his Department, but is an Officer of the Treasury and Audit Departments; so that the Magistrate is made use of to overlook that branch without having any practical control over it, and without having sufficient time to enter closely into its details. The Magistrate has moreover to sign every cheque on the paying in or drawing out of money from the Government Savings Bank; the only object of which may be, as Mr. Daly suggests, to exercise a certain moral effect in inducing Indians to place their deposits in the bank. To these we must add the occasional duties of holding inquests into the cause of death, and into the origin of fires, and under the Stipendiary Law of inspecting job-contractors' guarantees, engagement of estates' doctors, and until recently of visiting of estates, and reporting upon the condition of hospitals and camps thereon.

Prisons. Questions 12,079, 13,544. Ord. No. 17 of 1871.

Civil Status. Article 18. Question 12,057 *et seq.* Questions 15,297 to 15,304.

Accounts of District Cashier. Question 12,062 *et seq.* Question 13,446 *et seq.*

Savings Bank. Question 12,072.

Inquests. Question 13,453.

Fires. Job-contractors' guaranties. Engagement of doctors. Visits to estates. Magistrates' Staff. Question 12,079. Ord. No. 7 of 1865. Ord. 29 of 1865.

Magistrates' Staff.

3411. The staff of the Magistrates' Courts, in the districts in which the two Courts have been amalgamated, consists usually of a District Clerk, an Assistant District Clerk, a Stipendiary Clerk, the District Cashier, an Interpreter, and a Messenger and Usher. In some large districts, such as Flacq, Savanne, and Grand Port, there is a second Clerk, jointly with the District Clerk, though receiving a smaller salary. Where the Stipendiary Court still remains as a separate establishment its staff consists of two Clerks, an Interpreter, and a Peon.

The District Clerk. Question 12,037.

3412. The District Clerk acts as the Registrar of the District Court, drawing up the records of proceedings therein. He issues the summonses and warrants, and acts for the Magistrate in his absence, as regards the receiving of information and issue of warrants. He is further the Head Officer of Civil Status for the district, and he is the person generally appointed by the Magistrate to fix and remove seals on vacant estates. As Officer of Civil Status he must be in attendance at the office to receive declarations of death on Sundays, as on other days; a course which further involves the necessity of the attendance of the Interpreter for two or three hours during that day. This arrangement, towards the end of the year 1872, was objected to by Mr. Daly in Savanne, as the books of the Civil Status were kept in the office of the District Court of which he was the head; and he considered that the existing arrangement which deprives the District Clerk and the Interpreter, two hardly worked Officers of his Court, of a great portion of their Sunday's rest, was objectionable; and he therefore desired the Clerk not to open the office for any business whatever on Sundays, leaving it for applicants, in cases of urgency, to seek the Clerk at his private residence; an order which was not, however, approved by the Executive, and Mr. Daly received a severe rebuke for an unwarrantable assumption of the powers entrusted by law to the Registrar-General, to whom alone, in his capacity of Officer of Civil Status, the District Clerk was subject, although the office in which he sat as District Clerk was a part of the Magistrate's office, and subject to the control and orders of Mr. Daly as Magistrate.

He is the chief Officer of Civil Status.

Sunday work. Appendix O 35.

Mr. Daly's interference.

Mr. Daly severely rebuked for his interference.

Nature of Civil Status work. Question 15,315.

3413. His work as Officer of Civil Status occupies a considerable portion of the time of the District Clerk, as great care has to be taken to obtain accurate information before filling up the registers; and herein great difficulty is encountered arising from the ignorance of the officials of the Indian languages, and from the Interpreter being frequently engaged by his duties in Court, as, unless the District Clerk can make his inquiries in Créole, or can obtain the services of the Court Interpreter, he is reduced to take anybody he can pick up without authority o rantee of his qualification, who may happen to be about the Court, to interpret and make the necessary explanations.

Question 15,320.

Question 14. The duties of the Assistant Clerk are nearly the same as those of

the District Clerk, whom he assists in all his duties with the exception of signing warrants and taking informations under Ordinance No. 18 of 1857, Article 2, which authorises District Clerks to sign warrants in cases of urgency.

Magistrate's Staff.

3415. The duties of the Stipendiary Clerk are connected exclusively with the Stipendiary Court; and where these offices are not amalgamated, he is subject to the Stipendiary Magistrate alone. He enters up the Plaint Book; or, as Mr. Farquharson would prefer to call it, the Judgment Book; in which also he sometimes enters a short summary of the evidence of the witnesses, taken down at the time it is given. In districts where the amalgamation has taken place, he passes the engagements of labourers and the guarantees of job contractors.

The Stipendiary Clerk.

Question 10,747 *et seq.* Question 10,864 *et seq.* Question 12,044 *et seq.* Questions 10,864 to 10,867. Questions 12,073, 12,078.

3416. Ushers are appointed to the District Courts for the serving of summonses and orders, and the execution of warrants and writs of the District Magistrate, under Ordinance No. 34 of 1852, Article 17; and the fees they are entitled to receive are regulated by Section C of the same Ordinance; and in the Police Court the fees allowed to the Usher are the same as those received by the Usher on the criminal side of the District Court. In the Stipendiary Court the summonses are usually, as we have stated (paragraph 3237), served by a sergeant or constable of police, and the fees chargeable therefor are regulated by the Regulations under Ordinance No. 31 of 1867.

Ushers.

3417. We have already called attention to the allegation of the Hon. Mr. Kerr at the time the New Labour Law was under consideration (*vide* Chapter IX., *New Labour Law*, paragraph 569); that the Indian was more or less robbed by everybody: and we may here mention a case of this sort which was brought to light by Mr. Kerr himself very shortly after making the allegation above alluded to, viz. in February 1868: in consequence of the discovery that small sums of money had been extorted from two of his tenants—market-gardeners—by some of the subordinates in the office of the District Clerk at Plaines Wilhems. A Committee, consisting of Mr. Gautier, District Magistrate; Mr. Elliot, Chief Clerk of the Colonial Secretary's Office; and Mr. Charlton, Chief Clerk of the Audit Office, were appointed to examine into the charge.

Fleecing of Indians.

1868.

Case of Mr Kerr's tenants. Sir Henry Barkly's opinion.

3418. It appeared that the two Indians in question had applied at the Magistrate's Office for a permit to sell vegetables, when two young clerks who were employed as volunteers in the office, exacted a fee of sixpence from each for filling up the Form of Application, which the men, being unable to write, could not, of course, do for themselves—a charge which they had not the least right to make. This was done while Mr. Lomas, the District Cashier, sat by; and, although he heard the making of this unauthorised demand, he did not consider that he was

> "called upon to interfere when money was asked for to fill up a form by a person
> "who was not a salaried officer of the Government;"

and he did not wish to interfere with Mr. Ramart (one of the volunteers who asked for the money) in the matter: thus adding his support to the objectionable practice—that unless an Indian himself is conscious of being wronged, and complains thereof, it is no other person's business to protect him from the consequences of his own ignorance and helplessness.

Volunteers.

3419. The conduct of Mr. Lomas himself was not above suspicion, as another Indian, named "Canagasamy," declared that on one occasion he (Mr. Lomas) had asked for money on a like pretext: but the Committee did not consider the case to be proved as against him. He was, nevertheless, removed from the district of Plaines Wilhems to Black River (from which he was not long after dismissed for insubordination and drunkenness); and the two volunteers who were proved guilty were dismissed from the Public Service. The result of the Report made it evident, as Sir Henry Barkly pronounced,

Conduct of District Cashier.

Appendix O 42.

> "that an organised system had existed of fleecing Indians."

3420. We have not come across any other cases of similar dishonesty in the offices of Magistrates, but we do find cases of remissness and carelessness. Thus, in the Office of the Stipendiary Court of Pamplemousses, we find that for many months no return was ever made from that Court to the Immigration Office of the prolongations of contract which, by Article 25 of Ordinance No. 16 of 1852, and by Article 7 of Ordinance No. 21 of 1854, were required to be made monthly by the Stipendiary Magistrate to the Protector. On the 28th June 1865, Mr. Renouf wrote to Mr. Beyts requesting to know for how many months these statements had not been sent to the Immigration Office, and expressing a fear that the Clerk charged with the duty had

Negligence the Office of the Stipendiary Court of Pamplemousses.

Appendix O 51.

> "rather been remiss lately;"

and on the 13th July he at last forwarded the statements due, viz. for the seven months between November 1864 and June 1865.

Certificate issued to Ladkoo in 1872.

3421. In the month of August 1872, also, we noticed that a certificate of engagement had been issued to an Indian named Ladkoo from the same office very carelessly prepared; and as this document is producible in Courts of law as legal evidence of the engagement subsisting between the immigrant and his employer, the neglect became a matter of serious importance. We referred the case to Mr. Beyts, who ascertained that the engagement had been passed on the 14th February previous for six months. These points were not, however, stated upon the certificate, which, moreover, bore the year 1871 printed upon it and left unaltered. Mr. Renouf explained that this irregularity had occurred in his absence, and while Mr. Trouchet was acting for him, and that Mr. de Lachesnaye, the Clerk, had not filled up the certificate at the time of passing the contract; an omission which he regretted had escaped him through press of business.

Appendix O 88.

Mr. Renouf's explanation.

Bearers of warrants.

3422. Mr. de Plevitz, in his evidence before us, stated that wrong was done to the Indian portion of the population by the carelessness of the "Bearers of Warrants," or officers under the Department of Internal Revenues, to whom is intrusted the duty of serving notices of assessments, and, in the event of non-payment of the same, of seizing the goods of the defaulter; and who, if they have to serve a notice at a distance from town, will intrust the notice to any person they may chance to meet, and who they know lives near the man upon whom they have to serve the notice, at the same time certifying to personal service of the notice, and making the charge for having done so.

Question 315 et seq.

Statement of Mr. de Plevitz.

False Return upon a summons made by the Usher at Pamplemousses.

3423. Whatever may have been the *laches* of the bearers of warrants in this respect, we find a case in which this very practice was adopted by one Mr. Dubois, Usher of the District Court of Pamplemousses; though, in this particular instance, the party injured by his negligence was a European and not an Indian.

Appendix O 39.

Mr. Moodie, the Inspector of Police, had been summoned as a witness, and upon being called and not appearing, Mr. Rouillard, the Magistrate, seeing the summons certified as having been served personally, condemned him to a fine of £4; whereupon Mr. Dubois, the Usher, at once came forward and stated that his return was not correct; that he had not served the summons personally upon Mr. Moodie, but had left it at the police station, and directed one of the constables to give it to Mr. Moodie, should he call at the station, and if not, to take it to his private house; a proceeding which, coupled with a false return, Mr. Dubois did not appear to think constituted a serious breach of discipline on his part.

Battiaras.

3424. Lastly, we feel that these remarks upon Magistrates and their Courts would be incomplete, were we to pass over without mention a class of persons who, though not belonging to them, are, notwithstanding, to be found probably about all Courts in the Island, and who exercise a most mischievous influence among the Indian immigrants.

Appendix F 22.

Mr. Kerr's description of the Battiara.

They fleece Indians.

We allude to the persons known as "Battiaras," to whom also Mr. Kerr, in his speech against the Draft Ordinance of 1867, alluded as

> "persons of whose status he knew nothing, but who were to be seen at all times
> "prowling about the Courts seeking for victims, and who fastened themselves on to
> "bands of Indians coming to receive payment at the Treasury, 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."

Question 4371.

Question 11,822.

These persons also hang about the public offices and the doors of the District Courts, and seek to introduce themselves between the immigrant and the Magistrate, or the immigrant and the Officers of the Immigration Department, on the pretence of rendering the immigrant some imaginary service; under cover of which he of course fleeces his dupe.

...ion of Rajaruthnum.

3425. Our attention was forcibly drawn to the evil of such persons, in a letter addressed to us not long before our departure from Mauritius, by Rajaruthnum Moodeliar, one of the leading members of the Hindoo community in the Island, in which he directed our notice to certain letters which had in times past been written by him, and published in the 'Commercial Gazette' upon this subject; and blaming both the Magistrates for not setting their faces against the practices of these men, and the Government for not adopting restrictive measures to check their insolence.

Appendix O 40.

Action taken by the District Magistrate of Pamplemousses.

3426. We think that upon this latter point at least Mr. Rajaruthnum is mistaken, for we find that in 1870 Mr. Mayer, the District Magistrate of Pamplemousses, forbade one Célicourt Duval to have access to any branch of his office, except upon matters personal to himself or his family, on account of the complaints that were continually brought of his insolence, which had culminated in his calling

Appendix O 41.

Cashier an ass; an outrage which appears to have exhausted the patience of the District Court Staff, for they submitted a joint address to the Magistrate, praying him to take such steps as would prevent Mr. Duval from continuing to hinder and disturb them in the quiet and lawful discharge of their duties. Mr. Mayer fined Mr. Duval £3, but, as this did not cure the annoyance, Mr. Mayer had recourse to the prohibition before stated.

Battiaras. They fleece Indians. Action taken by the District Magistrate of Pamplemousses against Duval.

3427. Mr. Duval petitioned Sir Henry Barkly for the removal of this ban, but Mr. Mayer reported upon it that his only motive had been

> "to do all that lawfully lay in his power to put a stop to the kind of swindling
> "which was daily practised by the Battiaras and General Agents who loitered
> "about his Court."

They were, he said, so clever in taking advantage of the ignorance of those whom they persuaded to employ them, that no charge of embezzlement, or obtaining money under false pretences, could be established against them so as to bring them within the operation of the Penal Code; and yet he had not the slightest moral doubt that they were really guilty of dishonest practices, and that, among them, Mr. Duval was one of the most disreputable. Under these circumstances, Mr. Colin, the Procureur-General, advised Sir Henry Barkly to decline to interfere in the matter.

3428. We find the same individual again complained of in November 1871 by Mr. Trouchet, who submitted that the best mode of putting a stop to the system of wholesale swindling followed by Mr. Duval would be to withhold his licence. Mr. Colin, however, advised that, as the law then stood, such a course could not be adopted; but, within a month he submitted to His Excellency the Governor, the Draft of an Ordinance which passed as Ordinance No. 6 of 1862,

> "to authorise the withholding of certain licences in special cases."

Duval complained of by Mr. Trouch...

Even this Ordinance does not appear to have been effective in repressing Mr. Duval; for we further find that on the 12th June of the same year he was charged by the police before Mr. Baudot, the Acting District Magistrate, with swindling an Indian named Buttoo out of two rupees, on the pretext of procuring an extract of birth for him from the Officer of Civil Status. This he did not procure, and for the offence he was sentenced by Mr. Baudot to an imprisonment of six days and to pay the costs; a sentence far too lenient we think for such an offence, especially if we compare it with the long terms of imprisonment so readily imposed upon labourers for breaches of the Labour Laws.

Duval imprisoned for swindling.

3429. We entertain no doubt but that Indians are preyed upon and swindled by these persons. At the same time we fear no legislative enactment can entirely prevent the ignorant and credulous from becoming the victims of the crafty and unscrupulous, any more than the former can be always protected in our own country from the dishonesty of a low class of legal practitioners; and we must further remember that the being cheated by Battiaras is no way peculiarly connected with Mauritius, as we believe in no country does the Battiara class flourish and meet with greater success than in India itself.

Conclusion of the Commissioners respecting Battiaras.

Chapter XXXI.—*Prisons and Prison Discipline.*

Plan of inquiry.

3430. It has been repeatedly shown in the course of this Report, that the most common punishment inflicted on persons convicted of offences against the Labour Laws is imprisonment; but it yet remains for us to examine the treatment experienced by prisoners, and the nature of the work upon which they are employed, and to consider how far such is likely to act as a deterrent upon them, so as to mitigate the evils of vagrancy and absenteeism, which form the subject of such loud and general complaint in Mauritius.

Prison discipline before 1864.

3431. We have seen (Chapter XVIII, *Illegal Absence*, &c., paragraph 2000 and following) the unsatisfactory state of prison discipline which, according to Sir H. Barkly, prevailed in the colony previous to 1864, and which induced him to pass the law (Ordinance No. of 1864) establishing the Vagrant Depôts. But excellent as was the idea of separating ...condemned merely for idleness and breaches of the labour laws from criminals of ...r dye, it is evident that unless the Vagrant Depôts, and the labour exacted from ...ed vagrants while there, were more irksome to them than their legitimate labour ...estates, such sentences would be perfectly useless as a means of repressing the ...which they had been condemned; and we will therefore now see how far the ...prison discipline, so justly complained of by Mr. Rennards (see paragraph ... H. Barkly in 1864, had been reformed eight years later.

Nine main prisons.

3432. There are, at the present time, nine main prisons in the Island, one in each district, exclusive of the Vagrant Depôt at Grand River, which we visited, as also we did the District Prisons of Savanne, Grand Port and Plaines Wilhems, situated respectively at Souillac, Mahébourg, and Rosehill. They consist of a considerable space of ground enclosed by walls, within which are the dormitories, kitchens, hospital and shed, under which indoor work is performed, together with the Gaoler's dwelling. These buildings, however, occupy but a comparatively small portion of the enclosure, the remainder of which is partly laid out as a garden and partly in gravel for the prisoners to walk and sit upon, when not locked up for the night.

District prisons visited by Royal Commissioners.

Garden of Mahébourg prison.

3433. Nothing can exceed the care and neatness with which these establishments are kept; the garden inside the prison at Mahébourg, especially, being one of the most brilliant and best kept of any which we saw during our stay in the colony, a state of things which, while reflecting the greatest credit upon the taste of the Gaoler, cannot in any way tend to enhance the terrors of imprisonment in the eyes of vagabonds and evildoers. The Dormitories are lofty, and appear to be well ventilated* by large windows running nearly the whole height of the front wall of the buildings; they vary in size, some, if we remember rightly, being constructed to accommodate as many as forty inmates, while others are adapted for smaller numbers.

Dormitories.

Cleanliness.

The prisoners lie upon a sloping platform running round the wall and raised about three feet from the floor, the planks of which are moveable so as to admit of being taken up and washed frequently, and nothing could exceed the cleanliness which appeared to prevail in the prisons which we saw.

No separation at night.

It is, however, we think, objectionible, that there should be no separation of any kind between the prisoners at night, for although there may be no crowding when less than the complement occupies a ward, it must be otherwise when there is the full number, and the huddling together of a number of men in such a manner is certainly in our opinion indecent, and should be altered.

Ord. 31 of 1858.

Prison Committees.

3434. By Ordinance No. 31 of 1858, the direction of prisons was placed under Committees, consisting—1st in Port Louis of seven members, viz. the Procureur-General, the chief Medical Officer, and five others appointed annually by the Governor; and 2nd in the districts of five members, viz. the District and the Stipendiary Magistrate, the Medical Officer, and two or three others (according as the two Magistracies are separate or united in the same person) appointed in a like manner by the Governor.

Power of framing Regulations.

3435. By the 10th Article of the same Ordinance power is given to the Prison Committee of Port Louis to pass regulations for carrying out the purposes of the Ordinance, both in the prison of Port Louis and in those of the districts subject to the approval of the Governor.

Proclamation 22nd Nov. 59.

Appendix T 1.

Under the power so conferred, a set of 234 Regulations was drawn up by the Prison Committee, and published by a Proclamation of Governor Stevenson on the 22nd November 1859.

Present system of discipline.

3436. We think it unnecessary to dwell upon any notices regarding prisons from that time until the present, and will therefore show what is the present condition of the prison system, as it has existed since the assumption of the Government by Sir A. Gordon, and as it was described to us in the evidence of Magistrates, and others specially concerned therewith.

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* Since writing the above, we have seen the 'Digest and Summary of Information respecting Prisons in the Colonies,' laid before Parliament in 1867, to which we feel bound to call attention, as differing so widely from the impression produced upon us, and described above.

On page 16 of the 'Digest' we find:—

"The total contents of all the four wards in the prison at Gra... Port (*i.e.* Mahébourg) taken together
"(exclusive of a solitary cell) are less than 28,000 cubic feet; the total area is 1810 square feet. Th
"smallest number of prisoners confined in them at any one time during the last 5 years has been 69; th
"largest, 531; average, 195. There is therefore provided for the average number of prisoners less tha
"9½ superficial, and not quite 140 cubic, feet per head; but for the greatest number less than 3½ supe
"ficial, and less than 53 cubic, feet per head; and in this space they are locked up for at least 11 hou

A little further we find:—

"The Black Hole at Calcutta, according to Mr. Holwell's account, was a cube of 18 feet. T
"ber of its victims was 146. Each, therefore, had 2·219 superficial and 40 cubic feet. The
"at Grand Port, when most crowded, have had only a third more area and about a half.
"Further, the Calcutta had two small open windows into the outer air; but in the Mauriti
"seems that the windows are closed at night, and that the only ventilation is by small
"the door, opening apparently into the entrance passage."

The last inference is, we think, incorrect, for, as far as we can recollect, the doors ope
the yard.

Our visit was made about midday, when all was open.

The Earl o Kimberley' observatio

Appendix T 2.

3437. By a Circular Despatch, dated 15th April 1871, Lord Kimberley called the attention of the Governor to certain correspondence presented to Parliament, arising out of the digest and summary relative to Colonial Prisons which accompanied the Duke of Buckingham's Circular Despatch of the 18th of June 1867; and his Lordship shortly reviewed the results of colonial experience as modifying or confirming rules granted solely or chiefly on English experience.

1st. As to prison diet; Lord Kimberley observed, that while your Majesty's Government continue

"to regard as highly important the principle of making hard fare a material
"element of prison discipline, they were not to be understood as aiming at
"uniformity on the subject, or as advising the indiscriminate adoption in the
"colonies of rules founded solely on English experience."

3438. He had already noted the difference of the conclusions arrived at on the subject by authorities in different colonies, under conditions, to all appearances, substantially the same, and cited as an instance, that while the Inspector of Prisons in Antigua considered negro prisoners overfed on a diet which was equivalent to 176 oz. of white bread a week, the authorities of Mauritius, both civil and medical, did not consider as excessive a scale of diet equivalent on the average to about 250 oz. of bread a week; and his Lordship very naturally observed, that

"the difference of constitution between Negroes and Coolies cannot account for this
"divergence, and indeed might have been expected to lean the other way."

Observations of the Magistrates.

Appendix T 3 to 10.

Appendix T 5 and 8.

3439. The Magistrates to whom the Circular was referred, reported that the diet was sufficient, and in their opinion required no improvement, though Mr. Baudot, in Flacq, and Mr. Farquharson, in Rivière du Rempart, mentioned that there had been complaints from prisoners on the ground of insufficiency; they did not, however, attach any weight to these complaints. Mr. Farquharson adding, on the authority of the Gaoler, that some prisoners could not consume the whole of the rations dealt out.

Rations.

Question 15,452.

3440. These rations consist in the case of prisoners imprisoned for periods above a month of a daily allowance of

12 oz. of bread.
8 oz. of rice, cleaned.
4 oz. of dholl.
2 oz. of salt-fish.
½ oz. of salt.

Three times a week they get 6 oz. of tripe, or fresh fish in the country districts where tripe is not procurable; and on Sunday they get 6 oz. of fresh meat, or 4 oz. of salt-fish and ½ oz. of ghee, if fresh meat be not procurable.

The diet for prisoners under sentences of less than a month is the same, with the exception that they receive only 2 oz. of dholl and 4 oz. of tripe twice in the week.

Rations at the Vagrant Depôt.

Appendix H 1. Report of the P. E. C. Appendix No. 4. Vol. II. Question 850.

3441. The diet as given at the Vagrant Depôt is nearly the same, the only difference being, that in addition they get 2 oz. of green-bredes and 1 oz. of pot-herbs, and that they get 2 oz. instead of 4 oz. of tripe, but with the addition of ½ oz. of gingely oil.

Dr. Reid's evidence as t prison diet.

This dietary was, Dr. Reid informed us, recommended by him to the Colonial Government in 1868, and has been reported ever since to have given satisfactory results, being more varied and nutritious, yet less costly, than the dietary which existed before, in which the quantity of meat given weekly was 24 oz. He combated the idea that this scale was excessive, as implied in the Circular Despatch, and in support he quoted the authority of Professor Letheby, who pronounced 2¼ lbs. of bread per diem to have been a "barely sustaining diet" for an average adult man, at the time of the Lancashire cotton famine: and from this Dr. Reid argued that, even assuming the 250 oz. of bread per week, as mentioned in the Despatch to represent correctly the weekly diet of a prisoner, this would only give 35⅝ oz., or 2 lbs. 3⅝ oz. per diem., or ⅜ of an ounce less than Dr. Letheby's estimate.

Dr. Reid's opinion questioned.

3442. We confess to feeling great diffidence when criticising any statement made to us by so good an authority as Dr. Reid upon a purely sanitary question, but we cannot but think that the case of the English operative accustomed to a meat diet, and suddenly reduced to want, as in Lancashire, is scarcely parallel with that of the rice-fed Coolie in a tropical climate.

Diet on esta and in pris compare

3443. But whatever may be the view of the question from a medical point, it will not affect it in considering how far such diet is "low fare," and likely to be a punishment to those subject to it. And here at once we are startled to find that, while the

allowances given daily in prison amount in the aggregate number of ounces to only one less than are given on estates, viz. 26¼ oz. as compared with 27⅜ oz., and further that, whilst on the estates,* as we have shown elsewhere, it is quite the exception to supply salt-fish, in prison this is given, as are also other condiments, such as the green-bredes and pot-herbs, which the Coolie on estates does not get, unless, of course, he provides them for himself.

Nine n prisons.

District ons vis Royal C nission

Prison diet better than diet given on estates.

Garden Mahéb prison.

3444. Without, therefore, disputing Dr. Reid's opinion that the dietary scale of prisons in Mauritius may be necessary for the preservation of health, we nevertheless agree with Mr. Dempsey, the Inspector of Prisons, and with Mr. Martenson, the Police Inspector in charge of the Vagrant Depôt, that the prison diet is better than on estates, if not in actual quantity, most certainly in variety and attractiveness; and, therefore, that on the score of diet, at all events, imprisonment is no punishment to a Coolie immigrant.

Questions 15,451 and 15,455. Questions 10,236 and 10,237.

Classification. Dormit

Mr. Mayer's observations

3445. 2nd. With respect of classification mentioned in Lord Kimberley's Circular, we do not think we can do better than quote verbatim the observations of Mr. Mayer, the District Magistrate of Pamplemousses, who wrote—

Appendix T 7.

"it is very defective, at least in our rural prisons. Criminals condemned by the "Court of Assizes to the longest terms of imprisonment for the most serious "offences, simple misdemeanants, and persons incarcerated merely because they "have not been able to pay their fines (and even in some districts those who are "imprisoned in default of payment of costs) are all treated in the same manner. "At night they are locked up indiscriminately in the same wards, and in the day-"time they are sent out to work together; and the same amount of labour is "required of all. This is due principally to two causes:—

"1st. The defective construction of our prisons.

"2nd. The class of men we have for prison guards.

"A third cause, but one which might easily be made to disappear, is the habit "adopted of sending ou .o the rural gaols felons condemned in Port Louis to "hard labour for many years."

ison Defective con- itte construction of risons.

3446. This account is corroborated by the Reports of Messrs. Baudot, Farquharson, and d'Emmerez de Charmoy, who all assign the construction of the prisons as rendering classification an impossibility; and by Mr. Dempsey, who told us that in Port Louis, as far as practicable, separate accommodation was given at night to European prisoners; but that in the daytime there was no division, felons and misdemeanants being all commingled.

Appendix T, Nos. 5, 8, and 9. Question 15,447.

owe mili tion The separate system.

3447. 3rd. The next point mentioned in the Circular Despatch was the Separate System, and the expediency of introducing it; and of this we need say no more than that the Magistrates, though believing it to be the best, pronounced the adoption of it to be out of the question, as the reasons rendering classification impossible apply with greater force to the separate system.

Why impos- cticable in Mau- 22nd ritius. 59.

Overcrowding resen in Port Louis. m c inc.

3448. In Port Louis there were confined in December 1872 close upon 600 persons, of which 324 is the utmost number that could be accommodated in the gaol, consistently with allowing to each prisoner the cubic space required by regulation, though Mr. Dempsey seemed to imply that the number in the gaol sometimes was as high as 500. The remaining prisoners are confined in a large dormitory, about half a mile from the gaol, at Trou Fanfaron, where also there is a hospital; and this is capable of containing above 200 persons. This place cannot, we should imagine, be very secure; for, though upstairs, it is open to the road, and the only guard to control both it and the hospital consists of a hospital attendant, three guards, one peon, and four good-conduct prisoners. It is, therefore, not surprising to find that felons are not sent thither.

Question 15,426. Question 15,479. Question 15,433. Question 15,434 *et seq.*

Dormitory at Trou Fanfaron.

Cells in Port Louis gaol.

3449. In the gaol itself, the utmost number for which there could be cell-accommodation, if the separate system were introduced, would be 170, including the 13 cells usually allotted to females.

Port Louis gaol declared "useless" by Mr. Dempsey.

3450. Mr. Dempsey was unable to suggest any means of improving it. He thought that it might be still useful as a prison for debtors, females, untried persons, and, perhaps, men condemned by the Police Magistrates to short sentences for trifling offences; but as a criminal prison he declared it to be useless.

Question 15,475.

Separate sys- impracti- in dis-

3451. In the district prisons, to carry out the separate system would at present be impracticable, as in that at Souillac, in Savanne, which Mr. Dempsey considers to be the best in point of construction, there are but six separate cells.

Question 15,486.

* We have taken the 1 lb. quantity of rice given as 1½ lb. *cleaned*. The gross quantity usually given is 1¾ lb., but by the cleaning it is reduced as near as possible to 1½ lb.

Hard labour.

3452. 4th. The last point specially mentioned in Lord Kimberley's Circular related to hard labour; and he reiterated the warning against sacrificing

Lord Kimberley's warning against short sighted economy.

"such efficacy of punishment as can only be obtained by penal labour, that is "labour by treadwheel, crank, or shot-drill, to any consideration of the immediate "profit to be derived from the industrial labour of prisoners;"

and he proceeded to cite the cases of Sierra Leone, St. Lucia, and Ceylon, in which the application of this principle had been attended by the most satisfactory results.

Mr. Baudot's opinion. Prison discipline "a perfect mockery." Prisons are utopias to labourers.

Question 13,829. Questions 13,070, 13,073, 13,079, 13,088, 13,096. Questions 14,499, 10,814, 10,815, 13,544. Question 14,152.

3453. We can only endorse the opinion of Mr. Baudot respecting prison discipline in Mauritius, viz. that it is a "perfect mockery," an opinion corroborated by the general testimony of the Magistrates; while among the planters, Mr. Hardy told us that now when he threatens labourers with imprisonment (and few planters have less occasion to do so than Mr. Hardy) they simply answer, "Very good, we shall be well off there."

Provisions of Ord. 31 of 1858 and Regulations.

3454. By Article 38 of Ordinance No. 31 of 1858, and by the 22nd Regulation thereunder, every condemned prisoner, unless specially exempted from labour by his sentence, is ordered to work at whatever kind of labour he may be appointed to by the keeper, under the directions of the Committee, and by the 27th Regulation *hard* labour is declared to consist of one hour's additional work in each day.

Punishments under Labour Laws.

3455. The punishment for offences under the Labour Laws consists in most instances of imprisonment only, no mention being made of *hard* labour; for though by Ordinance No. 42 of 1844 the latter punishment is awarded for vagrancy, the punishment under Ordinance No. 4 of 1864 (which, while not repealing Ordinance No. 42 of 1844, is, nevertheless, intituled an Ordinance "to amend the Law as to the Punishment of "Vagrants") consists of imprisonment only. We were, therefore, surprised at finding that on the warrants of commitment were universally printed the words "with hard "labour," and that these were indiscriminately used in all cases without erasing the words which appeared to award an enhanced penalty; we were, however, reassured on finding that, although the warrants prescribed hard labour, this injunction is disregarded, for the simple reason that in no prison, except the gaol of Port Louis, has there ever existed such a punishment; and consequently all prisoners, of whatever degree, have been subjected to the same discipline, the nature of which we will now describe.

Warrants of commitment "with hard labour."

All degrees subject to same discipline.

Discipline of Port Louis gaol.

Indoor and out-door. Shot-drill. Profitable labour.

Question 15,409 *et seq.*

3456. In Port Louis gaol the labour is divided into in-door and out-door labour: the former consisting of stone-breaking, rope-making, tin-smiths' work, tailoring, carpentering, mat-making, and shoe-making; and also shot drill, which, however, is only used in default of there being any other work in demand.

Question 15,468 *et seq.*

3457. Work is done apparently for any one who will pay for it, also for the Store-keeper-General, who derives from this source the work which he requires for his Department; and all the clothes and boots required in all the prisons of the colony are also made in the gaol of Port Louis: labour from which the net return for the year was on the 10th December 1872, £370 10*s.* 6*d.* out of gross receipts of £824 16*s.*

Stone-breaking.

Question 15,412 *et seq.*

3458. For stone-breaking, rough stones are supplied by the Municipality, who also cart it away when broken. The daily task varies according to the different size of the metal required: that allotted to the "hard-labour men" of 14 baskets (of 75 lbs. each) of 1½-inch Macadam,* or 6 baskets of ¾-inch Macadam; whilst the "labour-men" render 12 and 5 baskets, according to the respective sizes of the Macadam; and in the case of a still finer Macadam of ½-inch, the task is respectively 4 baskets and 3.

Indoor prisoners.

3459. As a rule, however, those only are retained at in-door labour who cannot be trusted out for fear of escape, those under punishment for prison offences, those who are working at trades, and invalids.

Outdoor labour the rule.

Out-door labourers.

Hours of labour.

Question 15,392 *et seq.*

3460. Out-door labour, therefore, is the rule, and here there is no distinction between the degrees of labour; "hard-labour men" doing no more than "labour-men," and working the same number of hours. These are laid down by regulations, and are as follow:—

From April to September, from 6 A.M. to 5 P.M.
From October to March, 5.30 A.M. to 5 P.M.

From which hours, however, must be deducted the time occupied in going to, and coming from, the work, and the meal-hour.

3461. On going out in the morning the prisoners are handed over to whatever

* "Macadam" is the name commonly given in Mauritius to broken road-metal.

Discipline in Port Louis.

Department may be employing their labour: whether the Surveyor-General, the Port Department, or the General Board of Health, which respective Departments control the men's work during the day.

3462. We readily admit that, at first sight, these hours appear to be sufficiently long, and that the being compelled to work for an hour and a half longer than can (under Article 22 of Ordinance No. 31 of 1867) be required of the field-labourer, might be a deterrent to idlers and criminals, if such hours were really employed in working, which we shall now show that they are not.

Prison guards.

3463. The prisoners are sent out to their work under the charge of guards furnished by the Prison Department. In Port Louis these have long hours to work, some of them living at a considerable distance from the gaol.

Question 15,399. Question 15,497.

"They have to awaken themselves in the morning to be inspected, and take over "the prisoners before these are turned out; and they have to wait in prison till the "prisoners are locked up."

Each guard is in charge of ten prisoners, but where two guards go out with a band they take charge of fifteen. They are, judging from personal observation, for the most part Créoles or Indians; many of them are old, and too inactive to do anything else, and their only weapon is a short policeman's truncheon.

Question 15,462.

3464. Under such circumstances it is perfectly obvious that Mr. Dempsey must be quite correct when he tells us that it is impossible they can be very strict, and that if the prisoners chose to go away the guards could not prevent them, any more than they can prevent their retiring from the road-side on which they are working into the cane-fields, and there meeting their wives or any other friends who may choose to come and see them, and supply them with tobacco, spirits, or whatever they may most fancy, especially if the guard be, as Mr. Dempsey has himself found, and we have often seen, slumbering tranquilly under his umbrella.*

Question 14,407. Question 15,496 *et seq.*

3465. It is not to be wondered at, therefore, that in the rural districts, where, as a rule, every available man is sent out to work on the roads, the Magistrates should report in answer to Lord Kimberley's Circular, that

Hard labour ("unknown" in Mauritius.

Mr. Mayer's opinion.

Mr. Mayer to Colonial Secretary. Letter No. 64 of 14. 9. 71. Appendix T 7.

"Hard labour is unknown, even that amount of simple labour to "which the prisoners are supposed to be put is not exacted from them, "and it is a well-known fact that common-labourers in the fields furnish "every day much more work than the prisoners do;" or,

Mr. Farquharson's opinion.

Mr. Farquharson to Colonial Secretary. Letter No. 71 of 11. 9. 71. Appendix T 8.

"that the work performed by the prisoners cannot at "all be considered as constituting a punishment,"

and that

"were it not for this loss of freedom (Mr. Farquharson is confident that) three-"fourths of the prisoners would prefer going to prison to working on estates;"

Mr. de Charmoy's opinion.

and Mr. d'Emmerez believes

Mr. d'Emmerez to Colonial Secretary. Letter No. 192 of 6. 10. 71. Appendix T 9.

"that not one of the prisoners condemned to hard labour will give on "an average more than one-third of the work which would be per-"formed by a free labourer, little profit is certainly derived from prison "labour, and much more could be easily obtained if the sentences were "carried out in reality."

"Inefficiency of the guards."

3466. Both Mr. Mayer and Mr. Farquharson wrote strongly of the inefficiency of the guards, who, according to the former,

"are much more anxious to be on good terms with those under their charge than "to force them to work, the result being many irregularities, which it is almost "impossible to prove against the guards who connive at them;"

Vagrant Depôt guards.

and we learn from Mr. Martenson that the same is the case at the Vagrant Depôt, where the guards are Indian constables; for he told us that these rarely make any complaints against the men under their charge, the most common complaint being that the work is neglected by the vagrants, in order to talk to their friends who come to see them.

Questions 10,344 and 10,345.

Case of Baptiste Jacques.

Overseers of prisoners.

3467. Mr. Mayer cited a case proving that, owing to the laxity and timidity of the guards, acts of great brutality may be committed upon prisoners without ever becoming known to the authorities. In August 1871, two prisoners were in Pamplemousses Prison —the one, Lingayah, an Old immigrant, condemned to 14 days for illegal absence—the other, Baptiste Jacques, for 20 years for manslaughter. On the 22nd of that month,

* We have even *heard* that such a case had been known as for the guard to be brought back by the prisoners he was supposed to be guarding in a hand-cart, having got helplessly drunk at a neighbouring Chinaman's shop.

Case of Baptiste Jacques. Overseers of prisoners.

Question 11,843.

Baptiste Jacques, who was an overseer of prisoners, as is allowed by Article 44 of Ordinance No. 31 of 1858, and was besides a powerfully-built man, and one of a determined character, assaulted Lingayah so brutally as to break three of his ribs; yet such was the dread in which Baptiste Jacques was held, that neither the guards nor any one of the other prisoners who were present at the time, nor even Lingayah himself, dared to report what had taken place; nor was it known until, on Lingayah's release shortly after, he mentioned it to his master, who sent him to the hospital, where he died a few days after. Still, however, no information whatever could be got from the guards about the matter, and from those who still remained in prison, while positive evidence was given by parties who had been present when the offence was perpetrated, but whose sentences had expired: and we therefore cannot regard the fact of his acquittal at the Assizes (although impressed upon us by Mr. Felix Poulin, who had defended him) as a conclusive proof that Baptiste Jacques did not by his brutal conduct cause the death of Lingayah.

Question 11,846.

Mr. Daly's opinion regarding prison discipline in Mauritius.

Question 13,544.

3468. The evidence of Mr. Dempsey, and the opinions of the Magistrates above quoted, coincide with those of Mr. Daly, who, at the time the Circular Despatch was sent, had only just arrived in the colony, and consequently made no detailed report. Seventeen months later, however, when examined by us, he considered that there was a great defect in the matter of punishment; and that, with an improved prison discipline, there would be no necessity for increasing punishments, and would be of material assistance in carrying out the Stipendiary Laws; but that, at present,

"prison has no terrors for the Indian; in addition to which no great punishment, "good health, a great deal of liberty, and no strict surveillance, are secured to him."

Flogging recommended by Mr. Daly under special circumstances.

Question 13,546.

3469. Mr. Daly, while deprecating the infliction of cruel punishments, does not hesitate to recommend that of flogging under special circumstances, and, in support of this view, he mentioned his own experience whilst at Flacq, in the prison of which he found a continual failure to obtain more than one-fifth of the proper task from a large number of men labouring upon the roads; and on finding that the gaoler, instead of reporting 30 baskets as the day's task of each man, would report but two or three; that the Surveyor-General's Department was complaining; and that the guards were evidently unable (possibly also, we might add, unwilling) to make them do more work, 22 of the worst offenders were brought before the Prison Committee, and were ordered to receive 10 lashes each. This produced a very marked change in the amount of work rendered by the men.

Mr. Baudot against flogging under any circumstances.

Mr. Baudot to Colonial Secretary. Letter No. 18 of 18. 9. 71. Appendix T 5. Questions 11,052 to 11,055.

3470. Some Magistrates, among whom is Mr. Baudot, who was Mr. Daly's predecessor at Flacq, would shrink from inflicting a flogging under any circumstances, regarding it as a barbarous punishment, and a remnant of slavery, and holding that the sooner it is done away with the better: and acting upon these humane feelings the Prison Committee had for years set their faces against it, until the necessity became so apparent that it was decided upon.

Power of flogging desirable.

Question 13,548. Appendix F 27.

3471. We are disposed rather to agree with Mr. Daly and with Colonel O'Brien, that it is desirable to have the power and sometimes to use it, as there are characters who cannot be moved to work by any other means. As an example of such, we may refer to the case of Koosialsing, which we have given at length in a former chapter (see Chapter XV., paragraphs 1351 and following), who was repeatedly condemned to imprisonment for desertion and for vagrancy, and when in prison refused to work on the pretence of being sick, and who, on being given to understand that if he did not render his prison task he would be flogged—a threat which had the desired effect—for Mr. Daly subsequently informed us that he was working well, and that there were no more complaints against him.

3472. Whilst, therefore, we should shrink from recommending the lash as a punishment to be awarded under ordinary circumstances by Stipendiary Magistrates for mere breaches of the Labour Law, even though it were so aggravated a case as that suggested by Mr. d'Emmerez as meriting the infliction of a flogging—viz., the third offence of desertion—we are of opinion that it should be used as a means of enforcing discipline upon obstinate idlers who have been condemned to imprisonment, but who refuse to fulfil their tasks; for it is perfectly evident that, as at present constituted, the prisons in Mauritius are simply an abuse, and an unnecessary expense to the colony.

Prison system of Mauritius useless.

3473. Indeed, the prison system there appears to us to labour almost under every defect which can be conceived, for whilst the mere loss of liberty is quite sufficient to inflict cruel irritation and oppression upon a man condemned as so many have been for

Flogging under certain circumstances recommended.

some trifling irregularity in his papers, especially if he should have a garden or animals which may suffer from his absence; the system is wholly useless as a deterrent to the real vagrants, idlers, or criminals, seeing that they receive a more varied diet, do as little work as they please, and that in the prisons themselves there is nothing but what is attractive, and that in the Vagrant Depôt there is, except on rare occasions, no Sunday *corvée*.

Small number of escapes from prison.

Questions 10,339. 10,359. Questions 15,406, 15,498.

3474. We cannot cite a better proof that the prisoners themselves are of this opinion, than by calling attention to the infrequency of escapes, which fact is dwelt upon both by the Magistrates in their Reports upon Lord Kimberley's Despatch and by Mr. Dempsey in his evidence.

Escapes from the Vagrant Depôt.

Questions 10,313 to 10,315. Appendix T 13. Appendix T. 14.

3475. The only witness who complained of the number of escapes was Mr. Martenson. He handed in a Return of the numbers who have escaped from the Vagrant Depôt between January 1st 1868 and December 31st 1871, from which it will be seen that the total number of escapes in those four years amounted to 427 out of 20,165 prisoners received into the Depôt in the same period, thus showing a proportion of a little over two per cent. The year in which the proportion was highest was 1869, in which there were 203 escapes out of 6932 vagrants received; but considering the reckless manner in which Indians were arrested and condemned during that year, and the very slight precautions* taken to keep them when so arrested and condemned, we cannot regard 2·928 per 100 as at all a high rate, but rather as confirmatory of another answer of Mr. Martenson, that many Indians prefer the Vagrant Depôt to working on estates.

Question 10,323.

Chapter XXXII.—*Finance.*

Ordinance No. 2 of 1842.

3476. On the opening of emigration from India in 1842 the sum of £25,000 was by Ordinance to be appropriated each year from the revenues of the colony, to be especially employed in providing passages for immigrant labourers, and for defraying other expenses incidental to free immigration.

Ordinance No. 7 of 1842.

3477. The manner in which these funds were to be disposed of was subsequently determined in Ordinance No 7 of the same year, which, in addition to the above sum of £25,000 per annum, provided that no other tax could be better appropriated to this expenditure than a consumption duty upon rum and arrack manufactured in the colony, as well as upon spirits, wines, and brandies imported from abroad.

The produce of these taxes, after paying the expenses of collection, were appropriated to the payment of the passage attendant upon emigrant labourers coming to Mauritius, or of those entitled to a free passage on their return, and to all other expenses consequent upon immigration.

Advances from the Treasury for Emigration.

3478. An advance was to be made from the Colonial Treasury for the payment of the cost and expenses of immigration, to be reimbursed by the taxes so levied, and accounts were to be furnished to the Council of Government every six months of the proceeds of the taxes and payments on account of the emigration.

Revenue and expenditure of the Immigration Fund from 1842 to 1847.

Blue Book No. 749, 5th Sept. 1848, p. 382.

3479. In the statement of revenue and expenditure of the Mauritius Immigration Department from 1842 to 1847 we find that the revenue and expenditure amounted in the following years as under:—

Year.	Revenue.			Expenditure.		
	£	s.	d.	£	s.	d.
1842	157	10	0	1,480	0	0
1843	10,903	16	1	196,827	11	5¼
1844	29,511	18	0¾	123,814	17	0
1845	38,583	8	5½	61,839	18	6
1846	62,390	9	2¾	41,098	11	1¾
1847	98,194	5	5¼	50,270	0	8

* In support of this statement, we may cite the case of the prison hospital at Mahébourg, situated just outside the village, about a quarter of a mile from the prison. It is quite open to the road, and is inclosed only by a low wall of about four feet in height, thus allowing any prisoner to walk out at any moment that he might feel disposed to do so.

showing an excess of expenditure in the years—

	£	s.	d.
1842 of	1,322	10	0
1843 of	185,923	15	4¼
1844 of	94,302	18	11½
1845 of	23,256	10	0¾

and an excess of revenue in the years—

	£	s.	d.
1846 of	21,291	18	1
1847 of	47,924	4	9¼

Excess of Expenditure.

Blue-book No. 61 of 1847, p. 116.

3480. In their letter of the 27th July 1847 the Land and Emigration Commissioners pointed out that the balance against the emigration fund was in—

	£
1844	245,475
1845	255,200
*1846	286,660

Recommendations of the Emigration Commissioners in 1847.

and that hitherto no practical inconvenience had arisen from it farther than a suspension of the public works, as the greatest part of the deficiency had been made good by an accumulated surplus of revenue intended for public works, but that the surplus was then exhausted. They, therefore, offered their opinion against any increase of emigration, beyond the 6000 annually sanctioned, until it should appear by experience that under some law there was a certainty of providing adequately for the expenditure.

Opinion of the Council upon the recommendation of the Emigration Commissioners in 1847.

8th General Report, 17th May, 1848.

3481. To this Report the Immigration Committee of Council took objection, and reported that although the taxes voted for emigration had previously to 1846 proved insufficient for the service, there had always been a surplus of the general revenue, after providing for all necessary public works, and that during the last two years the receipts directly applicable to emigration had been greater than the expenditure, and they observed that if the above surplus, including the money which had actually been spent upon the public works, were taken to the credit of the emigration fund (which they thought might fairly be done), the debt at the end of 1846 would be reduced to £67,245.

Lord Grey's opinion.

Despatch, 24th November, 1848.

3482. But this and several perplexing questions of Finance were put an end to by a Despatch of Lord Grey, in which, after commenting upon several Ordinances which had been submitted for approval, intended to give effect to certain measures of fiscal reform which had lately occupied the attention of the Governor and Council, he showed that it was to be feared that the different branches of the revenue, except the immigration taxes, upon which the Report was favourable, would not prove as productive during that and the ensuing year; and that if the falling off should continue at the same rate as therein announced, it would be necessary to be prepared for the entire disappearance of the gross ordinary surplus, stated at £25,382, though not for any positive deficit under that head, and that a continued decline of the revenue to this degree, which, though he hoped an improbable contingency, must be taken into consideration in the present depressed condition of the sugar market and of local credit. He, therefore, could not reckon in the next Budget upon any surplus of ordinary revenue applicable to public works or otherwise; but added, that he might anticipate one of £22,573 under the head of immigration, and in fact that this would be the general surplus applicable to public works, if no distinction were made between the ordinary and immigration accounts.

Lord Grey suggests

3483. He, therefore, thought the time had come when all distinction between these accounts should cease, though it was true there ought to be taxes falling directly upon the immigrants themselves, or upon the planters employing them, about equal to the average immigration expenditure; but that the attempt to keep these accounts distinct not only complicated the financial affairs of the colony, but created a mischievous impression as to the distinction of interests between the different classes of the inhabitants.

* From the account given in the Blue-book for 1848 above quoted, the excess of Expenditure over Revenue will appear to be as follows:—

	£
1842	1,323
1843	187,246
1844	281,549
1845	304,305
1846	283,513

ord Grey's ggestions.

He further considered that the general surplus which would be exhibited on the union taking place (£22,573) would be more than ample provision for the public works under the then present circumstances of the colony. He considered it unnecessary that the Colonial Treasury should any longer be regarded as having claim to repayment for the immigration taxes of the large sum of £300,000, a debt which was, in fact, a nominal one, since it was due not to any real creditor, but to one department of the public service by another.

rdinance o. 4 of 1850.

3484. These instructions were finally carried out by Ordinance No. 4 of 1850, in the preamble of which it is stated that the distinction made between the ordinary and immigration accounts complicated the financial affairs of the colony, and created a prejudicial impression as to the distribution of the interest between the different classes of the inhabitants, and that it was considered expedient to abolish such distinction and to unite the two accounts.

ifficulties in scertaining orrect posi- on of ances.

3490. Consequently, when soon after our arrival here we called for the revenue and expenditure on account of immigration, we were informed that it would take some time to prepare the returns, as there were no separate accounts kept for immigration. We accordingly requested Mr. Beyts to prepare us accounts for the past ten years, from 1862 to 1871 inclusive, and on the 16th of August 1872 he sent us these returns. They, however, only showed the expenses and not the income, and we therefore desired the Protector of Immigrants to prepare an account showing the expenditure and the income of the department, and the sources whence they were derived.

tatements repared by rotector.

3491. On the 11th of September following, Mr. Beyts furnished us with two returns showing the expenditure in Mauritius on account of emigration from 1862 to 1871 inclusive, and a statement showing the money received in the Mauritius Immigration Office from 1862 to 1871, and likewise with a statement of the expenditure of the Mauritius Emigration Agencies in India for the same period prepared in the office of the Auditor-General.

rotector pplied to for formation in articular orm.

3492. These statements, however, though prepared by the Protector of Immigrants and the Auditor-General, did not contain all the information we required, and we were obliged to return them to the Protector of Immigrants, with instructions as to how they should be framed, and to request if there was not one office in the colony which could furnish all the information we required upon the subject, that he would apply to the several offices whence the information was procurable, and submit it to us in a digested form.

tatements nally sub- itted by the rotector.

3493. At length, on the 28th of April 1873, the Protector submitted the financial statement, showing the receipts and expenditure of emigration from 1862 to 1871, and acknowledging the assistance he had received from the Audit Office, without which it would have been difficult for him to have completed them, together with a memorandum explanatory of the different items of which the accounts were composed.

Appendix N, Nos. 3, 4, and 5.

rotector's tatements omprise nnual re- urns of everal de- artments.

3494. As these accounts have been only prepared for our use, and are not the official documents annually prepared in any one office, but those severally prepared in the Audit Office, in the offices of the Chief Medical Officer, of the Surveyor-General, of the Storekeeper's Department, and the Treasury, as well as in the Protector's, time would not admit, considering the late date at which we received them, of our attempting to prove and test the whole. The general result, however, shows that for the ten years under consideration the excess of payment over receipts has been, from 1863 to 1871, £67,592 12*s.* 5½*d.*, from which may be deducted the excess of receipts over payments in 1862 of £11,269 4*s.* 1½*d.*, leaving a net balance of the cost of emigration to the colony of £56,323 8*s.* 4½*d.*, showing an average sum of £5600 per annum paid by the colony on account of the emigration.

xcess of xpenditure rom 1863 to 871.

3495. We have already seen from Lord Grey's letter in 1848 that the then balance against immigration was £300,000, and we have seen above that the excess of expenditure over the revenue of immigration from 1862 to 1871 has been £56,000. We have not, however, obtained the income and expenditure for the intervening fourteen years, that is, from 1848 to 1862.

ayment of xpenses nder Ordi- ance No. 12 f 1855.

3496. For the first seven years we may, perhaps, calculate the expenditure at the same rate as it had been found for the previous six years; but in 1855, under Ordinance No. 12 of that year, planters were allowed to make requisitions for the number of immigrants they required on giving security for the payment of the passage money of so many male immigrants as should be shipped for them in India, and for the females who might accompany them, and also for the payment of the expenses which might be incurred in India on account of such male immigrants previously to their emigration, while this sum was to be paid previously to the immigrants being delivered.

This Ordinance was repealed by No. 30 of 1858, which, among other things, provide

that the requisitionist should pay upon the proportional expense chargeable on account of the females accompanying the Indians, instead of the whole expense as hitherto, and which abolished the Government contingent, as it was called, that is, the recruiting on the part of the Government and its allotting immigrants after their arrival here to the different planters.

Expenditure between 1848 and 1862.

3497. The expenses of introduction were all the fluctuating expenses contingent upon the recruiting and passage to Mauritius of the immigrants, while the permanent expenses, such as salaries and expenses of establishment, were borne by Government, notwithstanding the instructions contained in the Duke of Newcastle's Despatch No. 347, dated 24th February 1861, when he sanctioned the proposal that Government should defray

1848 to 1862

" . " one-half of the expense of introducing female immigrants and the whole bounties
" on married women, on the distinct understanding, however, that all the other
" expenses of emigration are defrayed by the planters."

And this system has continued until the present day.

Distribution of labour in keeping the accounts of the expenses of immigration.

3498. The accounts then being thus far complicated, it would require more time than we should be justified in devoting to the subject, to ascertain the portion of the expenses to be appropriated to Government and to the planters from 1848 to 1855, and also from 1855 to 1862, for, as we have discovered, the Protector has only the accounts of the depôt and his own department, the Auditor-General has the accounts of expenses incurred in India, while the other accounts are to be sought for in the office of the Treasurer and in the different departments, such as those of the Surveyor-General, the Storekeeper-General, and others in whose department the outlay may have been incurred.

Estimate of expenses for immigration from 1848 to 1862.

3499. But as an estimate of what the cost might have been, we may take from 1848 to 1855 the surplus expenditure at the same rate as it was found by Lord Grey in 1848 as £50,000 per annum, or for the seven years £350,000; and from 1855 to 1862, another seven years, at the rate we have found above, viz., £5600 per annum, equal to £39,200, making a total excess paid from the general revenues of £689,200.

Ordinance No. 12 of 1855.

4000. Whether the consumption duty upon rum and arrack levied under Ordinance No. 7 of 1842, and the surplus penalties, as well as the produce of annual importation taxes appropriated under Ordinance No. 26 of 1845 to emigration purposes, would suffice to cover the excess of expenditure we have not time to calculate, even if the data were procurable; but although it must be borne in mind that ever since 1855 the majority of immigrants have been introduced by the planters at their own expense, they paying all the expenses which are incurred in India on account of male immigrants previously to their embarkation, and further, since 1862, the whole expenses of the introduction of the immigrants and other incidental expenses, including the proportional expense of introducing females, whatever the total expenses of immigration may have been: still we are inclined to think, considering there are 200,000 immigrants in the island, and of them only 70,000 employed on sugar estates, that £5000 a year is a heavier amount than should be charged upon the general revenue of the colony for the sole purpose of introducing a further supply of immigrants.

Ordinance No. 16 of 1862.

General revenue of Colony pays too much towards immigration.

For we must not forget that there are many other items not included in the returns furnished by the Protector of Immigrants, the whole or a portion of which are directly or indirectly chargeable to the Immigration Department, inasmuch as their services are called for or increased with the number of immigrants in the island, for instance, the Stipendiary Magistrates and their establishments and courts, the Medical Inspector of Estates' Hospitals, a large portion of the police, the increased expenditure of public institutions, whether prisons or prison hospitals, the poor law asylum and its hospitals, all of which may fairly charge some portion of their expenses to the immigration account, a sum, however, which we are neither required nor able to estimate.

Indirect charges of immigration

Plan of further enquiry.

4001. It may, perhaps, be thought that an enquiry into the financial effect of immigration does not form a legitimate part of an enquiry into the treatment of Indians, and if the enquiry goes no farther than we have already carried it, the idea would probably be correct; but if we continue to enquire how much of the above balance drawn from the general revenue of the colony falls upon the different inhabitants, and we find that the immigrants pay a larger share of the taxes than might be expected from them, it will be very evident that the subject is intimately connected with the enquiry we are commissioned to make.

We will, therefore, now proceed to consider the incidence of taxation in the colony.

CHAPTER XXXIII.—*Incidence of Taxation.*

sus of 1 and 1.

4002. As was done in the year 1861, so Mr. Beyts continued, in taking the census of 1871, to divide the population into two classes, 1st. Indian population, 2nd. general population.

n Indian ulation. n general ulation.

4003. The term Indian population, comprising not only Indians born in India, but all persons of unmixed Indian origin, wherever be their birthplace or nationality, and all other inhabitants of the island irrespective of descent, birthplace, or nationality, were to be considered as belonging to the general population.

Census Report, 1871, para. 27.

ision of ses in 6 divisions.

4004. These classes were then subdivided into six, consisting of professional, domestic, commercial, agricultural, industrial, indefinite, and non-productive, the indefinite and non-productive consisting of independent proprietors and fundholders, jobmen, labourers, and workmen, persons not employed, persons whose employments are not stated. These two last consisting of sick in public hospitals, infirm and insane in public asylums, prisoners, pensioners, dependants and relations, women and children following no trade or calling.

Census Report, 1871, para. 67.

rces of nue in

The sources whence the revenue of the island is derived were in 1871:

Permits and Licences	£169,660
Imports	156,325
Exports	29,960
Transfers, Registration and Mortgage Dues	18,745
Taxes	13,800
Fines, Forfeitures, and Fees of Court	13,400
Stamps	11,840
Fees of Office	9,280
Postage	4,600
Total	£427,610

otal amount revenue for 871.

Blue-book, 1871.

xceptions ho do not ake out ences.

4005. With very few exceptions, such as the clergy, including both Christian and Gentile priests, the Civil Service, doctors, and barristers-at-law, and agriculturists, almost every person following any profession, trade or calling, must take out a licence authorizing him to do so, and a return of them, also of the direct taxes paid by the Indians, will be found in paragraph 2932 of our Chapter on *Social Condition*, and in the appendices to that paragraph.

Appendix M, 9 and 11.

lanters or her person ltivating ound, or ose hawking olonial proce do not ke out ence.

4006. The clause which exempts every planter or other person engaged in the cultivation of the soil, or in any other agricultural pursuit, from the obligation to take out a licence, does not extend to those hawking colonial produce in districts where there is no public market, nor to those planting tobacco, who under Ordinance No. 30 of 1867 are chargeable with a tax of £16 an acre (French measurement), and proportionally for any fraction of an acre; any portion less than one-eighth being considered one-eighth; to be paid within one month after the date of planting under liability to a penalty of double the tax chargeable upon the land and the forfeiture of all the tobacco. This tax during the year ending the 4th September 1873 was paid by 35 of the general population upon 9½ acres of land, and amounted to £152, and by 189 of the Indian population upon 28$\frac{11}{16}$ acres amounting to £459.

obacco anting re- uires licence 6*l.* per acre. enalty for ot taking out icence. creage of tobacco plantations.

eavy duty on obacco li- ence. ominal duty n staple pro- uce. eriod al- owed to pay obacco li- ence. rdinance o. 30 of 1867 rovides for efund on destruction of crop.

4007. It appears difficult to understand why so heavy a tax should be levied upon a plant which grows as a weed in this colony, while the staple produce of the island is, as we shall see, subject only to what may be considered nominal duty, and then only when exported; and further that this tax should be levied within a month of the time when the cultivator has not done more than planted out the land, and be irrespective of the produce obtained. It may be urged that Article 9 of Ordinance No. 30 of 1867 provides for a refund of duty on the destruction of the crop, but this relief is only given when the crop is entirely destroyed by hurricane or stress of weather, and must be claimed within ten days after the destruction of the crop.

mall amount ccruing to overnment tobacco of

4008. It is perhaps beyond our province to remark upon the small amount received from this tax, and the facilities with which it is evaded, and the difficulty of proving contraventions; for as remarked, the plant grows as a weed, and a dozen or two of plants may be found in a piece of ground sufficient to supply the cultivator's own wants, but not enough to warrant the man's conviction for having planted it contrary to the provisions of the Ordinance.

Above cited licences paid by all inhabitants.

4009. The above permits and licences, which are paid for equally by all the inhabitants of the island, will require no further remark than to notice those, if there be any, which fall particularly heavily upon the trades or callings, followed more especially by the Indian population than by the general.

Amount of duties paid, £400 10*s.*

4010. The duties vary from £400 to 10*s.* The majority of persons paying a duty of £1. Of these a duty of £400 is fixed upon distillers, but no Indian is to be found amongst them. £100 is paid by banks, but no Indian is included in that. Some hawkers pay a duty of £1, some of £3. Of those paying £3, hawkers of timber, bread, animals, tobacco, jewelry, and merchandise, the majority are Indians, as indeed the majority of all other hawkers. Of the hotel keepers, who pay £36 in the town and £24 in the country, the majority belong to the general population, and Chinese.

Hawkers.

Job-contractors, £5 duty.

4011. Of the job-contractors who pay £5 duty, the majority belong to the general population; but of jewelry makers and sellers who pay the same duty, the majority belong to the Indian population.

Opium sellers £10 duty.

The opium sellers who pay £10 are all, except one man, Chinese; as also are the majority of the retail dealers and sellers of spirits, who in town pay £31 and in the country £35. Of the tobacco manufacturers and tobacco sellers who pay £5, the majority are the Chinese, and next to them come the Indian immigrants.

Disproportion in the rates licences.

4012. It is not, however, always in the amount of the licence only that we may look for disproportion in the rates charged upon the several callings. The larger merchants doing business wholesale pay a licence of £20, while the petty shopkeeper, how small soever may be his trade, pays £5 for his licence, which of itself would appear as a disproportionate sum to that paid by the largest merchants in the island, who gladly pay a further sum of £5 in addition to the £20; and while in one room the merchant himself will purchase a ship and all its cargo, in another part of the building his clerks will chaffer for a box of pins or a skein of silk.

The merch pays £20, shopkeeper £5.

Merchants take out sh keepers' licences.

4013. Planters, however, although they sell rice do not consider it necessary to take out shopkeepers' licences; the following letter from Mr. de Belloguet, dated 12th March 1867, shows the manner in which he traded in rice at that time.

"You have sold a great deal of rice, 25½ bags, so much the better; it is still at "$6. It is on the increase, it has now reached $3. The stone mason, Prosper, "has presented an account to me, a settlement by Mr. Michael, establishing that a "sum of above $50, is due to him. I have put payment off for three weeks, "but at the same time I ordered him to take rice from my store at $6. Give "him what he asks for, but upon a written 'Bon,' and keeping a separate account of "what he may take."

In explanation of this Mr. de Belloguet says: the Creoles employed upon the estate were in the habit of buying rice from the store, and even selling it in the district, where it was sold at a high rate.

Question 6383.

Livery sta keeper's licence, £1

Letter No. 503. Internal Rev. 19th Aug. 1873, Appendix N, 8.

4014. The livery stable-keeper's licence of £1 and £4 locative value is charged upon every proprietor of a single carriole that plies for hire. The majority of these so-called livery stable-keepers are Indians.

Handicraf men emplo on estates not requir licence.

Letter No. 507. Internal Rev. 20th Aug. 1873, Appendix N, 8.

4015. It must not, however, be forgotten that though all handicraftsmen classed in the census as the "Industrial," have to take out licences previous to following their crafts, the craftsmen employed upon sugar estates, such as blacksmiths, carpenters, wheelwrights, harness-makers, and coopers, being the servants of the planter, neither pay nor take out any licences to qualify them for the work, any more than the planter himself is required to take out a licence for his calling or for the allowances which he divides to his labourers, which the shopkeeper at the corner of the road would be obliged to be furnished with.

Statement furnished Messrs. I and Chast neuf show the incide of taxatio

Appendix N, 7.

4016. We were furnished with a statement which we were informed had been prepared by Messrs. Beyts and Chasteauneuf, showing the incidence of taxation as they fall upon the immigrant and upon other classes. In this the percentage proportion of taxes to income paid by gardeners and cultivators working on their own account was estimated at 12·5 per cent. On *unskilled* labourers working on their own account as jobmen at 10 per cent. On *skilled* labourers, carpenters, coppersmiths, &c., at 6·1 per cent. On small shopkeepers, 12·7 per cent.; on attorneys-at-law, 5·4 per cent. On medical practitioners and barristers, 2·8 per cent. On merchants the same; and on planters producing a million and a half pounds sugar, 1·5 per cent.

Mr. Chast neuf's sta ment of p portion of taxes bor by the va classes.

4017. When, however, we ascertained that Mr. Chasteauneuf was not responsible for the estimate, we furnished him with the statement prepared by Mr. Beyts, and requested him to give us his own personal appreciation of the proportions of taxes to income borne by the various classes therein mentioned.

In this statement for which Mr. Chasteauneuf informs us there were no reliable dat for the preparation, and which only contains his personal appreciation of the income of the several classes mentioned by Mr. Beyts, and the proportion of the expense borne by them; while Mr. Beyts estimates the proportion of taxes borne by gardeners at 12·5, Mr. Chasteauneuf estimates it 7·46.

Appendix N, 6.

	Gardeners.	Unskilled Labourers.	Skilled Labourers.	Small Shop-keepers.	Attorney-at-Law.	Doctors.	Merchants.	Planters.
Mr. Beyts ..	12·5	10·0	6·1	12·7	5·4	2·8	2·8	1·5
Mr. Chasteauneuf	7·46	7·64	8·69	8·17	9·92	6·57	5·43	4·74

Mr. Beyts' and Mr. Chasteauneuf's opinion on proportion of taxes borne by Indians.

Of these two last Mr. Beyts has assumed the average income at £500 per annum for the one, and £650 for the other, while Mr. Chasteauneuf estimates the average at £400 and £500 respectively. Of this last class Mr. Chasteauneuf remarks, that their income is more uncertain than that of any others, and is liable to be very materially reduced from unforeseen causes, such as drought, hurricane, &c., which also very often cause their ruin.

Taxation falls heavier upon gardeners, &c. than upon the planters.

4018. We do not understand that Mr. Chasteauneuf has taken into consideration that sickness, medical attendance, and accidents, over which they have no control, affect the artisans, merchants, and others much in the same way as droughts and hurricanes do the planters; but the result of this estimate by Mr. Chasteauneuf shows that the taxation falls far heavier upon gardeners, unskilled labourers, skilled labourers, and small shopkeepers than upon the planters. We ourselves attempted to verify these estimates, and had prepared and submitted to Mr. Chasteauneuf Tables showing the import duties upon several articles (taken from the Blue-book for 1871) consumed by all parties in the colony.

Appendix N, 6.

Table of import duties furnished to Mr. Chasteauf.

4019. Upon their being returned by him with an assurance that they were correct, we proceeded to calculate the rates of duty upon the several articles of consumption used by the immigrants, and found that duty upon dholl (an article of large consumption among the Indians) amounted to the enormous sum of 48·40 per cent. On referring, however, to the Blue-book we discovered the rate of duty could not be above 5 per cent., and upon calling upon Mr. Chasteauneuf to explain the discrepancy between these two returns, he informed us that in the Blue-book for 1871 the quantity of dholl entered for home consumption in bags of 164 lbs., which was 65,832 lbs., the value in sterling of which was entered as £3346 18*s.*, was a mistake, and it should have been £33,514, the amount shown by their records. With this egregious mistake in the Blue-book, and which had also been passed over in the Tables we sent Mr. Chasteauneuf, it clearly showed that the data we had to go upon were utterly useless, and that any calculation we were able to make from returns exhibiting such errors could never be relied upon. We have therefore been obliged to fall back upon Mr. Beyts' and Mr. Chasteauneuf's estimates, the latter of which is evidently most favourable to the planters, but still shows that duties fall more lightly upon the planters than they do upon any of the other classes of the island.

Discrepancies in the returns.

Egregious mistake in the Blue-book.

Appendix N, 9, telegram.

Privilege as enjoyed by the planters.

4020. Beyond being thus lightly taxed for food and clothing, and other articles which they consume as well as the rest of the population, the planters derive advantage from their machinery and mill-work, manure, mules, oxen, bricks and tiles, coals, and other articles used in the manufacture of sugar, as well as Vacoa bags and leaves, which were originally exempted in Ordinance No. 9 of 1854, but have since been extended by Ordinance No. 32 of 1871 to substances used for packing sugar (that is to say, Vacoa bags and leaves, and Madagascar straw bags), to the value of, in 1871, if the Blue-book is to be depended upon, £260,436, being admitted free of duty. Besides this, there are other articles which they use in common with the general population, such as potatoes, cattle, sheep, which are likewise exempted. While beef and potatoes are admitted free, rice, the staple food of the Indian and much used by all parties, is subject to taxation. It is urged that rice being supplied to the Indian by the planters, a tax upon that falls as much upon the planters as upon the Indians, but we must recollect that the food supplied to the Indians is a deduction from their wages, and that the wages are so much money plus so much food; but when the price is raised, the wages, when not agreed for a lengthened period of engagement, instead of rising are reduced, the amount of food remaining the same. Consequently what a planter loses in paying the

Appendix N, 2.

Ordinance No. 9 of 1854.

Ordinance No. 32 of 1871.

Potatoes, cattle, &c., admitted free for their use in common with general population.

Rice subjected to taxation.

price of food, he gains in the diminution of money payment; and we must also bear in mind that out of the Indian population in the island, amounting to 200,000, only 75,000 are fed by the planter.

Value of articles chiefly used by planters exempted from duty, amount to about £260,000.

4021. We have mentioned above that the value of articles, chiefly used by the planters but exempted from duty, amounted to about £260,000, and we have calculated that were duty charged upon that at 6 per cent. it would furnish a revenue of £16,000. We must not, however, forget that the planters themselves, in 1871, paid about £30,000 to the revenue by the export duty of 3*d.* on 100 lbs., French weight, upon the export of sugar for 1871. So that if the planters are exempted from contributing their quota to the revenue upon machinery, manure, and other things that may be considered raw material, they themselves contribute some portion towards the revenue from the manufactured article.

£30,000 paid by planters in 1871 as export duty.

Immunities as regards taxation enjoyed by the planters.

4022. This contribution is not required from them until all the risks of manufacture have been passed, and the manufactured article itself is not only brought into the market but actually sold for export, there being no charge whatever upon the sugar manufactured and consumed in the island. The planters are therefore free from all licences, from all duties upon their machinery and manure, and even upon the produce itself until all risks have been passed, and the manufactured article entered for exportation, and the duty then is but 3*d.* upon 100 lbs., French, worth about $6.

Duties under Ordinance No. 6 of 1873.

4023. Whether 3*d.* upon 100 lbs. is a sufficient duty at this day (when we consider that in the year 12 of the Revolution the tax was 1*s.*, reduced in 1848 to 9*d.*, and in 1852 to 4½*d.*, and again in the same year to 3*d.*) it is not for us now to give an opinion.

4024. Before leaving this subject we must remark that by Ordinance No. 6 of 1873, the duty on wheat-flour, bran, barley, beans, dholl, grain, maize, oats, peas, pollard, rice, and lentils have all been increased 3*d.* per bag or cwt., according to the package in which they are imported.

Fines, forfeitures, and fees of court.

4025. Of the fines, forfeitures, and fees of court, amounting in District Courts to £9262 16*s.* 1*d.* for the year 1871, we were unable to divide these in each court between the general population and the Indian population; but in order to arrive at an approximation we requested Mr. Didier St. Amand, the District and Stipendiary Magistrate of Moka, to find out, by actually counting the figures, what proportion of the fines and forfeitures in his courts had been borne by the Indian, and what proportion by the general population.

Proportion borne by Indians.

Mr. Didier St Amand's statement.

Appendix N, 10.

4026. The result he gave us was that in the District Court the Indian paid seven-tenths of the fees, and in the Stipendiary Court one-fourth, while of the fines and forfeitures in both courts the Indian paid three-fourths. Applying this scale to all the District and Stipendiary Courts in the colony, we find that in 1871 of the fines and forfeitures in both courts the Indians would have paid £3200, the general population £1067. Of fees in the District Courts the Indian would pay £2190, the general population £939, while the fees of the Stipendiary Court the Indian would pay £456, the general population £1399, making a total for the Indians of £2856, and £3405 for the general population; while, on the other hand, of the sum of £3606 which the offices of the Registrar and Master of the Supreme Court together received in 1871, we learn from those officers that only about £26 was received from Indians—all the rest from the general population.

Appendix N. Nos. 11 and 12.

£11,640. Revenue derived from stamps, 1864 to 1871.

4027. Of the £11,640, the amount of Revenue, according to the Blue-book, derived from stamps, it appears by the annexed return from 1864 to 1871, that in the last-mentioned year the Indian population paid £2483, or somewhat more than one-fifth of the revenue.

Appendix N, 15.

£1956 12*s.* 6*d.* Fees on Acts of Civil Status

Appendix N, 14.

Of £1956 12*s.* 6*d.*, fees on Acts of Civil Status in Port Louis and the districts, as shown in the Blue-book for 1871, £1209 appear from the statement appended to have been paid by the Indians alone.

Indians not contributors to the Post-office.

The Indians are not contributors to the Post-office in this country any more than they are in their native country, where means are always taken, or at least always were taken, by clubbing their letters, and every other opportunity of defrauding the Post-office of its revenue.

£6803 0*s.* 6*d.* Fees, passports, job-licences, &c. paid by Indians alone.

4028. Among the other fees of office those amounting to £6803 0*s.* 6*d.* for fees on passports, job-licences, fees on tickets, on passes, marriage certificates, permits for orphans, and release from industrial residence are paid by the Indian population alone. These amounted, omitting the release from industrial residence, in ten years, from 1862 to 1871, to £39,481 14*s.*

Appendix N, 3.

Costs not contemplated by the Order in Council of 1838.

4029. With regard to these fees of office, it may be remarked that the Order in Council, 7th September 1838, does not appear to have anticipated any costs being awarded in cases coming within the summary jurisdiction of Stipendiary Magistrates.

4030. But, as we have already mentioned (paragraph 3234), on the 4th December 1866 a Circular was issued calling attention to the absolute necessity for the utmost economy in all Government departments, and calling upon the Magistrates and others to offer as early as possible such suggestions as might occur to them for increasing the receipts of the department, curtailing the staff, and reducing the expenses. To this an answer was received, amongst others, from Mr Wildman, the Senior Stipendiary Magistrate, who suggested a certain amount of income might be raised by having a tariff of fees for Stipendiary Courts similar to that of the District Courts.

Circular No. 2378, Appendix N, 16.

Appendix N, 16. Letter, 14th Feb. 1867, No. 11.

Mr. Wildman's suggestions on Fees of Court.

4031. In support of his proposal he gave reasons more or less specious, that ignorance of the laws and language could no longer be pleaded by the Coolies as a cause for their exemption, that it was an anomaly that fees should be charged in the District Courts while none were charged in the Stipendiary, and that the anomaly was increased when the Stipendiary and District Courts were presided over by the same officer.

4032. That summonses were often maliciously taken out by persons who failed to appear on the day of trial or had no just cause for complaint, as if the former was not often caused by an adjustment of the complaint out of court, and therefore a legitimate cause for a summons. That the warrants taken out upon filing a complaint were often produced as evidence of a man's absence, the evil of which would be diminished by having to pay a fee, as if the evil would not at once have ceased if the magistrate had known his duty, and let the complainant see that the warrant he had obtained against the defendant upon his own allegation was only waste paper, and no proof whatever.

Mr. ummonses ften malicously taken

His last reason had some show of justice in it, which was, that many people delayed to pay their servants in proper time, knowing that it made no difference in cost.

4033. He therefore submitted a tariff of costs, the first item of which was to be a charge of 4*s.* for hearing and adjudicating a complaint of a servant against his master, and second item, a charge of 2*s.* for hearing and adjudicating a complaint of a master against his servant.

Delay in payment of wages. Tariff of costs.

This proposal was submitted to the Executive Council, and the Procureur-General Mr. Sholto Douglas, recorded—

> "I highly approve of the above suggestions, and see no objection to their being "carried into effect."

Mr. Douglas approves of the tariff.

While Sir Henry Barkly minuted—

> "Mr. Wildman wrote his letter at my instance, and I am glad the suggestions it "contains meet the approval of the Acting Procureur-General; I do not know "whether they can be carried out by a simple proclamation, or whether an Ordi- "nance is required, but I wish the necessary steps taken to give them immediate "effect in all Stipendiary Courts. Perhaps it will be well to consult the other "Stipendiary Magistrates as to the tariff. It strikes me as having rather a bad "effect that the costs of the hearing of a plaint for wages brought by a servant "should be double those of one brought by the master, but there may be some "reason for this with which I am unacquainted."

Sir Henry Barkly minute.

Sir Henry Barkly cannot see why a servant should have to pay double what his master does.

4034. The tariff was submitted to the Stipendiary Magistrates for any observations they might have to make upon it; but as the subject was not disposed of before July 1868, when Ordinance No. 31 of 1867 and the regulations thereupon had been passed the answers to this circular would call for no remark, nor indeed would the subject have been worthy of notice except that we do not find that Sir Henry Barkly ever became acquainted with the reason for Mr. Wildman's suggesting that servants seeking to recover their wages, and consequently not likely to have any spare money, should be taxed twice as much for filing their complaint as their possibly unjust but richer masters would be had they a complaint to make, except that we find that three of the Magistrates either adopted the tariff or thought it just, or fully concurred in the rates set forth.*

Tariff submitted to the Magistrates for report.

Their answers all for no remark.

We unfortunately are not in possession of Sir Henry Barkly's reasons for not adopting the differential tariff that was originally proposed.

4035. Mr. Beyts, who approved at that time of the institution fee, thinks now that the present safeguards of the law are sufficient without it, and it had better be done away with.

Question 3611.

Mr. Beyts thinks the institution fee should be done away with.

His reasons for thinking that the establishment of the tariff of fees, the one now in operation, would have favourable effect was that it would tend to check complaints of a frivolous nature, and thus relieve the Stipendiary Courts of much unnecessary occupation.

Mr. Beyts's reasons for approving of the tariff of fees now in operation.

* For the opinions of the other magistrates, see paragraph 3235.

4036. Both Mr. Beyts, and all those who took the same view of the subject as he did, must have forgotten that under Ordinance No. 15 of 1852 every Stipendiary Magistrate dismissing a complaint as frivolous or unfounded, may condemn the plaintiff, if a servant, to a penalty not exceeding 10*s.*, and if a master, to a penalty not exceeding £5; or if the complaint be dismissed as vexatious or malicious, to a fine, if a servant, not exceeding £2, or imprisonment, with or without hard labour, for one month; and if a master, to a fine not exceeding £20. A provision of the law which the Stipendiary Magistrates are, we regret to say, only too ready to enforce against the servants (See paragraphs 3287 and 3288), and one which, if it had not a sufficiently deterrent effect, would certainly not be much assisted by requiring an institution fee of 2*s.*, suggested by Mr. Beyts.

Ordinance No 15 of 1852 forgotten by Mr. Beyts and others. Penalties for frivolous, &c., complaints.

Appendix O, 12.

4037. But Mr. Beyts appears to be under the impression that the immigrants have either a weakness or a liking for being taxed, and that they are anxious to pay a tax which could not be enforced by law, rather than put the Government to the inconvenience of passing an Ordinance on the subject, for when the amended regulations of Ordinance No. 31 of 1867 were under consideration, a letter from the Inspector-General of Police to the Colonial Secretary, dated 16th September 1868, was sent for the opinion of the Protector of Immigrants, and Mr. Beyts remarked upon it.

> "I do not think that the amended regulations can be brought into operation before "the end of this month at earliest, the defects of those which have been published "do not seem to me to be serious enough to require any suspension of operation "till the amended rules be ready; the fee which Major O'Brien proposed to charge "on duplicate passes might be allowed to be charged; it could not be enforced, "but I am sure the applicants for duplicate passes would voluntarily pay it."

Fees for D plicate Pas may be allowed, not forced.

4038. In noticing the taxes which fall exclusively upon the Indians, we have not noticed the charge made to them for photograph tickets. The enormous sum that was extorted from them during the years of Mr. Lecorgne's engagement, from November 1865 to October 1870, has been noticed in our chapter on the Immigration Office, and though the tax now levied is very much lighter, we are of opinion that it is not the immigrant, but the colony in general, that ought to pay for this.

Photograp tickets: s extorted fr Indians n noticed in taxation.

Chapter XXXIV.—*Summary of Conclusions.*

THE PETITION OF THE OLD IMMIGRANTS.

4039. Having thus traced the history of immigration into Mauritius from its earliest commencement and through its development, until it reached its present phase in 1867, and having shown the operation of its various labour laws, the condition at the present time of immigrants indentured on estates, and, as far as we have been able to ascertain it, the condition of those pursuing other callings, it may be well shortly to recapitulate the conclusions at which we have arrived upon the chief matters which have been in issue before us.

4040. 1st. As to the Petition of the Old immigrants and the de Plévitz pamphlet.

Appendix H, 1.

We concur substantially with the finding of the Police Inquiry Commission (paragraph 240 of their Report) that the

> "statements in the Petition, although put in an exaggerated form, are mainly "justified by the law as it exists under the Ordinance of 1867 and the Executive "Regulations following thereon. We have had no reason to doubt that the Petition "justly reflects the sentiments of the Old immigrant population subject to the law."

4041. In the 54th and four following paragraphs of their Report the Police Inquiry Commission consider the statements contained in the Petition sentence by sentence, and with that examination we also substantially concur. They, however, considered that there was considerable exaggeration contained in the fourth sentence of the Petition relative to the distances walked by immigrants to the Immigration Office in order to procure duplicate tickets in the event of loss of the original. No doubt, considering that the Petition was signed by over 9000 persons, many cases of exaggeration may probably be detected, yet we have shown (Chapter XIV., paragraph 1133) that such distances as those named by the petitioners may very easily be traversed by immigrants residing in the remoter parts of the island.

4042. The statement that

Vide Petition, para. 4.

> "immigrants 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 papers,"

the Police Inquiry Commissioners did not consider proved. It was most clearly proved,

however, before us (see Chapter XI., paragraph 846) that Ramburran and six other men had been arrested, and (according to the statement of Ramburran, see case No. 12, annexed to the Petition, after being locked up for the night and next morning) taken before Mr. Renouf for no other offence than that mentioned in the Petition.

4043. The statement contained in the 9th paragraph of the Petition relative to the "indiscriminate" condemnation as vagrants of a number of persons on the same charge-sheet, was considered to convey a "false impression to the mind of the manner in "which the cases were heard." With the remarks that follow we entirely agree:—

> "We find, however, that the Stipendiary Magistrate of Port Louis has had to "examine in one day into 143 cases, besides the ordinary police and stipendiary "charges for the day, and the signing of engagements; and when we consider that "the greater number of such cases have to be inquired into through an interpreter, "we are obliged to remark that the inquiries must necessarily be very vague "and loose."

But when we find such a case as No. 2090 (*vide* paragraphs 745 and 746) of 1868 in Grand Port, in which 26 men residing in different localities were all charged together for vagrancy, we cannot but feel that whatever exaggeration there may be in the statement in the Petition is but small.

CHARGES MADE IN THE DE PLÉVITZ PAMPHLET.

4044. We next proceed to consider the allegations contained in the Pamphlet of Mr. de Plévitz.

These contain, as we have said before (paragraph 44), an attack upon the whole system of Indian immigration as existing in connection with Mauritius, denouncing particularly—1. The recruiters in India. 2. The Protector in Mauritius. 3. The employers of labour. 4. The police. 5. The Magistrates; and 6. The Legislative Council as the framers of the Labour Laws.

4045. Of these heads we shall first consider the last, viz., the nature of the new Labour Law of 1867, and the circumstances under which it was passed, leaving the others to be noticed when we come to touch upon the several subjects to which they refer.

THE PASSING OF THE NEW LABOUR LAW.

4046. That the condition of Mauritius in 1867 was most serious cannot admit of a doubt, the colony having suffered from the year 1864 from a succession of calamities, viz., short crops, inundation, drought, an agricultural crisis, and finally, one of the most terrible pestilences on record (see paragraphs 450 to 467 inclusive), and consequently we may at once reject the unworthy motives, imputed by Mr. de Plévitz to Sir H. Barkly and the Legislative Council for their passing of the new Labour Law, and we feel that we cannot do better than adopt the words of Sir Arthur Gordon in his reply to the question put by the Honourable Mr. Naz (see paragraph 58) on the 14th November 1871, respecting the measures intended to be taken by the Government of Mauritius in the matter of the de Plévitz pamphlet.

> "The honourable member has dwelt especially on the remarks affecting Sir Henry "Barkly, but it would be childish to make them the foundation of an action. "Every one who is acquainted with his character or his distinguished career must "be perfectly well aware that he is altogether incapable of acting on any other "motives than those which he has professed; but he would, I am confident, be ill-"pleased if he learned that it was proposed on his behalf to take proceedings "against the author of an expression which after all does not exceed in license "those which in most small communities are freely used towards the persons in "authority."

4047. We must not, however, lose sight of the fact that the draft of the Ordinance was framed upon reports of the Inspectors of Police, which in the plainest terms advocated the passing of a measure, the effect of which should be to drive the Old immigrants to engage on the sugar estates; that the same policy had been urged by the Colonial press; and that this policy was at the time recommended and approved of by numbers of persons in the Colony as the most effectual mode of saving the community from the evils which had been, and were still, afflicting it.

Paras. 488, 493, 678. Paras. 174, 5-6. Paras. 664 to 678.

4048. We have in this Report endeavoured impartially to examine the chief reasons alleged for the passing of the law, viz., the vagrancy, the idleness and improvidence of the Indians, and their inhumanity to each other during the epidemic, their filthy habits, and their participation in the crime of "Dacoitee," or gang robbery; and we must here repeat our failure to detect anything so peculiarly restricted to the Old immigrants not under indenture as to have warranted the stringent measures invoked against them by the public, and enacted against them in the Ordinance.

Chapter IX. paras. 529 to 567. Paras. 566 and 7.

4049. We further think that it is much to be regretted that the attention of the Home

Government was not more specially drawn to the regulations of November 1868 and August 1869, which materially increased the stringency of the law.

See para. 586.

4050. We fully agree with the observations of the Emigration Commissioners 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."

ENFORCEMENT OF THE LABOUR LAW.

4051. We further find that this law was enforced both by the police and Magistrates in such a reckless and indiscreet manner as to cause cruel hardship to a number of your Majesty's subjects, especially in the districts of Pamplemousses, Rivière du Rempart, Flacq, Grand Port, and Savanne. We find that what we believe to have been the spirit of the law was too often entirely overlooked, and that even the letter of the law was often far outstepped by the manner in which it was carried out.

Para. 704.

THE PROTECTOR.

4052. *The Immigration Department.*—We find that the title borne by the head of this department, viz., "Protector of Immigrants," is calculated to mislead, and that the powers conferred by law upon this officer do not by any means correspond with his title, and to quote the words of the Acting Procureur-General, there are no provisions in the law

> "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. "No 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."

See para. 887.

Nor have

> "the powers which would naturally have been vested in him, concurrently with "such duties, ever been conferred upon him."

4053. The few special cases above alluded to comprise,—

1st. A power 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.

Ordinance No. 16 of 1862. Article 12.

2nd. A power to visit any establishment in which Indian immigrants are received, but no power is given to rectify any abuse which he might discover in the course of his inspection.

Ordinance No. 16 of 1862, Article 17.

3rd. A power to intervene in any appeals from the judgment of a Stipendiary Magistrate on behalf of immigrants interested in the case, and also to carry out any action of damages accruing to an immigrant relating to any contract of service.

Ordinance No. 28 of 1863. Articles 2 and 3.

4th. He is *ex officio* guardian to all orphans of Indian extraction, whether born in the colony or elsewhere, who have no relatives in Mauritius competent to form a family council for them.

Ordinance No. 21 of 1867, Article 66.

4054. With these exceptions, the first three of which have remained practically dead letters, the Protector is but the 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 at the expiration of their industrial residence, or at other times subsequently should they so desire it; and though the name has continued, the office of Protector is limited only to the arrangements of the depôt, the protective functions being considered to appertain to the Stipendiary Magistrate.

See para. 349.

4055. We further find that the attempt made by Mr. Beyts, between the years 1861 and 1863, to obtain an extension of his powers, was received with disfavour by the Legislative Council, the Chamber of Agriculture, and the Stipendiary Magistrate of Pamplemousses.

Paras. 493 to 496 and 897.

INSPECTION OF ESTATES.

4056. Closely connected with the duties of Protector is that of the inspection of estates; and on this subject we can only confirm the allegation made by Sir Arthur Gordon to Lord Kimberley, viz., that up to that time there had existed an

> "utter want of efficient inspection. I have already* pointed out that the Protector "is the only person who has any real right to inspect, and that practically he does "not do so. . . . . indeed (he), never now visits any (estates) unless ordered by the "Governor to do so; a system which brings the Governor personally into more "direct collision with individual interests than is at all desirable, as is very truly "pointed out by the Guiana Commission.

Despatch No. 135, 2nd Sept. 1871.

* In Despatch No. 135 of 18th August, 1871, paragraph 24.

"16. As a matter of fact, the Stipendiary Magistrates have inspected, but they "have no legal right to do so, and have, in some few instances, been refused "admission.

"Were their right unquestionable, I doubt whether it would be desirable that "those who have judicial functions to discharge should make inspections to ascer- "tain whether any case is to be brought before them."

4057. Thus the Protector was the only legal Inspector, and, even in his case, the power to do so was merely permissive, and there was no obligation upon him to inspect further than the Governor's order; but even were the Protector's whole time devoted exclusively to the inspection of estates, the inspection by one man of all the estates in the island could but be made once in the year; and with the other duties inseparable from his office, the visits of the Protector could at best be but superficial. The Chairman of the Board of Emigration, in his letter to the Colonial Office, expressed great surprise at the discontinuance of the Protector's visits of inspection, and observed that, unless a satisfactory explanation of it could be given, it appeared to merit serious notice. Such an explanation may, we think, be found in the extraneous duties so often assigned to Mr. Beyts.

Sir Clinton Murdoch to Mr. Herbert, 8th November, 1871.

See para. 926, and following.

INSPECTIONS OF THE STIPENDIARY MAGISTRATES.

4058. With respect to the visits by the Stipendiary Magistrates, we cannot do better than adopt the expression used by Sir Clinton Murdoch in referring to them in the letter already quoted, viz., "that they were in many cases"—we should be inclined to add, in *most* if not *all* cases—"a mere delusion."

4059. We find, too, that throughout the history of Indian immigration, there has been a sensitiveness among the planters and public of Mauritius on the subject of inspection of their estates, as well as a disinclination or negligence to make Returns required by the Government, and necessary for the obtainment of accurate statistical information respecting their condition; a feeling closely akin to that of jealousy of any extension of the power of the Protector, upon which we have already remarked, but a feeling which, nevertheless, was sufficiently strong in 1864 to induce Sir Henry Barkly to issue the Circular of the 20th of September of that year, to which must be ascribed a large measure of the subsequent inefficiency of the Magistrates' inspections; and, notwithstanding that the false position in which they were thereby placed was, on four different occasions, viz., in 1864, 1866, 1867, and 1871, brought to the notice of the Government, no action was taken in the matter until the passing of Ordinance No. 34 of 1871.

See paras. 158, 936, 934, and 5.

See paras. 948, 949, 954.

See para. 939.

See paras. 950 and 963.

4060. But, further, we find that no power exists either in the Protector, or in the Stipendiary Magistrates, or in the Medical Inspectors, or in the Sanitary Inspectors, or in the Governor, to order the summary rectification of any abuses or irregularities which may be detected in the course of the visits of inspection; and the only means by which such irregularities can be reached are either by the Inspector—whether Magisterial, Medical, or Sanitary—sending an officer of police to "constater" the fact which he has himself observed, and then proceeding against the offender before the same Magistrate; or else, upon the complaint of some third party, which in the case of dirty camps is by no means easy to procure, as the immigrants are probably the last persons to complain of an abuse of which they themselves are the chief cause, and to the existence of which they are indifferent.

See paras. 945, 1001, 2201-2-5, 2082-3.

THE IMMIGRATION OFFICE.

4061. We find that the Immigration Office, as a Registry of the Indian Immigrant population, is wholly inefficient; that the photograph affixed to the immigrant's ticket has hitherto, owing to the want of arrangement of the photograph albums at the Immigration Office, been utterly useless; and that, unless an immigrant is able to supply his immigration number, the office is quite unable to identify him, except by subjecting him to the process described in paragraphs 1122 to 1130; and that up to the beginning of 1872 no register, showing the issue of duplicate tickets, was kept at all. For this last omission, however, Mr. Beyts cannot be held directly responsible, as the staff of his office had been reduced to the smallest limits.

See paras. 1179 and 1188.

Paras. 1177 and 78.

4062. We find no traces of the "great moral effect" believed by Col. O'Brien to be exercised by the photograph upon the Indians. We find, further, that in the five years which intervened between November 1864 and 1869, the sum of £23,311 12*s.* was paid by the Indians to the photographer at the Immigration Office, and that between the month of November 1864 and May 1868, the fee of 4*s.* was exacted for each, without any legal authority beyond the order of the Executive.

See paras. 1100 to 1103, also 1169.

Para. 1133.

4063. We think that the want of an efficient registry at the Immigration Office is productive of both much inconvenience and expense to the immigrants.

4064. With regard to the allegations in the Old Immigrants' Petition, respecting their being ill-used and beaten with rattans, we think that so long as rattans were permitted to be carried by the Peons of the office, they would not hesitate to use them; and, further, that up to 1866, immigrants applying at the office were bullied by the clerks as well as Peons in a manner to justify the strictures passed upon the office by Mr. de Plévitz. We are also of opinion that even since 1866, notwithstanding the stringent orders of Mr. Beyts, rattans have occasionally been used, and blows inflicted upon immigrants.

See Petition, para. 3, page 2.

Paras. 1214 to 1222.

4065. Lastly, with the exception of Mr. Beyts, none of the officials of the Immigration Office are acquainted with, or able to converse in, the native Indian dialects.

4066. We think that the Government of Mauritius have used their best endeavours, at various times, to place their agencies in India and the system of recruiting upon a sound basis; but, notwithstanding, very frequently persons are recruited as agricultural labourers who ought never to be accepted as such; the desire to comply with the requisitions, and the mere willingness of the recruit to emigrate, being more regarded by the agents than any special fitness on the part of the recruit for the labour which he engages to perform; and with such an instance before us as that of the 164 men who came to Mauritius in the "Sir Robert Seppings," we do think that the planters have just cause to complain of the so-called labourers received from India, as also of the fact of confirmed vagrants, who have been deported from the island, getting themselves re-shipped, and returned to the colony under a different name.

RECRUITING.

Paras. 1274 and 1364.

See para. 1347 and following.

4067. We have not discovered anything to justify the charges made by Mr. de Plévitz, in the third paragraph of his pamphlet, against the agencies in India. It is, perhaps, only natural that those whose business it is to attract the largest number possible to new fields of labour, should dwell too exclusively on one side only of the facts, and should leave out of sight many points which, in the interest of the emigrant, it is very desirable that he should be made acquainted with. This fault is probably common, more or less, to every system of emigration, and not in any way peculiar to Mauritius and its Indian agencies, and, therefore, we need not dwell further upon it.

4068. We agree with the opinion expressed by Mr. de Plévitz in the ninth paragraph of his pamphlet (see page 8), in which, while admitting the fair and just treatment of immigrant labourers on some estates, he, nevertheless, asserts that

CONDITION OF INDENTURED IMMIGRANTS.

"when they fall into the hands of an unscrupulous proprietor, they are virtually at "his mercy, and he pays them very nearly what he chooses."

PAY.

4069. There is also much truth in the strictures passed by him in the tenth paragraph, though we could wish that he had been more careful to restrict his remarks to the unscrupulous, and to such only. He is slightly in error, too, as to the amount forfeited by the "double cut," which he under-estimates by one-fifth of a day's wages.

4070. The practice of keeping wages in arrears is one of very old standing, as may be noticed in various parts of this Report, as well as Despatches of various Governors, and notwithstanding that this practice was strongly denounced by Lord Stanley in 1858, it has been persisted in until attention was vigorously called to it by Sir A. Gordon, and by the pamphlet of Mr. de Plévitz.

See paras. 93, 2490, 387, 2493; also minute of Sir W. Gomm, 22.3.45.

Paras. 387 and 1405.

4071. We are decidedly of opinion that the intention of the law is that monthly payments should be the rule, and that a safeguard has been provided, in Art. 19 of Ordinance No. 16 of 1862, against the possible abuse of the right of exacting the "double cut" sanctioned by Art. 18 of the same Ordinance. We find, however, that while the right contained in the latter Article has been freely and universally availed of, the limitations contained in the following Article have been universally overlooked both by planters and Magistrates, and other officers of Government; and that consequently very large sums have been annually illegally deducted from the wages of labourers; and we further find that in numerous cases the penalties awarded by the 18th Article, above mentioned, as alternative, have been made cumulative.

Para. 1429.

See para. 1913.

Para. 1792 and following.

4072. We find further that numerous other deductions are made from labourers' wages which are not sanctioned by law.

4073. We find that it is the almost universal practice to give ¼ lb. of rice over the quantity (1½ lb.) stipulated by the contract, but that the extra ¼ lb. is practically lost in the process of cleaning; and, further, that salt fish, which, according to the legal forms, ought to be given (at any rate to New immigrants), is generally commuted for a double allowance of dholl. We also believe it to be the practice, on the great majority of estates, to give extra pay or ration as a "gratification" for extra work, when performed; and further, that on the majority

RATION.

Para. 1824 and following.

See Para. 1897 and following.

of estates, the labourers enjoy the privilege of gratuitously pasturing their animals, and of gardens.

OLIDAYS. 4074. The only holiday to which labourers are legally entitled is New Year's Day; and although they are asserted to enjoy holidays at other times also, we find the practice, with few exceptions, to be that they lose their day's wages at least, sometimes more, and frequently their rations also.

See paras. 1593 to 1605.

NDAY ORK 4075. By Ordinance No. 17 of 1841, the only work which can be exacted from labourers on Sunday is "corvée," or work of immediate necessity, indispensable for the preservation of estates, but which must not be of more than two hours' duration, nor continued after 8 A.M.

4076. We find, however, that the work done on Sunday is by no means restricted to work of immediate necessity, as enjoined by Ordinance No. 17 of 1841, and that the Sunday holiday is very frequently further infringed upon by the custom of issuing pay and rations on that day.

See paras. 1578 to 1591.

AY BOOKS. 4077. The pay-book or wages-book on an estate, as a rule, show only what the labourer's nominal wages are, and what is deducted therefrom for sickness or illegal absence, and the word "paie" only shows the balance after those deductions have been made, but does not show the balance actually paid to him; the true account being kept upon, and the payments made from pay-sheets which are often destroyed as soon as the payment has been made. We therefore consider that as evidence the pay-books are worthless, and further, we find instances of great irregularity in the manner of keeping them (such as fully justify the observation of the Magistrates upon this very subject in 1846), and which, if not amounting to deliberate and intentional fraud, is in any case quite sufficient to prevent their being admissible as evidence without further proof.

Paras. 258 to 262.

See paras. 1814, 1815, 1949 to 1957, 2525, and 2552.

...GAL AB-ENCE, DE-SERTION, AND AGRANCY. M DE 4078. We find that the offences of illegal absence, desertion, and vagrancy, which the law contemplates should be distinguished, have in practice been confounded; the result being in many cases the infliction of great injustice and hardship. The Limitation contained in the second paragraph of Article 50 of Ordinance No. 31 of 1867, with regard to condemnations for desertion, has frequently been disregarded both by employers and by Magistrates; and we further are of opinion that the mode in which the law has been executed has pressed most heavily upon the Old immigrants not working under indenture.

Para. 2026.

Para. 2060.

ELLINGS. 4079. We have found great diversity in the arrangement of the camps and in the character of the dwellings composing them; some camps being constructed at great cost, and kept in excellent repair, while in others we have found dwellings scarcely fit for human habitation; but owing to the want of any systematic arrangement, we find it impossible to tell whether the people are overcrowded or not; we do not, however, think that there is anything for the immigrants generally to complain of, the huts being much the same as they would have in their own country.

Paras. 2098 and 9.

Para. 2101.

Para. 2103.

4080. We found, however, that the camps generally were in a filthy condition externally, owing to the quantity of animals allowed to run loose about them, a state of things due mainly to the aversion of employers from interfering to enforce cleanliness and order, for fear of offending their labourers, and also from the state of the law, which does not make the proprietor personally liable for the condition of his camp.

Paras. 2085 to 2092.

NSITALS. 4081. We find the Hospital Ordinance (No. 29 of 1865) to be incomplete, unless supplemented by the regulations respecting details which we think it evident it was intended should be framed by the General Board of Health, but which never have been so framed by them. The Ordinance requires only that there shall be an hospital, with accommodation, and at least 4 beds, and with certain space in proportion to each bed: that there shall be a Medical Attendant, visiting the hospital once or twice a week, according to the size of the estate: that there shall be such medicines as the Stipendiary Magistrate may consider necessary: that there shall be a Hospital Attendant qualified for the duty of attending the sick; and that the Medical Attendant shall keep a Hospital Register. The result has been that there is scarcely a hospital in the island, with the exception of Dr. Icery's hospital at Midlands, which can be considered complete; many are excellent and costly buildings, requiring but little to make them so; and many are of such a character as for it to be a gross misnomer to call them hospitals at all.

4082. The Hospital Attendants, in the vast majority of cases, have no qualifications whatever for their office, and are, in many cases, wholly unfit for the duty of attending the sick.

Paras. 2156 and following.

4083. The Registers are simply valueless for purposes of statistics or evidence to show whether a man was in hospital or not on any day but the one on which the Doctor's visit was paid, and in one instance the manner in which the books were kept by the Medical Attendant amounted to most scandalous fraud.

Paras. 2185 and 6.

4084. We find, too, that the great majority of the medical men attending estates accept a less sum than the remuneration assigned to them by law, through fear of dismissal should they insist upon payment being made of the full amount.

Paras. 2189 and 2190.

4085. We have every reason to believe in the truth of the alleged disinclination of Indians to remain and be treated in hospitals, but we think that the very comfortless and defective condition of the greater number of them is quite enough to account for the same, and that if hospitals were placed upon a proper footing, no repugnance would be evinced by immigrants to be treated therein.

MORTALITY. 4086. With regard to the vastly superior conditions of Indians on estates, asserted by Dr. Icery, relatively to those not on estates, as shown by the death-rates on each, we think that, previous to 1869, owing to the unreliable character of the statistics and the conflicting evidence on the subject, no accurate estimate can be formed, though, judging from the statistics of 1871, the year in which we have the most reliable information, and which show a slight difference in favour of the estates—we think it probable that a similar advantage must have existed previously.

TREATMENT. 4086*a*. We find that assaults upon labourers are of common occurrence, and that there are estates upon which ill-usage has been systematic and long-continued (*see* Chap. XXV).

MORAL CONDITION. 4087. We have not been able to discover the great physical, moral, and intellectual advance accruing to Indians which is asserted to be the consequence of their immigration to Mauritius.

4088. We find that polyandrism exists so commonly as to be almost an acknowledged system, and that the general moral condition of the immigrants is very low, an evil which is, we think, to be attributed to the disproportion of sexes; a defect which, however, the Colonial Government have done all that they could to remedy.

See paras. 2771 and 2.

See para. 2826.

EDUCATION. 4089. With regard to intellectual progress, we find that, so far as regards the children of labourers on the estates, education is almost wholly wanting, and is deplorably low among all classes of the Indian population, as shown by the fact that out of a total number of nearly 40,000 children between the ages of 5 and 14, we cannot name a higher average than 1000 as attending school.

See paras. 3059 to 3077.

See para. 3083.

SOCIAL CONDITION. 4090. We find that various means exist by which immigrants are enabled to amass property, and that on a considerable majority of estates the labourers are allowed garden-ground and pasture for their animals free of charge.

See paras. 2895 and 6.

4091. We find, however, that the majority of the persons returned as "labourers," who have acquired property and deposited savings in the Savings' Bank, or remitted money to India, are not labourers upon the estates, but persons who, though they probably had originally been labourers on estates, had acquired their wealth since they were enabled to follow other pursuits.

See paras. 2901, 2923, and 2931.

POLICE. 4092. We find that both during the time of the great epidemic in 1867, and after the great hurricane of 1868, the Police rendered great and praiseworthy services, yet we also find that the allegations made against them by Mr. de Plevitz, in his evidence before us, have been corroborated by other evidence; that the Labour Law was indiscreetly enforced by them; and that between the years 1865 and 1872, their action in regard to the taking of contraventions was in numerous cases vexatious, and in some corrupt; and that many of the laws are, as asserted by Mr. de Plévitz, of such a character as to offer temptations towards corrupt practices.

4093. We must add, however, our sense of the difficulties under which the Inspector-General labours in recruiting the members of the force, and which may be found in the Appendix.

See Appendix H, Nos. 8 and 10.

4094. We further find that much work is thrown upon the Police, in the way of escorting deserters back to estates, which does not rightly belong to them, and that such additional work is greatly increased by the inactivity of employers in the matter.

See paras. 3166 and following.

4095. We also concur substantially with the opinion expressed by the majority of the Police Commission, that although violence used for the purpose of obtaining evidence or confessions with regard to crime has "ceased to be practised as a system, occasional instances" have undoubtedly occurred down to the present day."

MAGISTRAT 4096. We find that Section 3 of Chapter IV. of the Order in Council of the 7th September 1838 has never been acted upon, and consequently that the Stipendiary Courts remain to this day without any rules whatever to regulate

See paras. 3214 and 3216

their proceedings, the result of which is that there is great diversity and irregularity of procedure in the different Districts, while at the same time the Procureur-General's Department has neglected to exercise that supervision over them with which it was charged by Ordinance No. 2 of 1850.

See paras. 3349 and following.

4097. As a rule the Magistrates are wholly ignorant of the Indian languages, and the Interpreters attached to their Courts very inefficient, and the consequent inability of the Magistrates to appreciate the true value of evidence given before them by Indian witnesses has in many cases led to great inequality in the administration of justice; and we agree with Mr. de Plévitz, that had not the Government intervened in the Mont Choisy case, the complainants, though having just ground of complaint, would, owing to the course adopted by Mr. Poulin, have failed to obtain redress.

See paras. 3287, 3295 and 6.

See pamphlet, paras. 24 to 29, p. 11; also para. 3279 and following.

4098. We find that in the Stipendiary Court of Savanne there prevailed, between the months of November 1870, and July 1871, great recklessness in the infliction of sentences of imprisonment, and that numerous sentences were in consequence awarded which were wholly unwarranted by law.

See paras. 3552 and 3.

See paras. 1451, to 55, 1461, 1534, and following, and 3342.

4099. We further find that great negligence has been shown by Stipendiary Magistrates in the matter of passing of Contracts.

4100. We find the discipline of the Prisons to be very defective, and wholly useless as a deterrent to real vagrants and criminals.

Para. 3473.

Chapter XXXV.*—*Suggestions and Recommendations.*

4101. The first step towards a reform of the Immigration system of Mauritius mus be in the Recruiting in India, and far greater strictness must be exercised than a present, in accepting the services of persons professing their willingness to emigrate a labourers.

4102. Requisitions to be made to the Protector, and must specify the particular wor for which the immigrant is required.

4103. The requisitions to be complied with by the agent in India, who must ascertai and specify opposite each man's name the length of his employment previously in tha particular work, except in the case of minors, when it shall be sufficient to state th probable ground of their qualifications.

4104. The agents in India should for the future be appointed by those who ar chiefly interested in their efficiency, viz., the Planters. We therefore suggest that th appointments should be made by the Chamber of Agriculture of Mauritius, or by th Chambers of Agriculture and Commerce. The agents should be paid so much per hea on the recruits sent; and in the event of the immigrant so recruited being found, o allotment, incompetent or unfit for the work for which he has been engaged, the agen should forfeit his fee, and pay in addition a substantial fine to the Immigration fund hereafter to be instituted, towards the expenses of sending such immigrant back to India

4105. Notice shall be given to the Protector within a reasonable time after allotment by the employer of the incompetency or unfitness of any immigrant; and no disease contracted after allotment should be considered as a reason for returning an immigran as unfit.

4106. All requisitions to be carried out by the agent, except in cases where th planters send their own agents to recruit specially for them. Such private agents i found competent, shall be licensed by the emigration agent, and the recruits they tender shall be passed by him if found physically fit for emigration, the recruite himself, or the principal who sent him, being responsible for the men's qualifications Immigrants to be recruited in two classes, effectives and non-effectives, the list of th latter to include those only without whom the effective will not emigrate; the costs o introduction of such non-effectives being borne by the requisitionist.

* Although this chapter has been considered by both the Commissioners conjointly, and, in the main, i expresses their joint opinions, unavoidable circumstances have prevented Mr. Frere from bestowing upo it, as a whole, the same amount of careful and minute consideration as he had bestowed upon the rest of thi Report. They, therefore, submit the following suggestions as substantially their joint opinion, though upo details Mr. Frere wishes to feel himself at liberty to modify or supplement the suggestions hereinafte offered, should he obtain further

4107. The expenses attending the return passage* of immigrants recruited by the agent and proving incompetent or unfit for the work, to be borne by the Immigration fund from which also the sum paid for the man's introduction shall be refunded to the requisitionist. Immigration Office.

4108. The next step must undoubtedly be a complete reform of the Immigration Office, and the institution of a system such as was contemplated by Captain Ogilvy in 1861 (see paragraph 1065).

We think that such a reform might be effected by the adoption of the following suggestions:— Registration.

4109. An alphabetical register to be kept of all immigrants, Old and New, stating in alphabetical order the name of each, his father's name, and his mother's name, and, in the event of his possessing it, his surname or family name or nick-name—his immigration number, with the name of the Zillah, Pergunnah and village from which he came, his age, the work for which he has been recruited, name and number of the ship, the date of introduction, the name of the employer to whom he is indentured, and the number of the page in the album in which his photograph will be found, with a column left to be filled up with reference to a register in which his future career may be entered.

4110. A register containing a list of immigrants in numerical order, containing the same information as the above, but arranged according to the numerical order of the immigrants and not in alphabetical order. Photographs.

4111. The photographs, taken three-quarter face, to be entered in a paged album with each immigrant's number in the order in which they are taken.

4112. Tickets issued to immigrants should bear upon them only the immigrant's own name, his father's name, his immigration number and his photograph, but no further information contained in the register.

4113. In the event of any immigrant's losing his ticket, notice of such loss should be given at the nearest Police Station within twenty-four hours, and the police should thereupon immediately communicate the same to the Protector of Immigrants.

Failure on the part of any immigrant so to give notice of loss of ticket to render him liable to punishment.

* Note *on the revival of Free Return Passages.*

Upon the question of the re-establishment of the right of a free return passage to immigrants, we make no suggestion, as we differ in opinion thereupon.

The whole subject was very fully discussed by Sir Arthur Gordon in the evidence he gave before us, but nevertheless my colleague Mr. Frere, holds a strong opinion against the desirableness of restoring the right after the discontinuance of it for so many years.

See Questions 11,221 to 11,329.

Of the many reasons adduced by Sir A. Gordon in favour of the restoration, the argument on sanitary grounds is enough to satisfy me that such restoration is desirable. The island is already densely populated, and as the population is ever* increasing by the artificial means of the immigration, it appears to me very desirable that there should be an artificial drain the other way.

Sir A. Gordon further attributes the non-fulfilment of so large a number of requisitions to the absence of the right of return passage, and it is certain that the last Report of the Protector (for 1873) shows that at the end of the year 1873 there were 10,216 requisitions still unsatisfied.

From this one of two results appears to follow; either the Planters must be short of hands, and it would be well to offer the return passage as an additional inducement to emigrants: or they must be in the habit of requisitioning for a larger number of men than they really want, and thus there is a constant risk of a recurrence of the state of things that occurred in 1865 (see paragraph 454). The knowledge that the expenses of the return passage would have to be met might make them more careful.

(Signed) V. A. Williamson.

* The Protector's Report for 1873 gives the following Statistics of the Increase of Indian Population:—

Total number introduced	7614	
Total number of Births	6764	
		14,378
Total of Emigration	3035	
Total number of Deaths	6941	
		9,976
Actual Increase of Population during 1873		4,402

4114. As above alluded to, a further register should be kept with the object of tracing the subsequent career of every immigrant in the numerical order of the immigration numbers. It should contain in separate columns any information received respecting desertion, convictions before Magistrates, transfers from one master to another, either at the expiration of engagements or otherwise, information respecting the subsequent occupation of any immigrant, the dates at which he has taken out a duplicate ticket, and dates referring to the Petition Book of any petitions made by him to the Protector.

4115. No person should be eligible for employment on the staff of the Immigration Office, who, in addition to English or French, is not also acquainted with at least one Indian dialect. If no person so qualified can be found in Mauritius, we should recommend that they be procured from India, under the appointment of the Governor-General.

Petitions.

4116. All petitions addressed to the Protector should be in writing, the purport of which should be entered in the Petition Book, together with the substance of all inquiry made and the orders given thereon.

4117. All petitioners proceeding to petition the Protector to be considered as legally absent, unless the Protector shall certify in writing to the employer (which he shall be required to do on the disposal of any petition, if he thinks fit), that the complainant has been absent from the estate without justifiable cause.

4118. The Protector should have the power, in the event of his deeming any petition well-founded, to appear before the Magistrates' Court in behalf of the petitioner, either personally or by an Inspector; and to call on any Magistrate for a copy of the proceedings in any case upon which any Immigrant has lodged a petition.

Justification of status.

4119. With the above reforms in the Immigration Office, we do not think that there ought to be any difficulty about the identification of an immigrant, and that the production of the immigration (or portrait) ticket, should be sufficient justification of status to protect an immigrant from arrest by any constable who may chance to meet him, unless of course he be detected in the commission of some act of vagrancy. They should also do away with the necessity for permits to work and the numerous other papers which at present are issued from the Immigration Office, pending the identification of immigrants.

Modification of the Pass System.

4120. All parties appearing to deprecate the total abolition of the pass system (for herein Colonel O'Brien and the majority of the Police Commissioners concur), we are not prepared to recommend it, and with it the loss of whatever good may have been gained during the past six years by the registration of the Old immigrants.

Question 5945, Appendix H 8, para. 10. Appendix H 1, para. 295.

We do not, however, think it right or proper that it should be in the power of every (possibly ignorant) constable of police to call upon an Indian to justify his status and to be the judge as to whether such justification is or is not satisfactory, and of arresting him if it be not.

We therefore think the power to examine tickets should be restricted to such members of the police force as are able to read, and that only the failure to produce the immigration ticket should justify detention. This would, we think, act as a sufficient check upon the desertion of engaged labourers from the estates: for if the Immigration Office were what we contemplate it should be, every information respecting any immigrant ought immediately and without difficulty to be procurable.

We therefore recommend that the present system of registration at the police office of each district should be retained as an assistance to the police, but that an immigrant producing his immigration ticket should not be liable to be called upon for further justification of his status, except by the Magistrate or by the Protector.

4121. Should, however, the production of the immigration ticket not be considered a sufficient safeguard against vagrancy, we would then further suggest that all immigrants should wear conspicuously a metal badge, bearing engraved upon it the immigration number of the wearer and the district of his domicile. The number on the ticket would correspond with the number on the badge, whilst the photograph on the ticket ought to afford sufficient evidence that the person producing it is the rightful owner.

Both badge and ticket should, on the bearer's entering into a written contract, be delivered up to the employer, who should be strictly responsible for their re-delivery at the termination of the contract.

If this were carried out, the fact of any Indian being seen not wearing a badge would be a legitimate reason for stopping him, and calling upon him to produce his ticket; the non-production of which would afford the presumption of his being under indenture, and justify his being taken before the Magistrate, to be, if necessary, sent to the Protector for identification.

4122. There yet remains the case of the Creole Indians and the difficulty of distinguishing them from immigrants; and for this we see no solution, but by adopting Colonel O'Brien's suggestion (Appendix H 8., paragraph 16) that they should be "invited," or rather we should say "required," to take out a pass from the police as evidence of their status.

4123. In the event of conviction of crime or misdemeanour, which might render it desirable to subject the offender, for a time, to police surveillance, the badge and ticket should be taken from him and retained by the police. A special pass should then be given to him, specifying the restrictions to which the bearer was to be subject. The absence of his badge would justify his being stopped by the police if found wandering about, while the special pass would, on being produced, show whether he had overstepped the limits to which he had been bound. Non-production of such special pass, or breach of the limits prescribed therein, should render the offender liable to a severe punishment; but no one should be subjected to such surveillance except upon the sentence of a Magistrate.

4124. We agree with Colonel O'Brien in his recommendation (Appendix H 8., paragraph 25), that a public lodging-house (we should rather call it "casual ward") should, under proper supervision, be attached to the Immigrant Office, so as to take away all pretext for Indians, professing to have come to see the Protector, sleeping in the streets of Port Louis. We would even carry this recommendation further, and suggest the possibility of establishing similar places of shelter in the immediate vicinity of the principal police stations in the districts. In the climate of Mauritus shelter is all that is required, and a rude shed, or "hangar," constructed of thatch could be erected at small expense. With such places of shelter, there ought to be no excuse for sleeping in verandahs and other places enumerated in the 9th section of Article 2 of Ordinance 42 of 1844, which might be strictly enforced without compunction.

4125. The Immigration ticket, together with the photograph, should in the first instance be given gratuitously. In the event of application for a duplicate, unless satisfactory proof can be given to account for the loss of the original, we think that a substantial fee may be retained as a check upon illicit transfer of tickets.

Accepting bribes to issue Duplicate Tickets on false pretences, to be regarded as an aggravation of vagrancy.

4126. The attempt to procure a duplicate ticket at the Immigration Office by giving a false name or false information; or the refusal when called upon by the Protector to give true information respecting his past history by an immigrant, ought to be regarded as an act of vagrancy of an aggravated character, punishable by an imprisonment not exceeding six months.

Unlawful absence.

4127. Unlawful absence, or absence from work without leave or justifiable cause, might be punishable as follows:

Any number of days not exceeding four in one and the same month.	* Double cut or prolongation of contract by an equal number of days.
If exceeding four days but not exceeding fourteen days in one and the same month.	Double cut, or prolongation or imprisonment not exceeding twenty-eight days.
Continued absence during fourteen days or any longer time.	Imprisonment not exceeding three calendar months without option of prolongation of contract.; such imprisonment not to count as part of the term of the contract.

In the last case, however, the absence should be deemed to have been condoned by the employer, if the latter shall have allowed the labourer to resume work without previous prosecution for such offence.

None of these penalties shall be awarded unless the wages of the labourer shall have been paid on the first Saturday in the month following that for which they are due, except in cases where an extension of time has been specially granted. Should the wages not have been so paid the amount of the forfeiture which otherwise would be awarded as a compensation to the employer should be paid into Court by the labourer and devoted to the Immigration Fund.

* The Double Cut to be two days' wages, not as now, the wages of two days and one-fifth of a third day.

4128. In the case of absentees being arrested by the police off the estate to which they belong, and of their being sent under escort to their employer, we think a fee should be paid by the employer so receiving back his servant, which fee should be paid to the Immigration Fund. Such fee might, we think, be fixed at $1.

4129. Notice should be sent by the gaolers of the several prisons to the employer of any labourer undergoing imprisonment, of the date of the expiration, of the term of his labourer's imprisonment, and the employer should on the day send a sirdar or other responsible person to escort the discharged prisoner back to the estate. In the event of his neglecting to do so, the prisoner on his discharge might, as now, be sent back under police escort, and the employer be charged a substantial fee for his negligence, which fee should be devoted to the Immigration Fund.

4130. In the event of any indentured labourer absconding from an estate, the planter shall immediately report the fact, together with the name and number of the absconding labourer, to the nearest police office and to the Protector of Immigrants. Should the planter neglect to make this report, and the labourer be arrested and taken back to the estate, the fee payable by the employer for receiving him should be doubled, viz. $2, to be paid to the Immigration Fund.

Incorrigible vagrancy.

4131. Any immigrant convicted of vagrancy after having previously been convicted as an incorrigible rogue should be sent to work on public works, and forced to work at such a rate of wages as may be fixed from time to time by the Governor until he has earned a sufficient sum to defray the expenses of sending him back to India, and (in the event of his being a New immigrant recruited by the agent of the Colony) of refunding to his introducer a proportionate sum for the expenses of his introduction.

Contracts.

4132. The first contract between a New immigrant and the requisitionist may, as at present, be left to be coextensive with the term of industrial residence, a period sufficient to repay the requisitionist for the expenses in introducing him and for his trouble in teaching him his duties. But after that period we think that the rule laid down in the Order in Council of 1838 (chap. ii., sec. 4) should be reverted to, and that no contract of service should be valid for more than a year from the date of its being entered into.

4133. No written contract should be entered into by any minor under the age of 14 years. The employment of children under 10 years of age should be wholly prohibited; children above the age of 10 and under 14 might be employed upon their producing a certificate that they have attended school for such a number of days in the preceding year as may be fixed by the regulations of Government.

4134. Payment of wages should be made on the first Saturday in every month, unless the first day of the month should fall on a Saturday, in which case the eighth day should be the pay day. All labourers should then be paid their wages in full, except those who are to be taken before the Magistrate. On the Monday following the pay-day the manager should send a return to the Magistrate signed by himself and the accountant, stating the sum which had been paid and the number of labourers among whom such sum had been paid as wages, and certifying that the same was the full amount of the wages of the labourers in his service, except those thereinafter mentioned by name, against whom summonses should be issued, and who should be brought before the Magistrate at his next sitting, when all deductions on account of illegal absence or otherwise should be made in his presence.*

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* *Note.*—I am unable to concur in this recommendation as it stands, and without qualification, although it is one upon which my colleague, Mr. Freer, holds a very strong opinion.

My reason for dissenting is that I believe it to be impracticable.

If every labourer must receive his pay in full, and no deduction whatever is to be made therefrom except with the sanction of the Magistrate, all labourers who are absent from sickness will have to be paid in full or else taken before the Magistrate. The former alternative is unfair to the employer, and the latter would be, I think, impossible to carry out.

The number of men earning their full wages is very small in proportion to the entire number employed, and the result would be that, if strictly carried out, the great majority of the labourers on estates would, once a month, be brought before the Magistrate, a state of things which, notwithstanding the reforms we may suggest in regard to the Magistrates holding their courts at the different police stations, would involve a serious interruption to the working of the estates.

Thus taking the case of the central station at Mahebourg, I find that it is the nearest to ten estates, and that these ten estates employ in the aggregate 3518 labourers; it is evident that if even one-half earned full wages that the bringing 1759 men in one day before the Magistrate would be impracticable.

Appendix S. 40.

Mr. Jones's Reports. Appendix Q.

The "single cut" or loss of the single day's wages on account of sickness stands, I think, on a very different footing from the "double cut" for absence.

That the latter, which involves an additional forfeiture for the benefit of the employer, should not be exacted without the sanction of the Magistrate is, I agree, quite proper, especially having regard to the manner in which this right has been abused in times past; but I think that the single cut may be deducted by the employer, subject of course to his being called upon to justify the deduction before the Magistrate in case of dispute.

V. A. Williamson.

Extension of time of payment under certain conditions.

4135. In times of commercial difficulty an extension in the time of payment of wages might be granted on application to the Bankruptcy Court. Such delay should in no case extend beyond three months from the date of the granting of the extension, unless the delay of three months so granted should expire just before the commencement of the "coupe," in which case a further delay of three months might be granted on application to the Bankruptcy Court and with the consent of the Protector of Immigrants.

Rations.

4136. Rations to be issued every Saturday afternoon, either in advance or arrears, and no deduction to be made on any pretext except for absence or sickness. In cases of sickness, diet and rations to be furnished as required by the hospital rules. In cases of absence, the day's rations to be deducted for every day's absence; and in the event of any dispute, a check to be given to the immigrant specifying the days for which the deduction was made, together with the date. In the event of rations being distributed in advance, the deduction should be made in arrears, but the true dates for which the deductions are made should be specified in the check.

Sunday "corvée."

4137. The Sunday "corvée" should, we think, be wholly abolished, except, of course, the care and feeding the animals. All other works now coming within the denomination of "corvée" should be done on the Saturday afternoon, so as to give every immigrant the option at all events of a day's entire rest on Sunday. No "double cutting" should under any circumstances be exacted for absence on that day, and any work that may be performed should, if not the subject of a special agreement in writing, entitle the labourer to an increase of pay proportional to his monthly wages, excepting in cases of fire, or any emergency resulting from act of God.

Holidays.

4138. We further think that a limited number of days in the course of the year, to be fixed by the Governor in Executive Council, should be declared public holidays, on which it shall not be lawful to make any deductions whatever, either from pay or rations on account of absence. The most convenient to the Indians would probably be New Year's Day, the Yamsi, the Saturday of the races, and we would add Your Majesty's birthday, which is, we believe, almost universally observed as a holiday in Mauritius, except upon the estates.

4139. We fully concur in the suggestion of Sir A. Gordon, in his Despatch of the 2nd September, 1871, that Magistrates should be prohibited from having any interest in the sugar estates; but we think further that, in the present condition of the Colony, the Magistrates should be men wholly unconnected with local interests and independent of local influences. We therefore recommend that the Magistrates should be appointed direct by the Secretary of State.

4140. We think that the distinction between District and Stipendiary Magistrates is unnecessary, and might with advantage be abolished. In the districts in which the amalgamation of the two offices has already taken place, the same Magistrate sits at one time in the one capacity, and, possibly, on the same day and in the same building in the other capacity. We can see no reason why one Magistracy should not exercise jurisdiction, and one system of procedure prevail, in all cases.

Magistrates to ride circuit.

4141. In order to render the recommendation in paragraph 4134 practicable, the Magistrates should, at least once in every month, in the week following the pay-day, make a circuit through their districts, holding their courts at the several police stations. By this means the Magistrates' Courts would be brought within easy reach of all estates, as may be seen from the Table in Appendix S. 40, which shows the distance of each estate from the Stipendiary Court and the distance from the nearest police station, and the following Table will show the average distances between these localities in the several districts:—

District.	Number of Estates.	Average Distance from Estates to Magistrates' Court.	Average Distance to nearest Police Station.
		Miles.	Miles.
Pamplemousses	36	3·875	1·8
Rivière du Rempart ..	24	4·302	2·073
Flacq	36	4·882	2·16
Grand Port	31	6·2	2·59
Savanne	26	5·42	2·
Black River	18	5·2	2·61
Plaines Wilhems ..	19	4·066	1·605
Moka	16	4·094	2·516

The passing of contracts to devolve on the Immigration Department.

4142. The duty of passing contracts should be transferred from the Magistrates to the Immigration Department, whereby the former would be relieved of much work which does not properly belong to them, and be left exclusively to the discharge of their judicial functions.

4143. Should it be found desirable still further to relieve the Magistrates, we would suggest that the jurisdiction of the present District Magistrates be reduced from the cognizance of cases wherein the matters in dispute do not exceed £50, to cases wherein the matters in dispute do not exceed £30; and that one or both the Puisné Judges of the Supreme Court should make a Circuit through the Districts once in every three months, and dispose of any cases in which the matters in dispute exceed £30 but do not exceed £50.

Inspectors.

4144. The officers of the Immigration Department to perform the duty of passing contracts should be the Inspectors of Immigrants, of whom there should be not less than three. We do not think that it will be necessary for them to make regular visits of inspection to the estates oftener than once in every six months, unless of course specially required by the Governor or the Protector. They should, on as many days in the month as may be deemed requisite, sit at the court of each district, or some other convenient place to be fixed by the Governor, for the purpose of passing contracts and granting discharges. All immigrants coming before them to re-engage should first receive their certificates of discharge in their order, and when these have all been delivered into the hand of each immigrant, the process of passing the new contract should be commenced in the same order, so as to render the acts of discharge and engagement separate and distinct.

The inspectors at their half-yearly visits should ascertain the number of New immigrants on each estate whose industrial residence is about to terminate before their next visit, and report their names and numbers to the Immigration Office.

Re-engagements.

4145. We agree with Sir A. Gordon in thinking that it is desirable to prohibit re-engagements before the expiration of the existing engagements (see paragraphs 1504 to 1509). We also concur in the suggestion made by Sir Clinton Murdoch in his letter to the Colonial Office of the 8th November 1871, that before re-indentures are passed, the employer should be required to show that he had paid all wages due to the immigrants who re-indenture to him.

Stamp duty on engagements and re-engagements.

4146. A stamp duty of not less than 6*d.* should be paid upon the engagement or re-engagement of every servant or labourer, the proceeds of which should go towards the Immigration Fund.

4147. We are deeply impressed with the importance of still further reducing the disproportion between the sexes in the Indian population; but, judging from the difficulty which is experienced in obtaining even the present proportion of females, viz., 33 per cent upon the number of the males (see paragraphs 2844 to 2852), we greatly doubt whether it would be practicable to obtain a greater number of females.

Interpreters.

4148. It is, we think, a matter of the first importance to procure a superior class of Interpreters in the Magistrates' Courts. We have drawn attention to the inefficiency of the present Interpreters in Chapter XXX., paragraphs 3387 to 3410. To obtain fit persons to discharge these duties it will probably be necessary to offer a higher salary than that now given; but we have a strong feeling that any such expenditure will be well bestowed in securing men properly qualified to fill posts, which, if filled by men improperly qualified cannot but weaken the respect and confidence which it is absolutely necessary that the Magistrates' Courts should possess.

Hospitals.

4149. Medical Attendants on Estates' Hospitals should be appointed and paid by Government, and prohibited from taking private practice, unless under the special sanction of the Governor. With the Medical Attendants made servants of Government and independent of individuals, we think that the office of Medical Inspector might be abolished as enacted by Ordinance No. 34 of 1871.

4150. The Governor should appoint some person or persons to draw up a list of such articles as may be considered necessary, in order to render Estates' Hospitals complete; also a set of rules regulating the various diets, and other details connected with the management of hospitals; such list and rules when drawn up to be submitted to the consideration and approval of the Chief Medical Officer.

4151. The Medical Attendant should have power, in cases in which he thinks desirable, to order the detention in hospital of any labourer.

4152. The visits of the Medical Attendants should be made every 48 hours.

4153. The death of any immigrant should be immediately reported to the Protector of Immigrants by the employer if the deceased be under contract, or by the officer of the Civil Status if he be not, in order that the Protector may enter such death in his register.

Camps.

4154. The proprietors of estates should be made personally and strictly answerable for the state of their camps, and cleanliness must be enforced in all; goats and pigs should not be allowed to stray about them, and we trust that a careful system of inspections will soon dissipate all cause of fear on the part of the conscientious planter lest the careless or unscrupulous should gain any advantage by the toleration of license which he himself refuses to permit.

4155. Every hut should be numbered and the names of each entered in a book kept in the Accountant's Office, and we think it very desirable that in every hut the cooking place should be built of stone or brick, as nearly fireproof as possible.

We are inclined to think that upon the whole thatched huts, if kept in proper repair, are the most wholesome and most congenial to the Indians, and that if such precautions are taken against fire as we found at Côte d'Or, Plaisance, and Mon Trésor, the risk of fire is reduced to a minimum.

4156. It is very desirable that some system of latrines should be introduced, and having regard to Mr. Macpherson's success in that respect at Cluny, we believe that by proper and judicious management the same might be effected elsewhere. We should not recommend latrines on the European plan, but low to the ground, such as we found attached to the hospitals at Bénarès and at Villeneuve, in which case we cannot but think that the Indians could be induced to use them.

4157. Inspectors of Nuisances ought, in the event of finding irregularities, to take immediate action against the parties offending without any intervention of the inspectors of police being required.

Compulsory Education.

4158. We strongly recommend the adoption by the Government of a system of compulsory elementary education, such as was contemplated in 1857 by Governor Higginson. The employers should be responsible for the conformity on the part of their labourers to the requirements of the law. (See paragraphs 3092 to 3100.)

A reform of the prison system needed.

4159. There can be no doubt as to the desirableness of a complete reform of the prison system throughout the colony, so as to render imprisonment a punishment indeed. Were such a reform to be effected, and that imprisonment became a terror to the real vagrants and idlers, we might hope for such a diminution of these as would render it unnecessary to keep up a complete prison establishment for each of the nine districts, in addition to the vagrant depôt, as is the case at present. (See Chapter XXXI.)

The council to have the power of veto in regard to the appointment of certain officers, and removal of them.

4160. Lastly, we fully concur with Sir Arthur Gordon and Sir Clinton Murdoch in thinking that the power vested in the Executive in the West Indian colonies of withholding the transmission of requisitions and of removing immigrants from estates on which the provisions of the law are found by the inspectors to be neglected, should be conferred upon the Executive in Mauritius.

Chapter XXXVI.—*Conclusion.*

4161. And in conclusion we feel that we should be guilty of a grave omission if we did not express our especial sense of the courtesy and assistance that we ever met with at the hands of Sir Arthur Gordon and of Mr. E. Newton, the Colonial Secretary, who administered the government after the departure of His Excellency from the island in November 1872.

4162. Sir Arthur Gordon appears, at a very early date after his arrival in the colony in 1871, to have perceived most of the defects in the immigration system in Mauritius and to have formed a substantially correct opinion of the evils to which the defects in question were liable to give rise.

4163. And finally, we have humbly to express our thanks to Your Majesty for the appointment of Mr. Darnell Davis, our excellent Secretary, of whose unfailing assiduity and unremitting attention to his duties we cannot speak too highly, and whose intelligence and trustworthiness relieved us of much trouble on many occasions during our protracted inquiry.

4164. In taking leave of him and of our common labours, we venture to recommend him to Your Majesty's favourable notice, as worthy of further honourable employment in Your Majesty's service.

4165. All which is most humbly submitted to Your Majesty's consideration.

(Signed) W. E. FRERE,
VICTOR A. WILLIAMSON.

November 5, 1874.

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